

CHAPTER 462

PLANNING AND ZONING

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**462.01 MUNICIPALITIES MAY PASS ZONING ORDINANCE.** For the purpose of promoting health, safety, order, convenience, prosperity, and general welfare, any city of the third or fourth class or any village in this state, acting by or through its governing body, may by ordinance regulate the location, size, use, and height of buildings, the arrangement of buildings on lots, and the density of population within such city or village; may make different regulations for different districts thereof; and may acquire or prepare and adopt a comprehensive plan for the future physical development and improvement of such city or village, in accordance with the regulations made as aforesaid, and may thereafter alter the regulations or plan, such alterations to be made only by a two-thirds vote of all the members of the governing body of such city or village. After the adoption of an ordinance hereunder and within ten days after its publication such ordinance may be suspended in effect upon the filing of a petition signed by resident freeholders of the municipality in a number equal to not less than ten per cent of the legal voters of the municipality requesting that the question of permitting the council to zone the city be submitted to the electors at a general or special election, and the ordinances shall not again become effective until a majority of the electors voting on the question approve the proposition permitting the governing body to zone the municipality.

[1929 c. 176 s. 1; 1935 c. 235 s. 1; 1935 c. 376 s. 1] (1933-42)

**462.02 ENFORCEMENT.** The governing body of any such city or village is hereby authorized to pass ordinances for the enforcement of the provisions of sections 462.01 to 462.04 and of the regulations of the governing body thereunder, and

to provide, in and by such ordinances, penalties for the violation thereof. Such governing body is also hereby authorized to enforce its regulations thereunder, by mandamus, injunction, or any other appropriate remedy in any court having jurisdiction thereof.

[1929 c. 176 s. 2] (1933-43)

**462.03 POWERS ADDITIONAL TO EXISTING LAWS.** In any such city or village having a planning commission, the provisions of sections 462.01 to 462.04 shall be construed as an addition to existing powers and not as an amendment to or a repeal thereof, and the governing body may adopt a plan or plans prepared by such planning commission.

[1929 c. 176 s. 3] (1933-44)

**462.04 APPLICATION.** Sections 462.01 to 462.04 shall apply to cities operating under home rule charters adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, but shall not modify, limit, or affect in any way the power to enact planning and zoning regulations contained in any such charter in the manner prescribed therein.

[1929 c. 176 s. 4; 1931 c. 163] (1933-45)

**462.05 BUILDING AND ZONING REGULATIONS.** For the purpose of promoting health, safety, order, convenience, prosperity and general welfare, any city of the second class, including those operating under a home rule charter, may by ordinance regulate the location, size, use, and height of buildings, the arrangement of buildings on lots, and the density of population within such city; may make different regulations for different districts thereof; and may acquire or prepare and adopt a comprehensive plan for the future physical development and improvement of such city, in accordance with such regulations, and thereafter, by ordinance adopted by a two-thirds vote of all the members of its governing body, may alter the regulations or plan.

[Ex. 1936 c. 35 s. 1] (1664-91)

**462.06 MAY ENFORCE REGULATIONS.** The governing body of any such city is hereby authorized to pass ordinances for the enforcement of the provisions of sections 462.05 to 462.07 and of such regulations and to provide therein penalties for the violation thereof. Such city is also hereby authorized to enforce such regulations by mandamus, injunction, or any other appropriate remedy in any court having jurisdiction thereof.

[Ex. 1936 c. 35 s. 2] (1664-92)

**462.07 POWERS ADDITIONAL TO EXISTING LAWS.** In any such city having a planning commission, the provisions of sections 462.05 to 462.07 shall be construed as an addition to existing powers and not as an amendment to or a repeal thereof, and the governing body thereof may adopt a plan or plans prepared by such planning commission.

[Ex. 1936 c. 35 s. 3] (1664-93)

**462.08 RESIDENCE DISTRICTS DESIGNATED.** Any city of the first class in this state may, in the exercise of the police power, by ordinance duly adopted by its council or other governing body, upon petition of 50 per cent of the property owners of the district sought to be affected, designate residence districts in such cities wherein only buildings for residences may be erected and maintained including duplex houses and double houses and prohibiting the erection and maintenance of hotels, stores, factories, warehouses, dry cleaning plants, public garages or stables, tenement and apartment houses.

[1913 c. 98 s. 1] (1569)

**462.09 RESIDENCE DISTRICTS IN CITIES NOT UNDER HOME RULE CHARTERS.** Any city of the first class in this state may, in the exercise of the police power, by ordinance duly adopted by its council or other governing body, by a two-thirds vote, upon petition of 50 per cent of the property owners of the district sought to be affected, designate residence districts in such cities and prohibit the erection and maintenance of hotels, stores, factories, warehouses, dry cleaning plants, public garages or stables, or any industrial establishment or business whatsoever, tenement and apartment houses.

[1913 c. 420 s. 1] (1571)

**462.10 DESIGNATION OF INDUSTRIAL DISTRICTS.** Any such city by a like vote of its governing body may also classify industries and industrial estab-

lishments, and may designate, define and limit industrial districts within said city where such classes of industries and industrial establishments may be erected, operated and maintained, and may prohibit the erection, operation and maintenance of others within such districts.

[1913 c. 420 s. 2] (1572)

**462.11 CHANGE OF DISTRICTS.** The council or other governing body of the city may, at any time thereafter and when it shall find that the character of any residence or industrial district shall have changed materially, and on petition of 50 per cent of the property owners of the district, set aside its former determination and establish a residence district out of an industrial district, or an industrial district out of a residence district, by resolution or ordinance, duly passed; provided, that any industry which may have been heretofore established in such district, shall not be disturbed unless the same shall become a public nuisance.

[1913 c. 420 s. 3] (1573)

**462.12 RESTRICTED RESIDENCE DISTRICTS.** Any city of the first class may, through its council, upon petition of 50 per cent of the owners of the real estate in the district sought to be affected, by resolution, designate and establish by proceedings hereunder restricted residence districts and in and by such resolution and proceedings prohibit the erection, alteration, or repair of any building or structure for any one or more of the purposes hereinafter named, and thereafter no building or other structure shall be erected, altered or repaired for any of the purposes prohibited by such resolution and proceedings, which may prohibit the following: hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, coal yards, ice houses, blacksmith shops, repair shops, paint shops, bakeries, dyeing, cleaning and laundering establishments, billboards and other advertising devices, public garages, public stables, apartment houses, tenement houses, flat buildings, any other building or structure for purposes similar to the foregoing. Public garages and public stables shall include those, and only those, operated for gain.

Nothing herein contained shall be construed to exclude double residences or duplex houses, so-called schools, churches, or signs advertising for rent or sale the property only on which they are placed, and nothing herein contained shall be construed so as to prohibit the council of any such city of the first class from permitting the remodeling or reconstruction of the interior of any structure in any such restricted residence district which possesses a gross ground area delineated by its foundation walls of at least 1,000 square feet, so that the same shall contain separate accommodations for several, not in excess of four, families; provided that the substantial alteration of the exterior of any such structure shall not be authorized in any such case; and provided further, that such city council shall expressly find in each such case that such remodeling or alteration shall be consistent with the public health and safety.

No building or structure erected after the creation of such district shall be used for any purpose for which its erection shall be prohibited hereunder.

The term "council" in sections 462.12 to 462.17 means the chief governing body of the city by whatever name called.

Any district or any portion thereof created under the provisions of sections 462.12 to 462.17 may be vacated and the restrictions thereon removed by the council upon petition of 50 per cent of the owners of the real estate in the original district. A portion of a restricted residence district may be vacated and relieved of the restrictions imposed thereon pursuant to sections 462.12 to 462.17 by the council upon petition of the owners of the portion of the district sought to be relieved if such portion or lot sought to be relieved does not in any part lie between other portions of such restricted district, or if the portion sought to be relieved abuts upon a public street or alley along one border of such district and extends along said public street or alley the entire distance between cross streets, or if the portion or lot sought to be relieved is contiguous to, along one or both sides, or across a public street along its entire front from a parcel of land which shall be duly zoned under a valid municipal zoning ordinance for commercial, multiple dwelling or industrial purposes. The vacation of such district or portion thereof and the removal of the restrictions therefrom shall be accomplished in the same manner herein provided for the creation of any such district, and in the vacation of any such district or any portion thereof and the removal of such restrictions each and all of the provisions of sections 462.12 to 462.17 as to allowance of damages and

benefits to property affected and as to the appointment of commissioners to appraise such damages and benefits and the duties of such commissioners, of the city clerk, and of each and all of the other officers upon whom duties are herein imposed shall be complied with, and when such proceedings for the vacation of any such district or portion thereof shall have been completed, the property included within such district or portion thereof so vacated shall be deemed relieved of each and all of the restrictions imposed in the proceeding creating such district. In the allowance of damages and benefits to property affected by any proposed vacation, no evidence shall be received, or consideration given to the existence of any other restriction or any restrictive or zoning ordinance, law, or regulation.

[1915 c. 128 s. 1; 1923 c. 133 s. 1; 1925 c. 122 s. 1; 1931 c. 290 s. 1; 1943 c. 246 s. 1] (1618)

**462.13 COUNCIL GIVEN RIGHT OF EMINENT DOMAIN.** The council shall first, after causing the probable costs of the proceedings, if abandoned, to be deposited or secured by the petitioners, designate the restricted residence district and shall have power to acquire by eminent domain the right to exercise the powers granted by sections 462.12 to 462.17 by proceedings hereinafter defined, and when such proceedings shall have been completed, the right to exercise such powers shall be vested in the city.

[1915 c. 128 s. 2; 1931 c. 290 s. 2] (1619)

**462.14 APPRAISAL OF DAMAGE.** Subdivision 1. **Appraisers.** The council shall appoint five appraisers who shall be disinterested qualified voters of the city, and none of whom shall be a resident of the ward or wards in which any part of the district so designated is situate, to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted.

The appraisers shall be notified as soon as practicable by the city clerk, as the case may be, to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. When a vacancy may occur among the appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the council.

Subdivision 2. **Oath of Appraisers.** The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the council.

Subdivision 3. **Notice of hearing by publication.** The appraisers shall give notice, by publication in the official newspaper of the city, once a week for two consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the council, and give notice that a plat of the same has been filed in the office of the city clerk, and that the appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted, and to assess benefits in the manner hereinafter specified.

Subdivision 4. **Appraisal of damages.** The city clerk shall, after the first publication of such notice, and at least six days (Sunday excluded) prior to the meeting specified in said notice, serve upon each person having an interest as owner or mortgagee in each parcel of land in said district as shown by the records in the office of the register of deeds a copy of the notice by depositing the same in the post-office of the city, with first class postage prepaid, in an envelope bearing on its front in type no smaller than ten point the words "Notice of Restricted Residence District Proceedings Affecting Your Property" or "Notice of Proceedings to Vacate Restricted Residence Districts Affecting Your Property," as the case may be, directed to such person at his last known place of residence, if known to the city clerk, but if not known, then to his place of residence as given in the last published city directory of the city, if his name appears therein, or obtained from the records of such owner's address last given on tax receipts in the office of the county treasurer or auditor, or, in the case of mortgagees, to the address, if any, appearing in the mortgage.

After the first publication of the notice, and at least six days (Sunday excluded) prior to the meeting specified in the notice, a copy of the same shall also be served upon the person in possession of each of the tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same manner as provided for the

service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk in the manner above specified, immediately after the first publication thereof, to owners and mortgagees in the manner and to the address above provided and to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them.

**Subdivision 5. Hearing and assessment.** At the time and place mentioned in the notice, the appraisers shall meet and thence proceed to view the premises, and may hear the evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land of which each piece or parcel of land in the district is a part. They shall also determine the amount of benefits, if any, to each such piece or parcel of land. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the costs of the proceedings, including printers' fees, appraisers' fees, cost of serving notices and other expenses, shall be added to the amount to be assessed. The total assessments for benefits, however, shall not be greater than the aggregate net award of damages, including the costs of the proceedings as above provided; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, if any.

**Subdivision 6. Separate assessment.** If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such persons or interests respectively may be awarded to them separately by the appraisers. Neither such award of the appraisers, nor the confirmation thereof by the council shall be deemed to require the payment of such damages to the person or persons named in such award in case it shall transpire that such person or persons are not entitled to receive the same.

**Subdivision 7. Report of appraisers.** The appraisers having ascertained and appraised the damages and benefits as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them and also a statement of the costs of the proceedings.

**Subdivision 8. Council action.** Upon such report being filed, the city clerk shall give notice that such appraisal has been returned, and that the same will be considered by the council at a meeting thereof to be named in the notice, which notice shall be published in the official newspaper of the city, once a week for two-consecutive weeks, and the last publication shall be at least ten days before such meeting. The council upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisal and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that the council shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisal and assessment is annulled, the council may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisal, and upon the coming in of their report, the council shall proceed in a like manner and with the same powers as in the case of the first appraisal.

**Subdivision 9. Awards.** If not annulled or set aside, such awards shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The awards shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the parties entitled thereto, within six months after the confirmation of the appraisal and award. In case any appeal or appeals shall be taken from the order confirming the appraisal and assessment, as hereinafter provided, then the time for payment of the awards shall be extended until and including 60 days after the final determination of all appeals taken in the proceeding, and in case of any change in the awards or assessments upon appeal, the council may, by

resolution duly adopted, at any time within 60 days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six per cent per annum from the time of the filing of the original appraisers' report and all subsequent awards and awards upon appeal shall be made as of the day and date of filing of such original reports.

**Subdivision 10. Deposit of damages.** Upon the conclusion of the proceedings and the payment of the awards, the several tracts of lands shall be deemed to be taken and appropriated for the purpose of sections 462.12 to 462.17, and the right above specified shall vest absolutely in the city in which the lands are situate. In case the council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the council shall, and in any and every case, the council may in its discretion deposit the amount of damages with the district court of the county in which such lands are situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

**Subdivision 11. Objections; appeal to district court.** Any owner of land within the district who deems that there is any irregularity in the proceedings of the council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded, to him or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the council, file with the city clerk, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the council shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the council to the district court of the county where such land is situate, within 20 days after such order. Such appeals shall be made by serving a written notice of appeal upon the city clerk which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, thereupon the city clerk, at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the council and of the order of the council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by the city clerk to be true copies, within ten days after the taking of such appeal. If more than one appeal be taken from any award, it shall not be necessary that the city clerk in appeals subsequent to the first, shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether the appraisers had jurisdiction to take action in the premises.

**Subdivision 12. Court proceedings.** The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the proceedings affect the property of the appellant proposed to be included in the district or damaged or assessed, and described in the written objection. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested qualified voters, appraisers to reappraise the damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by the court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the

amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in sections 462.12 to 462.17 made for the government of appraisers appointed by the council. They shall, after the hearing and view of the premises, make a report to the court of their award of damages and assessment of benefits in respect to the property of such appellant. The award shall be final unless set aside by the court. The motion to set aside shall be made within 15 days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers as it shall deem best; the court shall allow to the appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in the proceedings.

**Subdivision 13. Bonds.** The city council, for the purpose of realizing the funds for making such improvements and paying such damages and the costs of such proceeding may issue and sell special certificates of indebtedness, or special restricted residence district bonds, as it may decide, which shall entitle the holder thereof to all sums realized upon any such assessment, or if deemed advisable, a series of two or more certificates or bonds against any one assessment, the principal and interest being payable at fixed dates out of the fund collected from such assessments, including interest and penalties, and the whole of such fund is hereby pledged for the pro rata payment of such certificates or bonds and the interest thereon, as they severally become due. Such certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed as hereinafter provided and for the time specified in section 462.15. If the city, because of any such guaranty, shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of such guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such certificates or bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed five per cent per annum payable annually or semiannually. The city clerk shall certify to the county auditor the rate of interest to be determined, and interest shall be computed upon the assessments at such annual rate, in accordance with the terms of section 462.15.

[1915 c. 128 s. 3; 1919 c. 297; 1925 c. 122 s. 2; 1931 c. 290 s. 3] (1620)

**462.15 MAPS, PLATS, AND LISTS OF DISTRICTS MADE AND FILED; ASSESSMENT OF TAXES ON PROPERTY.** As soon as such condemnation proceedings have been completed, it shall be the duty of such council to cause maps or plats of such restricted residence district to be made, with a list of the parcels of land within such district, and to file one of such maps and list duly certified by the president of the council and the city clerk, in each of the following offices: the office of the city engineer, the office of the register of deeds of the county and the office of the city clerk, and the same shall be prima facie evidence of the full and complete condemnation and establishment of the restricted residence district. As soon as the assessments are confirmed, the city clerk, or the clerk of the district court, as the case may be, shall transmit a copy thereof duly certified, to the auditor of the county in which the lands lie. The county auditor shall include the same in the next general tax list for the collection of state, county, and city taxes against the several tracts or parcels of land and the assessments shall be collected with and as a part of, and subject to the same penalties, costs, and interest, as, the general taxes. Such assessments shall be set down in the tax books in an appropriate column to be headed "Restricted Residence District Assessments" and when collected a separate account thereof shall be kept by the county auditor and the same transmitted to the treasurer of the city and placed to the credit of the proper fund. The city council may by resolution determine that the amount of such assessments shall be collected in from one to five equal annual instalments and in such case the county auditor shall include one of the equal annual instalments of assessments

with and as a part of the taxes upon each parcel of land therein described for each year for the number of years into which the assessment is by the city council divided, together with annual interest as hereinafter provided. With the first instalment the auditor shall include interest upon the entire assessment from the date of the assessment to the time when the tax books including the first instalment are delivered by the county auditor to the county treasurer and thereafter the auditor shall include in the taxes for each year one of such instalments, together with one year's interest upon such instalment and all subsequent instalments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all instalments that have gone into the hands of the county treasurer, as aforesaid, with accrued interest, penalties, and costs, as above provided, and by paying all subsequent instalments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments as herein provided sufficient in amount to cover all instalments due on such parcel and accrued interest, penalties, and costs, and all instalments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such instalments, interest, penalties, and costs. The assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under sections 462.12 to 462.17 shall be called Restricted Residence District Assessments of the city of ..... and numbered consecutively. When an assessment is certified, as aforesaid, by the city clerk to the county auditor a duplicate thereof shall be sent to the city comptroller and all such assessments shall be sufficiently identified by the name and number, as aforesaid.

[1915 c. 128 s. 4; 1925 c. 122 s. 3] (1621)

**462.16 POWER TO ENACT ORDINANCES FOR ENFORCEMENT OF RIGHTS GIVEN TO COUNCIL.** The council shall have the power to enact ordinances for the enforcement of the rights which shall be acquired under sections 462.12 to 462.17, and to fix penalties for their violation, including a fine not exceeding \$100.00, or confinement in the city workhouse not exceeding 90 days. Violations of the ordinances may be prosecuted in the municipal court of the city.

[1915 c. 128 s. 5] (1622)

**462.17 BUILDINGS DECLARED A NUISANCE.** Any building or structure erected, altered, repaired, or used in violation of sections 462.12 to 462.17 or any ordinance passed thereunder, shall be deemed a nuisance and may be abated at the suit of the city in a civil action. The city may maintain actions for injunction to prevent violation of sections 462.12 to 462.17 and of the ordinances passed in pursuance thereof. Owners of land and others interested in land within the district may also maintain similar actions of abatement and for injunction.

[1915 c. 128 s. 6] (1623)

**462.18 HEIGHT OF BUILDINGS REGULATED IN CITIES OF FIRST CLASS.** For the purpose of promoting the public health, safety, order, convenience, prosperity and general welfare, any city of the first class in the state acting by and through its governing body, may by ordinance regulate the location, size, and use of buildings, the height of buildings, the arrangement of buildings on lots, and the density of population therein, may make different regulations for different districts thereof, and may acquire or prepare and adopt a comprehensive city plan for such city or any portion thereof for the future physical development and improvement of the city, in accordance with the regulations made as aforesaid, and may thereafter alter the regulations or plan, such alterations, however, to be made only after there



shall be filed in the office of the city clerk a written consent of the owners of two-thirds of the several descriptions of real estate situate within 100 feet of the real estate affected, and after the affirmative vote in favor thereof by a majority of the members of the governing body of such city; provided, however, that notwithstanding any resolution, ordinance or law conflicting herewith, the governing body of any such city, by an affirmative two-thirds vote in favor thereof, may by resolution grant a permit for the construction of additions, extensions or improvements to any hospital which is being actually operated and maintained on the premises which it occupies on the date of the passage of this section; provided, further, that whenever the city planning commission or board shall make recommendation in writing to the governing body of any such city for altering the regulation or plan, with respect to a more restricted use of any real estate within 1,000 feet of a public park, which park contains not less than 50 acres, located near or adjacent to the waters of a navigable lake, covering an area of not less than 1,000 square miles, the governing body, by a two-thirds vote of all its members, may alter the regulation or plan in accordance with the recommendation of the city planning commission or board.

[1921 c. 217 s. 1; 1923 c. 364 s. 1; 1925 c. 284 s. 1; 1937 c. 239 s. 1] (1614)

**462.19 MAY PASS ORDINANCES FOR ENFORCEMENT.** The governing body of any such city is hereby authorized to pass ordinances for the enforcement of the provisions of sections 462.18 to 462.20 and of the regulations of such governing body under sections 462.18 to 462.20, and to provide, in, and by such ordinances, penalties for violation thereof. Such governing body is also hereby authorized to enforce its regulations thereunder by mandamus, injunction, or any other appropriate remedy in any court having jurisdiction thereof.

[1921 c. 217 s. 2] (1615)

**462.20 IN ADDITION TO EXISTING POWERS.** In any such city having a city planning commission, the provisions of sections 462.18 to 462.20 shall be construed as an addition to existing powers and not as an amendment to or repeal thereof, and the governing body may adopt a plan or plans prepared by such city planning commission.

[1921 c. 217 s. 3] (1616)

**462.21 GRANT OF POWER.** In order to provide for the proper and reasonable enforcement of regulations adopted pursuant to sections 462.18 to 462.20 governing the location, size, and use of buildings, and to provide for such reasonable determinations of such regulations as will eliminate practical difficulties in the enforcement of such regulations and to provide for such reasonable variations in the terms of such regulations as will eliminate unnecessary hardship in the way of carrying out the strict letter of such regulations, the local governing body is hereby empowered to appoint a board of adjustment.

[1929 c. 340 s. 1] (1617-1)

**462.22 BOARD OF ADJUSTMENT.** Such a local governing body may provide for the appointment of a board of adjustment, and in conformity with the provisions of sections 462.21 to 462.23 may provide that the board of adjustment may determine and vary the application of regulations adopted pursuant to the provisions of sections 462.18 to 462.20 in harmony with their general purpose and intent, and the local governing body may provide by ordinance for the enactment of general or specific rules governing the determination and variation of such regulations.

Where an officially established city planning commission already exists under the city charter it shall be the board of adjustment, otherwise the powers of the board of adjustment shall vest in the governing body who may delegate all or part of such powers to a committee of the governing body. The terms of the members of the board of adjustment shall be concurrent with their terms as members of the governing body or city planning commission. The board shall adopt rules in accordance with the provisions of any ordinances adopted pursuant to sections 462.21 to 462.23.

Appeals to the board of adjustment may be taken by any person aggrieved.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, or by agent, or by attorney.

The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of sections 462.21 to 462.23 or of any ordinance adopted pursuant thereto;

(2) To hear and decide all matters referred to it or upon which it is required to pass under such ordinance; and

(3) In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

In exercising the above mentioned powers such board may, in conformity with the provisions of sections 462.21 to 462.23, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The majority vote of the members of the board shall be sufficient to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

[1929 c. 340 s. 2] (1617-2)

**462.23 APPLICATION.** The provisions of sections 462.21 and 462.22 shall not apply to any city now or hereafter having provided for the establishment of a board of adjustment in conformity with the provisions of the city charter of such city.

[1929 c. 340 s. 3] (1617-3)

**462.24 CITY PLANNING COMMISSIONS TO CONTROL PLATTING.** The governing body of any city of the first class having more than 35 per cent of the land area of the city unplatted land may, by ordinance, authorize and empower its city planning commission to control the platting of land.

[1933 c. 93 s. 2] (8246-3)

**462.25 DEFINITIONS.** For the purposes of sections 462.24 to 462.35, certain terms are defined as follows:

"Subdivision" means the division of a lot, tract, or parcel of land into three or more lots, plats, sites, or other divisions of land of one acre or less in area for the purpose, whether immediate or future, of sale or of building development. It also means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land of more than one acre and less than ten acres in area, if such subdivision provides, or there is shown on a plat thereof, a new street or highway. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The term "street" includes street, avenue, boulevard, road, lane, alley, viaduct, and other ways.

[1933 c. 93 s. 1] (8246-2)

**462.26 JURISDICTION.** The territorial jurisdiction of such planning commission over the subdivision of land shall include all land located in the municipality and all land lying within three miles of the corporate limits of the municipality and not located in any other municipality, except that in case of any such non-municipal land lying within three miles of more than one municipality having a planning commission, the jurisdiction of such planning commission shall terminate at a boundary line equidistant from the respective corporate limits of such municipalities.

[1933 c. 93 s. 3] (8246-4)

**462.27 PLATS MUST BE APPROVED BY COMMISSION.** When such planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction, or part thereof, and filed a certified copy of such plan in the office of the register of deeds of the county in which the territory or part is located, no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by such planning commission and the approval entered in writing on the plat by the chairman or secretary of the commission.

[1933 c. 93 s. 4] (8246-5)

**462.28 MAY ADOPT REGULATIONS.** Before exercising the powers referred to in section 462.24, the planning commission shall adopt regulations governing the subdivision of land within its jurisdiction so as to secure a harmonious development and to provide for the coordination of streets with other streets and with the city plan and to provide for open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light, and air, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may include reasonable provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat, the city may accept a bond with surety to secure to the municipality the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by the municipality. The municipality is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies. All such regulations shall be published as provided by law for the publication of ordinances and, before adoption, a public hearing shall be held thereon. A copy thereof shall be certified by the planning commission to the register of deeds of each county in which the municipality and territory is located.

[1933 c. 93 s. 5] (8246-6)

**462.29 MUST APPROVE PLAT WITHIN 45 DAYS.** The planning commission shall approve or disapprove a plat within 45 days after the submission thereof otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the commission on demand. The applicant for the planning commission's approval may waive this requirement and consent to the extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the planning commission shall contain the name and address of a person to whom notice of a hearing shall be sent and no plat shall be acted on by the planning commission without affording a hearing thereon. Notice shall be sent to this address by registered mail of the time and place of such hearing not less than five days before the date fixed therefor. Every plat approved by the commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the city plan and a part thereof. Approval of a plat by the planning commission shall be deemed the acceptance by the public of any street or other open space offered therein for dedication but shall not impose any duty upon the governing body to maintain or improve such dedicated areas until the governing body shall have authorized maintenance or improvement of the same in accordance with charter or other local provisions governing public expenditures for such purposes.

[1933 c. 93 s. 6] (8246-7)

**462.30 NOT TO SELL UNTIL PLAT IS APPROVED.** Whoever, being the owner, or agent of the owner, of any land located within a subdivision, transfers or sells or agrees to sell or negotiates to sell any land by reference to or exhibition of or by other use of a plat of a subdivision before such plat has been approved by the planning commission and recorded or filed in the office of the register of deeds shall forfeit and pay a penalty of \$100 for each lot or parcel so transferred or sold or agreed or negotiated to be sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The municipal corporation may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover this penalty by a civil action in any court of competent jurisdiction.

[1933 c. 93 s. 7] (8246-8)

**462.31 PLATS MUST BE APPROVED BEFORE FILING.** The register of deeds shall not file or record a plat of a subdivision unless such plat has the approval of the planning commission as required by law.

[1933 c. 93 s. 8] (8246-9)

**462.32 STREET IMPROVEMENTS.** The municipality shall not accept, lay out, open, improve, grade, pave, curb, or light any street or lay or authorize water mains or sewers or connections to be laid in any street within any portion of the territory for which the planning commission shall have adopted a major street

plan unless such street shall have been accepted or opened as, or shall otherwise have received the legal status of, a public street prior to the adoption of such plan, or unless such street is a street on a subdivision plat approved by the planning commission or a street on a street plat made and adopted by the commission. The city council may accept any street not shown on, or not corresponding with a street on, an approved subdivision plat or an approved street plat, provided the ordinance accepting such street be first submitted to the planning commission for its approval; and, if approved by the commission, enacted or passed by not less than a majority of the entire membership of the council or, if disapproved by the commission, enacted or passed by not less than two-thirds of the entire membership of the city council.

[1933 c. 93 s. 9] (8246-10)

**462.33 BUILDING RESTRICTIONS.** From and after the time when the planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction, or part thereof, no building shall be erected on any lot within such territory or part, nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be placed shall have been accepted or opened as, or shall otherwise have received the legal status of, a public street prior to that time, or unless such street corresponds with a street shown on the city plan or with a street on a subdivision plat approved by the planning commission or with a street accepted by the city council, after submission to the planning commission, by the favorable vote required in section 462.32. Any building erected in violation of this section shall be deemed an unlawful structure and the building inspector, or other appropriate official, may cause it to be vacated and have it removed.

[1933 c. 93 s. 10] (8246-11)

**462.34 EXCLUSIVE.** Platting control by the planning commission, as provided in sections 462.24 to 462.35, shall be exclusive within the territory under its jurisdiction and all statutory control over plats or subdivisions of land granted by other statutes, in so far as inconsistent with the provisions of those sections, are hereby repealed.

[1933 c. 93 s. 11] (8246-12)

**462.35 MAY APPEAL TO DISTRICT COURT.** Any person aggrieved by any decision of the planning commission concerning such plat, or any officer, department, board, or bureau of the municipality, may present to the district court a petition duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to the court within 30 days after the filing of the decision in the office of the planning commission.

Upon the presentation of such petition the court may allow a writ of certiorari, directed to the planning commission, to review such decision of the planning commission and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall stay proceedings upon the decision appealed from.

The planning commission shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return must concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and must be verified.

If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the commission unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

[1933 c. 93 s. 12] (8246-13)

## NEIGHBORHOOD REDEVELOPMENT ACT

**462.41 CITATION.** Sections 462.41 to 462.81 shall be known and may be cited as "The Neighborhood Redevelopment Corporation Law."

[1945 c. 493 s. 1]

**462.42 URBAN CONDITIONS; PURPOSE.** There exist in certain urban areas of cities of the first class of the state these degenerative conditions, at once both characteristic and causative of slum and blight areas, namely:

(1) Disproportionate tax delinquency and consequent inadequacy of tax payments in relation to the cost of state and municipal services rendered;

(2) Economic deterioration of properties and impaired investments;

(3) A constant exodus of the population of such areas resulting in the further deterioration of such areas and in added costs to the municipalities of this state for the creation of new public facilities and services elsewhere;

(4) Age, physical deterioration or obsolescence of improvements in such areas particularly those improvements affording family accommodations, to such a degree as to render such areas unfit and unsafe for human use and habitation; and

(5) Prevalence of the factors conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, crime and poverty.

Such slum and blight areas are usually situated in the older and more centrally located portions of the cities involved and, once existing, spread unless eradicated. As a result of these degenerative conditions, the territories and properties embraced in slum and blight areas fall into a state of non-productiveness, fail to share their due and proper portion of the taxes necessary for the support of the municipalities within whose boundaries they are situated, and ultimately become waste territories, economic and social, producing but a meager, while consuming a disproportionate, share of the public revenue raised by government to defray the cost of police and fire protection, to preserve the public health and to promote the general welfare. The drain upon the public revenue necessitated by slum and blight areas, if they are permitted to remain and spread, will impair these indispensable governmental functions not only as to such areas but as to the municipalities and the state as well.

The elimination of these degenerative conditions, and the rehabilitation and rebuilding of slum and blight areas, is in the best interests of the health, morals, safety and general welfare of the citizens of the state. The accomplishment of these ends by private initiative, through neighborhood redevelopment corporations, supervised and regulated by the public, should be fostered, encouraged and aided. Accordingly, such elimination and rehabilitation and rebuilding, through the activities of neighborhood redevelopment corporations as provided by sections 462.41 to 462.81, are hereby declared to be a public use, and neighborhood redevelopment corporations, for these purposes, are hereby authorized to be created with the powers and subject to the public supervision and regulation as hereinafter set forth.

[1945 c. 493 s. 2]

**462.43 DEFINITIONS.** The following terms, whenever used or referred to in sections 462.41 to 462.81, shall have the following meanings and inclusions, unless a different intent clearly appears from the context.

"City" shall mean a city of the first class in this State.

"Development" shall mean a specific work, repair or improvement to put into effect a development plan. The term shall include the real property, buildings, and improvements owned, constructed, managed, or operated by a neighborhood redevelopment corporation.

"Development Area" shall mean that portion of a slum and blight area to which a development plan is applicable and for the redevelopment of which portion a certificate of convenience and necessity is issued by the redevelopment commission.

"Development Cost" shall mean the amount determined, either prospectively or otherwise, by the redevelopment commission to be the actual cost of the development and shall include, among other costs, the cost of planning the development, including preliminary studies and surveys, neighborhood planning, and architectural, engineering and legal services, the costs of financing the development, including carrying charges during construction, the cost of the real property included in the development, the cost of demolition of existing structures, the costs of landscaping and roadways, the cost of installation of water, sewer and other

utility services, the costs of construction, equipment and furnishing of buildings and improvements, including architectural, engineering, builders' and legal fees, the costs of reconstruction, rehabilitation, remodeling or repair of existing buildings, improvements and of utility services, the cost of management and operation until the development is ready for use, and the cost of improving that portion of the development area which is to be devoted for use as a park, playground or recreation center, together with such additions to development cost as result from additions to the development in accordance with the original development plan or amendments thereto.

"Development plan" shall mean a plan for the redevelopment of all or any part of a slum and blight area, and shall include any amendments thereto approved by the redevelopment commission in accordance with the requirements of section 462.60.

"Mortgage" shall mean a mortgage, trust indenture, deed of trust, or other instrument creating a lien on real property, and the indebtedness secured thereby.

"Neighborhood redevelopment corporation" shall mean a corporation organized pursuant to the provisions of sections 462.41 to 462.81.

"Plan commission" shall mean the planning commission of any city, or, if none now exists, the officer, committee, or persons who shall be designated by the governing body of such city to act as such.

"Governing body" shall mean the city council where such council exists.

"Real property" shall mean lands, lands under water, structures, and any and all easements, franchises, and incorporeal hereditaments and estates, and rights therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise.

"Redevelopment" shall mean the eradication, rehabilitation and rebuilding of a slum and blight area, with residential facilities, together with such public structures or spaces and incidental commercial facilities as may be necessary or appropriate.

"Redevelopment commission" shall mean the commission created and established pursuant to the provisions of section 462.44.

"Slum and blight areas" shall mean those urban districts in which the major portion of the housing is detrimental to the health, safety, morality or welfare of the occupants by reason of age, dilapidation, overcrowding, faulty arrangement, lack of ventilation, light or sanitation facilities, or any combination of these factors.

[1945 c. 493 s. 3]

**462.44 DEVELOPMENT COMMISSION; MEMBERS; SECRETARY; COMPENSATION.** Any city of the first class shall have the power to provide for the creation of a redevelopment commission to supervise and regulate neighborhood redevelopment corporations organized pursuant to the provisions of sections 462.41 to 462.81 to operate within the boundaries of such city. Such redevelopment commission shall consist of not less than three nor more than five members, one of which members shall be designated as its chairman, to be appointed by the mayor of the city, by and with the advice and consent of the governing body of the city. Each member of the redevelopment commission shall hold office for a term of two years and until his successor shall be appointed and qualified. Any vacancy in the membership of the redevelopment commission occurring by reason of the death, resignation, disqualification, inability or refusal to act of any of the members thereof shall be filled by appointment by the mayor, by and with the advice and consent of the governing body of the city.

No person holding stocks or mortgages in any neighborhood redevelopment corporation, or who is in any other manner directly or indirectly pecuniarily interested in such neighborhood redevelopment corporation, or in the development undertaken by it, shall be appointed as a member of, or be employed by, that redevelopment commission to whose supervision and regulation such neighborhood redevelopment corporation is subject. If any such member or employee shall voluntarily become so interested, his office or employment shall ipso facto become vacant. If any such member or employee becomes so interested otherwise than voluntarily he shall within ninety days divest himself of such interest and if he fails to do so his office or employment shall become vacant.

The redevelopment commission shall have power, subject to the approval of the governing body of the city, to appoint a secretary and from time to time to employ

accountants, engineers, architects, experts, inspectors, clerks, and other employees and fix their compensation.

Each member of the redevelopment commission shall receive such salary as shall be fixed by the governing body of the city, as the case may be, and said governing body shall have power to provide for the payment of the salaries of all members and the expenses of the redevelopment commission.

[1945 c. 493 s. 4]

**462.45 POWERS; QUORUM; DOCUMENTS.** Consistent with the provisions of sections 462.41 to 462.81, the redevelopment commission may adopt such rules and regulations and may alter, amend and repeal the same as it shall deem advisable relative to the calling, holding and conduct of its meetings, the transaction of its business, the regulation and control of its employees, the conduct of hearings, inquiries and investigations, and the performance in general of its duties and powers hereunder.

A majority of the members of the redevelopment commission shall constitute a quorum to transact business and no vacancy shall impair the right of the remaining members to exercise all its powers; and every order, rule, or regulation of the redevelopment commission approved by a majority of the members thereof shall be deemed to be the order, rule, or regulation of the redevelopment commission.

Any notice, instrument, or document which the redevelopment commission may be authorized by law to issue shall be deemed sufficient if signed by its secretary. All orders, rules, regulations, and records of the redevelopment commission and all instruments or documents filed with it may be proved in any court of this state by a copy thereof certified by the secretary.

[1945 c. 493 s. 5]

**462.46 NEIGHBORHOOD REDEVELOPMENT CORPORATIONS.** Neighborhood redevelopment corporations may be organized in the manner provided by sections 462.41 to 462.81 to acquire real property, to alter, renovate, demolish, or rebuild existing improvements thereon, and to construct, maintain, and operate a development therein, when authorized by and subject to the supervision of the redevelopment commission of the city, village, or incorporated town wherein the development area is located, for the purpose of effecting the redevelopment of slum and blight areas in the manner provided by sections 462.41 to 462.81; provided, that the business and conduct of each neighborhood redevelopment corporation, until the redevelopment of its development area has been achieved, shall be subject, as hereinafter provided, to the supervision and regulation of the redevelopment commission of the city.

[1945 c. 493 s. 6]

**462.47 PROCEDURE.** Whenever three or more adult persons, citizens of the United States of America, at least two of whom shall be citizens of this state, shall desire to form a corporation under sections 462.41 to 462.81, they shall sign and verify articles of incorporation in duplicate setting forth the following:

- (1) The name of the corporation.
- (2) The name and address, including street and number, if any, of each incorporator.
- (3) A statement of the objects for which it is formed, among which shall be included the elimination of degenerative conditions and the rehabilitation and rebuilding of that development area whose redevelopment it is authorized to undertake pursuant to a certificate of convenience and necessity issued by the redevelopment commission.
- (4) The period of duration, which shall not be more than sixty years, and which shall be without revivor.
- (5) The address, including street and number, if any, of its initial registered office in this state, and the name of its initial registered agent at such address.
- (6) The total amount of authorized capital stock.
- (7) The number of shares into which the capital stock is to be divided, and the par value thereof; if the shares are to be divided into classes of common and preferred shares, the number of shares of each class and a statement of the preferences, qualifications, limitations, restrictions, and the special or relative rights in respect of the shares of each class; provided, that no shares be without par value.
- (8) The names and addresses (including street number, if any) of the pre-incorporation subscribers to the common shares, and the amount subscribed and

paid by each; provided, that no pre-incorporation subscription shall be made for preferred shares.

(9) The number of common shares which it is proposed to issue at once, and the amount of currency or legal tender to be received by the corporation therefor; provided, that no consideration other than currency or legal tender of the United States of America shall be received by the corporation for those common shares which it is proposed to issue at once, and that such consideration shall be fully paid at the time of the filing of the articles of incorporation by the secretary of state.

(10) The number, names and addresses, including street and number, if any, of the directors, at least two of whom shall be residents of this state, and the terms for which elected.

(11) Any provision which the incorporators may choose to insert limiting or denying to shareholders the pre-emptive right to acquire additional shares of the corporation.

(12) Any other provision, not inconsistent with sections 462.41 to 462.81 or other law, which the incorporators may choose to insert for the regulation of the business and conduct of the affairs of the corporation.

[1945 c. 493 s. 7]

**462.48 FILING; CERTIFICATE.** Duplicate originals of the articles prescribed by section 462.07 shall be filed in the office of the secretary of state.

If the secretary of state finds that such statement is in conformity with the provisions of section 462.47, he shall, when all franchise taxes, fees, and charges have been paid:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue to the incorporators a certificate of incorporation to which he shall affix the other duplicate original.

[1945 c. 493 s. 8]

**462.49 RIGHTS, POWERS, AND PRIVILEGES.** Every corporation organized under sections 462.41 to 462.81 shall, subject to the conditions and limitations prescribed by sections 462.41 to 462.81, have the following rights, powers, and privileges:

(1) To have succession by its corporate name for the period limited in its certificate of incorporation.

(2) To sue and be sued in its corporate name.

(3) To have and use a common seal and alter it at pleasure.

(4) To have a capital stock of such an amount and divided into shares as may be provided in the certificate of incorporation, or any amendment thereof, subject to the conditions prescribed by section 462.47; provided, that the issuance of the shares of stock of every corporation organized under sections 462.41 to 462.81 shall be subject to supervision and regulation of the redevelopment commission, as provided in sections 462.41 to 462.81.

(5) To acquire, own, use, convey, and otherwise dispose of and deal in real property, however acquired, subject to the conditions and restrictions of sections 462.41 to 462.81; provided, that no single sale, mortgage, lease, or conveyance of two-thirds or more of the corporate assets shall be made, except within a period of one year immediately preceding the expiration by lapse of time of the corporate charter, without the consent of the holders of two-thirds of all the outstanding capital stock of the corporation at any annual meeting or at any special meeting called for that purpose; provided further, that no real property shall ever be acquired, owned or used by such corporation outside its development area.

(6) To borrow money for its corporate purposes at such rate of interest as the corporation may determine, subject to the approval of the redevelopment commission as provided in sections 462.41 to 462.81, and to mortgage or pledge its property, both real and personal, to secure the payment thereof.

(7) To elect officers, appoint agents, define their duties and fix their compensation.

(8) Subject to the provisions of sections 462.41 to 462.81, to acquire real property by exercise of the power of eminent domain in the manner provided by the general laws of the state relating thereto.



(9) To make and alter by-laws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation; and to amend its articles of incorporation.

(10) To conduct business in this state, subject to the provisions of sections 462.41 to 462.81.

(11) To cease doing business and to surrender its charter.

(12) To have and exercise all the powers necessary and convenient to carry into effect the purposes for which the corporation is formed.

[1945 c. 493 s. 9]

**462.50 PROHIBITIONS.** No neighborhood redevelopment corporation shall:

(1) Acquire title to any real property, or any interest therein except by way of unexercised option, unless it shall first have obtained a certificate from the redevelopment commission, given after the hearing prescribed by section 462.58, that the acquisition of real property and its development in the development area is necessary and convenient for the public purposes defined by sections 462.41 to 462.81 and is part of the public use declared by sections 462.41 to 462.81.

(2) Sell, convey, lease, or assign any real property without the imposition of those building and use restrictions which have been assumed by the neighborhood redevelopment corporation, and which shall be included in all instruments of sale, conveyance, transfer, lease, or assignment; provided, that there are excepted from this prohibition those building and use restrictions which shall have been abandoned or altered due to change in the predominant character of the locality as determined by judicial decision.

(3) Issue shares, whether common, preferred, or both, in an amount greater than the development cost, as determined by the redevelopment commission, less the amount of any mortgage thereon; provided, that nothing herein contained shall be construed to prohibit the issuance of common shares subscribed by pre-incorporation subscription preceding the determination of the development cost.

(4) Sell, convey, or mortgage any real property without the approval of the redevelopment commission.

(5) Lease an entire building or entire tract of land in the development area to any person or corporation without the approval of the redevelopment commission.

(6) Acquire any real property outside the development area allotted it by the redevelopment commission.

(7) Change, alter, amend, add to, or depart from an approved development plan, except as otherwise provided by sections 462.41 to 462.81.

(8) Make any guarantee without obtaining the approval of the redevelopment commission.

(9) Reorganize without obtaining the approval of the redevelopment commission.

(10) Merge or consolidate with any corporation.

(11) Voluntarily dissolve without first having obtained the certificate of the redevelopment commission as provided in section 462.53.

[1945 c. 493 s. 10]

**462.51 NAME REQUIREMENTS.** The name of every neighborhood redevelopment corporation organized pursuant to the provisions of sections 462.41 to 462.81, shall include the words "Neighborhood" and "Redevelopment," and no corporation, hereafter organized under the laws of this state, nor any foreign corporation, hereafter authorized to transact business in this state, shall after the date of enactment of Laws 1945, Chapter 493, include both the words "Neighborhood" and "Redevelopment" as part of its corporate name.

[1945 c. 493 s. 11]

**462.52 TAXATION.** Neighborhood redevelopment corporations organized under sections 462.41 to 462.81, notwithstanding their function in the redevelopment of slum and blight areas, shall be subject to the same taxation, general and special, as to their assets, tangible and intangible, and as to their capital stock, as is imposed by law upon the assets and capital stock of private corporations for profit organized pursuant to the laws of this state.

[1945 c. 493 s. 12]

**462.53 SUBJECT TO BUSINESS CORPORATION ACT.** Neighborhood redevelopment corporations organized under sections 462.41 to 462.81 shall be subject to the provisions of the Business Corporation Act and all existing and future

amendments and modifications thereof, so far as the same are not inconsistent with the provisions of sections 462.41 to 462.81.

[1945 c. 493 s. 13]

**462.54 PREREQUISITES TO ACQUISITION OF REAL ESTATE.** No neighborhood redevelopment corporation shall acquire title to any real property, or any interest therein except by way of unexercised option, or institute any development without first making written application to the redevelopment commission for approval of the proposed development plan in the manner hereinafter prescribed, and without secondly securing the certificate of convenience and necessity to be issued by the redevelopment commission upon the conditions hereinafter mentioned.

(1) The application of a neighborhood redevelopment corporation for approval of its proposed development plan shall contain:

(a) The legal description of the proposed development area and the description thereof by city blocks, street, and number, if any.

(b) A statement of the character of the estates in real property to be acquired by the neighborhood redevelopment corporation.

(c) A statement showing the present use of the real property in the proposed development area, the zoning restrictions, if any, thereon, the private restrictions, if any, of record, and the predominant primary racial group of the present inhabitants.

(d) A statement of the existing buildings or improvements in the development area, if any, which are to be demolished.

(e) A statement of the existing buildings or improvements, if any, in the development area which are not to be immediately demolished and the approximate period of time within which the demolition, if any, of each such building or improvement is to take place.

(f) A statement of the proposed improvements, if any, of each building, if any, not to be demolished immediately, and any proposed repairs or alterations of such buildings.

(g) A statement of the type, number and character of each new industrial, commercial, residential, public or other building or improvement to be erected or made.

(h) A metes and bounds description of that portion of the proposed development area to be devoted for a park, playground or recreation center for the use of the development, the specific use to which such portion is to be put and the manner in which it shall be improved.

(i) A statement of those portions, if any, of the proposed development area (other than the portions to be devoted for a park, playground, or recreation center for the use of the development) to be left as open land area and the manner in which such portions, if any, shall be maintained.

(j) A statement of recommended changes, if any, in the zoning ordinances, necessary or desirable for the development and its protection against blighting influences.

(k) A statement of recommended changes, if any, in streets or street levels and of recommended vacations, if any, of streets, alleys, or other public spaces.

(l) A statement in detail of the estimated development cost and of the proposed method of financing the development, sufficient to give assurance that the neighborhood redevelopment corporation will be able to complete and operate the development.

(m) An estimate of the periods of time within which, after the approval of the development plan, the neighborhood redevelopment corporation will be able firstly to initiate its development and secondly to complete its development, excepting unexpected delays not caused by it.

(n) A statement of the character, approximate number of units, approximate rentals, and approximate date of availability of the proposed dwelling accommodations, if any, to be furnished during construction and upon completion of the development.

(o) Such other statements or material as the applicant neighborhood redevelopment corporation deems relevant, including recommendations for the redevelopment of one or more areas contiguous to the proposed development area.

(2) No certificate of convenience and necessity shall be issued by the redevelopment commission upon application by a neighborhood redevelopment corporation except upon the fulfillment of the following conditions:

(a) That the neighborhood redevelopment corporation has filed with the redevelopment commission a bond, in form and with surety or sureties satisfactory to the redevelopment commission, in the penal sum of five per cent of the estimated development cost as set out in the application of the neighborhood redevelopment corporation but in no event to exceed \$10,000 payable to the city, village, or incorporated town creating the redevelopment commission, the payment to be deposited in the general corporate fund of such city, village, or incorporated town, the bond to be conditioned upon the initiation and completion of the development within the respective time limits, or authorized extensions thereof, prescribed by the redevelopment commission.

(b) That the neighborhood redevelopment corporation has agreed in writing to incorporate in its instruments of sale, conveyance, transfer, lease, or assignment such restrictions as the redevelopment commission may by rule impose as to the type of construction, use, landscape, and architectural design of the development.

(c) That the neighborhood redevelopment corporation has agreed in writing to devote as a minimum ten per cent of the development area for a park, playground, or recreation center for the use of the development (the site or sites for which shall be determined by the redevelopment commission), to provide adequate financial arrangements for defraying the upkeep thereof during its corporate existence, and to place thereon, in the manner prescribed by subparagraph (b) of paragraph 2 of this section, such use restrictions as the development commission may by rule impose; provided, that in determining the proportion of open land area required by any zoning ordinance compared to the land area used for building purposes, the portion so devoted for park, playground, or recreation center shall be counted as open land area.

(d) That the redevelopment commission shall, after the public hearing provided by paragraph 1 of section 462.55, have made the determinations provided in paragraph 3 of this section either originally or after the application has been remanded upon judicial review.

(3) The redevelopment commission, before the issuance of the certificate of convenience and necessity to a neighborhood redevelopment corporation, shall determine that:

(a) The development area is within an area which, under the conditions existing at the time, is a slum and blight area.

(b) The redevelopment of the development area in accordance with the development plan is designed to effectuate the public purposes declared in section 462.42.

(c) The development plan conforms to the zoning ordinances, if any, applicable to the development area, and further conforms to the plan, if any, adopted by the plan commission, if any, of such city, as evidenced by a report on such adopted plan prepared by such plan commission and on file with the redevelopment commission.

(d) Public facilities, including, but not limited to, fire and police protection, and recreation, are presently adequate, or will be adequate at the time that the development is ready for use, to service the development area.

(e) The execution of the development plan will not cause undue hardship to the families, if any, occupying dwelling accommodations in the development area, to such a degree as to outweigh the public use defined in section 462.42 to be achieved through the redevelopment of such development area.

(f) The estimated development cost of the development is sufficient for the proposed redevelopment.

(g) The execution of the development plan will not displace the predominant primary racial group of the present inhabitants of the development area.

(h) No portion, greater than by ten per cent in area, of the development area is designed by the development plan for use other than residential except in those instances wherein the plan commission, if any, of the city, village, or incorporated town concerned, has filed with the redevelopment commission, pursuant to paragraph 1 of section 462.55, an advisory report recommending a greater portion by area than ten per cent, in which instances, no portion, greater than that so recommended, of the development area is designed by the development plan for use other than residential.

(i) The conditions prescribed by paragraph 2 of this section have been fulfilled.

**462.55 PROCEDURE BY REDEVELOPMENT COMMISSION.** (1) The redevelopment commission, after receipt of an application by a neighborhood redevelopment corporation for approval of a proposed development plan, and after the conditions in subparagraphs (a), (b) and (c) of paragraph 2 of section 462.54 have been fulfilled, before determining the several conditions prescribed by paragraph 3 of section 462.54, shall do the following: Firstly, it shall transmit a copy of the application to the plan commission, if any, of the city, wherein the development commission is acting, with the request that the plan commission file with it within 30 days' time such advisory report on the application as the plan commission may desire to make upon the appropriateness and desirability, from a municipal planning point of view, of the development plan proposed in the application, and upon the characterization of the proposed development area. Secondly, it shall after the expiration of said 30 days' time hold a public hearing upon the proposed development plan. Notice of the time, place, and purpose of the hearing shall be published at least once each week for three consecutive weeks in a newspaper in general circulation in the city in which the proposed development area is located, the time of the hearing to be within ten days from the last publication of notice. The notice shall specify by legal description and by city blocks, and streets the proposed development area and shall further specify the place where copies of the application for the approval of the proposed development plan are available. The redevelopment commission shall require the neighborhood redevelopment corporation to file with the application such number of copies thereof, to be available without charge to the public, as the redevelopment commission may by rule determine. At the time and place of such hearing, informal criticisms, suggestions, and objections to the application for approval of the proposed development plan may be made by any party in attendance. Within ten days after the conclusion of the hearing the redevelopment commission shall determine whether the proposed development plan fulfills the conditions prescribed by paragraph 3 of section 462.54.

(2) In the event that the redevelopment commission shall determine, after the hearing prescribed by paragraph 1 of this section, that the proposed development plan fulfills the conditions prescribed by paragraph 3 of section 462.54, the redevelopment commission shall make and enter upon its records an appropriate order approving the development plan, prescribing the respective time limits within which the neighborhood redevelopment corporation shall firstly initiate and shall secondly complete the developments and reserving jurisdiction to extend the time limits upon application filed in the manner prescribed by section 462.57, and reciting as findings the determinative conditions and such additional findings as the redevelopment commission deems appropriate. Whenever a development plan, as approved, would be more adapted to effectuate the public use defined in section 462.42 through the vacation of streets, alleys, or other public spaces, or through the amendment to the zoning ordinance or ordinances applicable to the district wherein the development area is located, or through both such vacation and amendment, the redevelopment commission shall specify in its order the extent of the vacation or the desired amendment to the zoning ordinance or ordinances, or both as the case may be, and that the vacation or amendment is, or both the vacation and amendment are, appropriate to the redevelopment sought to be achieved. A copy of the order approving the development plan shall immediately upon its entry be posted in the place where the hearing was held and, in order to initiate judicial review of the order, written objections thereto may be filed with the redevelopment commission within 20 days after its entry, but not thereafter, by any one or more of the owners or lienors of the real property which must be acquired, by purchase, condemnation, or otherwise, in order to effectuate the development plan, or by any municipal corporation or agency thereof, or by any public corporation affected thereby. Concurrently with the entry of the order by the redevelopment commission, it shall issue to the neighborhood redevelopment corporation a certificate that the acquisition of real property and its development in the development area is necessary and convenient for the public purposes to be served thereby and is part of the public use declared by sections 462.41 to 462.81.

(3) In the event that the redevelopment commission shall determine, after the hearing prescribed by paragraph 1 of this section, that the proposed development plan does not meet the conditions prescribed by paragraph 3 of section 462.54, the redevelopment commission shall make and enter upon its records an appropriate order rejecting the development plan, specifying in detail therein the determinative

condition or conditions not fulfilled and for reason of which the rejection was ordered. Not earlier than 40 days and not later than 50 days from the date of the entry of the order, the redevelopment commission, unless a judicial review of its order of rejection shall have been initiated pursuant to section 462.56, shall return the bond and agreements specified in subparagraphs (a), (b) and (c) of paragraph 2 of section 462.54.

[1945 c. 493 s. 15]

**462.56 PROCEDURE IN DISTRICT COURT.** (1) In all cases in which a development plan is approved by the redevelopment commission, to whose order written objections are filed by the persons or corporations and in the time and manner prescribed in paragraph 2 of section 462.55, the neighborhood redevelopment corporation shall, within 15 days after the expiration of the period of 20 days allowed for filing objections, file in the office of the clerk of the district court of the county wherein the development area is located, an application to the district court for the confirmation of the approval of the redevelopment commission. In all cases in which a development plan is rejected by the redevelopment commission, the neighborhood redevelopment corporation may within 35 days from the entry of the order of rejection, but not thereafter, file in the office of the clerk of the district court of the county wherein the development area is located an application to the District Court for the reversal of the rejection of the redevelopment commission and for remanding the application to the redevelopment commission with directions to approve the development plan and to issue a certificate of convenience and necessity. Each application shall be accompanied by a request to the clerk of the district court to issue summons. Forthwith upon the filing of each such application, the neighborhood redevelopment corporation shall deposit with the redevelopment commission written notice of the filing of the application. The redevelopment commission, upon the deposit with it of the notice, shall within 20 days hereafter file with the clerk of the district court the bond and written agreements specified in subparagraphs (a), (b) and (c) of paragraph 2 of section 462.54, a copy of all papers and documents filed with it, a transcript of the testimony taken at the hearing, and a copy of the order of the redevelopment commission, all certified by the secretary under the seal of the redevelopment commission. In the instance of each such application, summons shall be issued directed to those persons or corporations who shall have filed written directions in the time and manner prescribed in paragraph 2 of section 462.55; in addition, in the instance of an application for reversal and remanding, summons shall be issued directed to the redevelopment commission. In each instance the process, practice and pleadings shall proceed in accordance with the procedure in civil cases.

(2) No new or additional evidence may be introduced upon such review by the district court, but the review shall be heard on the record of the redevelopment commission as certified by the secretary as in paragraph 1 of this section provided. The order of the redevelopment commission shall be held prima facie to be reasonable and the burden of proof in all issues reviewed shall be upon the person or corporation objecting to such order.

(3) It shall be the duty of the district court to examine the application and the answers, if any, thereto filed, and the record of the redevelopment commission. If, after such examination, it shall find that the several conditions set forth in paragraph 3 of section 462.54 have been fulfilled, the judge of such court shall mark the application "Approved" and shall enter an order of record confirming the approval of the redevelopment commission or, as the case may be, reversing the rejection of the redevelopment commission and remanding to it the application with directions to approve the development plan, to issue a certificate of convenience and necessity to the neighborhood redevelopment corporation, and to make such other provisions as the case may require. The clerk of the district court shall, when the application is "Approved", deliver the bond and written agreements to the redevelopment commission. If, after such examination, the district court shall find that the several conditions set forth in paragraph 3 of section 462.54 have not been fulfilled, the judge of the court shall mark the application "Not Approved" and shall enter an order of record to that effect. The clerk of the district court shall, when the application is "Not Approved", return the bond and written agreements to the neighborhood redevelopment corporation.

(4) Appeals from the orders of the district court entered under the provisions of this section may be taken directly to the supreme court by any party to the

review in the district court within 60 days after the entry of the order of the district court, and shall be governed by the rules applicable to appeals to the supreme court.

(5) In the event that, after the judicial review as prescribed by paragraphs 1, 2, 3 and 4 of this section, the application of the neighborhood redevelopment corporation is "Not Approved", the neighborhood redevelopment corporation, after the return to it of the bond and written agreements, shall forthwith proceed to dissolution.

(6) When no objections to the order of the redevelopment commission entered pursuant to paragraph 2 of section 462.55 approving the development plan are filed by the persons or corporations and in the time and manner prescribed by such paragraph 2 of section 462.55, or when the commission shall have entered an order pursuant to paragraph 3 of section 462.55 rejecting the proposed development plan and no application for reversal of such order of rejection and remanding of the application is filed by the neighborhood redevelopment corporation in the time and manner prescribed in paragraph 1 of this section, those persons and corporations shall then be deemed to have waived the right to have the merits of the controversy reviewed by a court and there shall be no trial of the merits of such controversy by any court to which application may be made for a writ to enforce such order or in any other judicial proceeding.

[1945 c. 493 s. 16]

**462.57 PETITION FOR EXTENSION; HEARING AND ORDER.** Upon application in writing filed by a neighborhood redevelopment corporation with the redevelopment commission for an extension of the time limit within which to initiate or to complete the development, or both as the case may be, pursuant to the certificate of convenience and necessity possessed by the neighborhood redevelopment corporation, the redevelopment commission shall hold a hearing and shall examine into the said application and the reasons for the failure to initiate or complete the development, or both as the case may be, within the time limit originally allotted therefor, which reasons shall be stated in detail in the application, and the redevelopment commission, if satisfied that the failure was not occasioned by purposeful non-exercise, without excuse, of the authority contained in the certificate of convenience and necessity, shall grant such extension or extensions of said time limits as the circumstances of the case may require. Nothing herein contained shall be construed to debar a neighborhood redevelopment corporation from making applications for successive extensions of the time limits.

If the redevelopment commission shall grant an extension or extensions of the time limits, as in this section provided, the secretary of said redevelopment commission shall notify in writing the surety or sureties upon the bond of the neighborhood redevelopment corporation, filed pursuant to subparagraph (a) of paragraph 2 of section 462.54, of the fact and duration of the extension or extensions. Every such bond made by such surety or sureties shall be subject to the power and authority of the redevelopment commission to authorize the extension or extensions, and no surety shall be discharged by reason of failure of notice or knowledge of the extension or extensions.

[1945 c. 493 s. 17]

**462.58 STATEMENT; CONTENT; TIME; FILING.** (1) Not earlier than 40 days and not later than 60 days from the date of the entry of the order approving a development plan, entered by the redevelopment commission pursuant to paragraph 2 of section 462.55, unless a judicial review of the order shall have been initiated pursuant to section 462.56, the redevelopment commission shall prepare and authenticate under its seal a statement that a certificate of convenience and necessity has been issued, pursuant to section 462.55, to the neighborhood redevelopment corporation, identifying it by name. The statement shall contain an identification of the development area of the corporation by legal description and by description by city blocks, street, and number, if any, thereof. The redevelopment commission shall forthwith thereafter file the statement in the office of the secretary of state.

(2) The provisions of paragraph 1 of this section shall be applicable to the approval of an amendment to a development plan, made pursuant to section 462.60, when the amendment operates to extend the development area beyond its former limits.

[1945 c. 493 s. 18]

**462.59 PREFERENCE SHARES.** The redevelopment commission, in its issuance of certificates of convenience and necessity pursuant to section 462.55, shall give preference, other things being equal, to such neighborhood redevelopment corporation (as opposed to any other neighborhood redevelopment corporation), the pre-incorporation subscribers to the common shares of which have been for two or more years preceding incorporation the owners of not less than ten per cent in area of the real property located within the proposed development area.

[1945 c. 493 s. 19]

**462.60 AMENDMENTS; CONDITIONS.** At any time prior to the redevelopment of the development area, the redevelopment commission may approve an amendment to a development plan, but no such amendment shall be approved unless and until: (1) an application therefor shall have been filed with the redevelopment commission by the neighborhood redevelopment corporation to which a certificate of convenience and necessity has been issued in connection with the development plan sought to be amended, which application shall contain the portions of the matters required by paragraph 1 of section 462.54 relevant to the proposed amendment; (2) the bond and written agreements required by paragraph 2 of section 462.54, if applicable to the proposed amendment, shall have been furnished the redevelopment commission; and (3) the redevelopment commission shall have determined that the proposed amendment fulfills such of the conditions prescribed by paragraph 3 of section 462.54 as are relevant to the proposed amendment. The procedure relating to the determination of the redevelopment commission made pursuant to this section, and the judicial review thereof, shall be the same as are provided by sections 462.55 and 462.56 for the determination of the redevelopment commission upon an initial application for approval of a development plan and the judicial review thereof.

[1945 c. 493 s. 20]

**462.61 CHARGED WITH PERFORMANCE OF.** In addition to the duties elsewhere provided in sections 462.41 to 462.81 for it, the redevelopment commission shall be charged with the performance of the following duties:

(1) By rules, to provide for those restrictions enumerated in subparagraphs (b) and (c) of paragraph 2 of section 462.54. Such restrictions shall take into consideration: (a) the location of the development area with reference to transportation, educational and recreational facilities, and business opportunities; (b) the use of neighboring properties; (c) the manner of redevelopment, including the proposed use, of the development area; (d) zoning ordinances applicable to the district; and (e) the official plan of the city, village, or incorporated town or, in the absence of such an official plan, the plan, if any, adopted by the plan commission, if any, of such city, village, or incorporated town as evidenced by a report on such adopted plan prepared by such plan commission and on file with the redevelopment commission. In the formulation of these restrictions and suggestions of the neighborhood redevelopment corporation may be heard prior to the application for approval of its development plan.

(2) By rules, to prescribe the conditions, in instances where the development areas of two or more neighborhood redevelopment corporations operating or to operate in the same locality shall not encompass an intervening area of less than two city blocks, under which contiguity, and the extent thereof, shall be mandatory of the two or more development areas. Those rules shall take into consideration: (a) the zoning ordinances applicable to the development areas; (b) the extent of similarity of use of the development areas and of the intervening area; and (c) the official plan of the city, village, or incorporated town or, in the absence of such official plan, the plan, if any, adopted by the plan commission, if any, of such city, village, or incorporated town as evidenced by a report on such adopted plan prepared by such plan commission and on file with the redevelopment commission.

(3) By rules, to prescribe the form of the bond required by subparagraph (a) of paragraph 2 of section 462.57. In prescribing that form, the redevelopment commission shall take into consideration the requirements and purposes of sections 462.41 to 462.81.

(4) To determine the sufficiency in amount, in form and in the sureties thereof, of the bond or bonds specified in subparagraph (d) of paragraph 1 of section 462.78; and determine the sufficiency of the sureties of the bond required by subparagraph (a) of paragraph 2 of section 462.54. In determining sufficiency of the amount of the first type of bond or bonds, the redevelopment commission shall take into consideration (a) the development cost of the development, as established by it; (b)

the cost of the work, as fixed in the contract or contracts entered into by the contractor or contractors giving bond; (c) the period of time which the performance of the work will consume; all so as to satisfy the redevelopment commission that, in its opinion, the amount of such bond or bonds shall be sufficient to insure the expeditious performance of the contract or contracts. In determining the sufficiency of the form of the first type of bond or bonds, the redevelopment commission shall be guided by any form commonly used by contractors in operations of similar character in the city, village, or incorporated town. In determining the sufficiency of the security of all bonds, the redevelopment commission shall investigate the financial responsibility of the sureties.

(5) At any time prior to the redevelopment of the development area, and through its members or agents duly authorized by it, to enter the lands, property, equipment, buildings, plants, and offices of a neighborhood redevelopment corporation and make personal inspection thereof. Nothing in sections 462.41 to 462.81 shall be construed to alter the provisions of the laws of this state or of any governmental subdivision thereof prescribing the qualifications of persons authorized to plan and to supervise the construction, enlargement, or alterations of buildings.

(6) From time to time, to determine the redevelopment pursuant to the development plan of parcels of real property within the development area. Prior to that determination, no sale or conveyance, and no lease of an entire building or entire tract of land, shall be approved by the redevelopment commission. Upon that determination being made, sales or conveyances, and leases of entire buildings or entire tracts of land, if of real property so determined to be redeveloped, shall be approved (such approval being required by paragraphs 4 and 5 of section 462.50) by the redevelopment commission, upon application by the neighborhood redevelopment corporation, without more.

(7) To determine the redevelopment of the entire development area.

(8) At any time prior to the redevelopment of the development area, to order every neighborhood redevelopment corporation: (a) to do such acts as may be required by the provisions of law or such administrative rules and regulations as may be adopted by the redevelopment commission in the carrying out of the provisions of sections 462.41 to 462.81 or of the terms of any application, contract or agreement herein provided to be approved by the redevelopment commission in the manner prescribed by sections 462.41 to 462.81; and (b) to refrain from doing any acts in violation thereof.

(9) From time to time, to make, amend, and repeal rules and regulations for carrying into effect the provisions of sections 462.41 to 462.81.

[1945 c. 493 s. 21]

**462.62 CESSATION OF SUPERVISION.** (1) Anything in sections 462.41 to 462.81 to the contrary notwithstanding, the supervision and regulation of any parcel of the development area by the redevelopment commission shall cease and determine as to that parcel whenever the redevelopment commission shall have made the determination of the redevelopment of that parcel, as required by paragraph 6 of section 462.65, and shall have approved a sale, conveyance, or lease thereof, as required by paragraphs 4 and 5 of section 462.50.

(2) Anything in sections 462.41 to 462.81 to the contrary notwithstanding, the supervision and regulation of the neighborhood redevelopment corporation by the redevelopment commission shall cease and determine whenever the redevelopment commission shall find that the redevelopment of the development area of the neighborhood redevelopment corporation has been achieved.

[1945 c. 493 s. 22]

**462.63 SUPERVISION BY AND DUTIES OF COMMISSION.** In the discharge of its functions and duties set forth in sections 462.41 to 462.81, the redevelopment commission shall have general supervision of all neighborhood redevelopment corporations, the development areas of which are located within the city, which has created the redevelopment commission, and the redevelopment commission shall have power to hold investigations, inquiries, and hearings concerning the affairs of those neighborhood redevelopment corporations, concerning their dealings, transactions, and relationships with third persons, and concerning any other matters covered by the provisions of sections 462.41 to 462.81. In the conduct of any investigation, inquiry or hearing the redevelopment commission shall not be bound by the technical rules of evidence and no informality in any proceeding or in the manner of taking testimony before the redevelopment commission shall invalidate



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any order, decision, rule, or regulation there made. All hearings shall be open to the public.

The redevelopment commission shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel attendance and testimony of witnesses, and the production of papers, books, accounts, and documents.

Hearings shall be held by the redevelopment commission. All evidence presented at hearings shall become a part of the records of the redevelopment commission. In all cases in which the redevelopment commission bases any action on reports of investigations or inquiries not conducted as hearings, those reports shall be made a part of the records of the redevelopment commission.

All records of the redevelopment commission shall be open to the inspection of all persons without reward. The redevelopment commission shall have the power to examine all books, contracts, records, documents, and papers of a neighborhood redevelopment corporation and by subpoena duces tecum compel the production thereof.

The redevelopment commission shall have power to adopt reasonable and proper administrative rules and regulations relating to the exercise of its powers, and proper administrative rules to govern its proceedings and to regulate the mode and manner of all investigations, inquiries, and hearings and to alter and amend the same.

[1945 c. 493 s. 23]

**462.64 INVESTIGATION; TESTIMONIAL IMMUNITY.** No person shall be excused from testifying or from producing any papers, books, accounts, or documents in any investigation or inquiry or upon any hearing ordered or held by the redevelopment commission, when ordered to do so, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, before the redevelopment commission; provided, that such immunity shall extend only to a natural person who in obedience to a subpoena gives testimony under oath or produces evidence, documentary or otherwise, under oath. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

[1945 c. 493 s. 24]

**462.65 HEARINGS; SUBPOENAS; SERVICE; FEES.** All subpoenas issued under the terms of sections 462.41 to 462.81 may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the district courts of this state. Whenever a subpoena is issued at the instance of a party to any proceeding before the redevelopment commission, that party may be required to bear the cost of service thereof and to pay the fee of the witness, and in such case the redevelopment commission shall have power, in its discretion, to require a deposit to cover the cost of the service and the payment of the legal witness fee and mileage to the witness when served with subpoena. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

Any district court of this state, or any judge thereof, either in term time or vacation, upon application of the redevelopment commission, may, in his discretion, compel the attendance of witnesses, the production of books, papers, accounts, and documents, and the giving of testimony before the redevelopment commission, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before said court.

The redevelopment commission or any party may in any such investigation or hearing cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the courts of this state and to that end may compel the attendance of witnesses and the production of papers, books, accounts, and documents.

The redevelopment commission may require the production within this State at such time and place as it may designate of any books, accounts, papers, or documents kept by any neighborhood redevelopment corporation in any office or place without this state, or at its option, verified copies in lieu thereof, so that an examination thereof may be made by the redevelopment commission or under its direction.

[1945 c. 493 s. 25]

**462.66 APPEAL TO DISTRICT COURT; PROCEDURE.** Within 30 days after the entry of any order of the redevelopment commission, except such orders as are specified in paragraphs 2 and 3 of section 462.55 and except such orders as are specified in section 462.60 (judicial reviews of which orders are to be had in the manner prescribed by section 462.56), any person or corporation affected by any order of the redevelopment commission may appeal to the district court of the county in which is located the development area of the neighborhood redevelopment corporation concerned, for the purpose of having the reasonableness or lawfulness of the order inquired into and determined. The party taking such an appeal shall file with the redevelopment commission written notice of the appeal. The redevelopment commission, upon the filing of the notice of appeal, shall within five days thereafter, file with the clerk of the district court to which the appeal is taken a certified copy of the order appealed from and within 20 days thereafter a transcript of the testimony taken at the hearing, together with all exhibits there introduced or copies thereof. Upon such an appeal the party appealing and the redevelopment commission may stipulate that a certain question or certain questions alone, and a specified portion only of the evidence, shall be certified to the court for its judgment and in such case the stipulation and the question or questions and the evidence therein specified shall constitute the record on appeal.

The party serving the notice of appeal shall within five days after service of notice upon the redevelopment commission file a copy of the notice with proof of service with the clerk of the district court to which the appeal is taken, and thereupon the district court shall have jurisdiction over the appeal and it shall be entered upon the records of the court and shall be tried without formal pleadings but otherwise according to the rules relating to the trial of other civil suits so far as the same are applicable.

No new or additional evidence may be introduced in any proceeding upon the appeal, but it shall be heard in the record of the redevelopment commission as certified by it. If it appears that the redevelopment commission failed to receive evidence properly offered upon a hearing or on application for a hearing the court shall remand the case with instructions to receive the testimony so offered and rejected and to enter a new order based upon the evidence taken and such new evidence directed to be received unless it shall appear that the new evidence would not be controlling, in which case the court shall so find in its order. An order of the redevelopment commission shall be held prima facie to be reasonable and the burden of proof in all issues raised by the appeal shall be upon the person or corporation appealing.

When no appeal is taken from the order as herein provided, parties affected by the order shall be deemed to have waived the right to have the merits of the controversy reviewed by a court and there shall be no trial of the merits of any controversy in which the order was made by any court to which application may be made for a writ to enforce the order or in any other judicial proceeding.

[1945 c. 493 s. 26]

**462.67 APPEALS TO SUPREME COURT.** Appeals shall lie to the supreme court, to review the final orders and judgments of the district court entered pursuant to section 462.66.

[1945 c. 493 s. 27]

**462.68 DUTY OF CITY ATTORNEY.** It shall be the duty of the attorney for the city, to represent the redevelopment commission created by such city, village, or incorporated town in all actions and proceedings instituted by it under the provisions of sections 462.41 to 462.81 and to defend the orders of the redevelopment commission in all appeals taken therefrom or on judicial review thereof.

[1945 c. 493 s. 28]

**462.69 STAYS; SUSPENSIONS OF PROCESS.** (1) The pendency of an appeal, taken from an order of the redevelopment commission pursuant to the provisions of section 462.66, shall not of itself stay or suspend the operation of the order of the redevelopment commission, but during the pendency of such appeal the district or the supreme court, as the case may be, in its discretion may stay or suspend, in whole or in part, the operation of the order of the redevelopment commission.

(2) The order of the redevelopment commission made pursuant to paragraph 2 of section 462.55 shall be automatically suspended by the filing of a written objection thereto by the persons or corporations and in the time and manner

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prescribed by paragraph 2 of section 462.55 until the final decision of the district court or the supreme court, as the case may be, approving such order.

[1945 c. 493 s. 29]

**462.70 MANDAMUS OR INJUNCTION.** Whenever in the judgment of the redevelopment commission a neighborhood redevelopment corporation fails or omits, or is about to fail or omit, to do anything required of it by law or by order of the redevelopment commission as provided in sections 462.41 to 462.81, or does or is about to do, or permits or is about to permit to be done, anything contrary to or in violation of law or any such order, the redevelopment commission shall commence an action or proceeding in the district court of the county, wherein the development area of the redevelopment corporation concerned is located, for the purpose of enforcing or preventing such action or omission, either by a mandamus or injunction.

[1945 c. 493 s. 30]

**462.71 APPEALS TO SUPREME COURT FROM MANDAMUS OR INJUNCTION.** Appeal shall lie to the supreme court, to review the final orders, judgments, or decrees of the court in an action or proceeding brought pursuant to section 462.70.

[1945 c. 493 s. 31]

**462.72 ZONING AND PLANNING TO CONTROL.** Nothing in sections 462.41 to 462.81 shall be construed to alter the provisions of the statutes of this state with reference to zoning and planning. The redevelopment commission shall not approve a development plan or the operation of a development by a neighborhood redevelopment corporation in contravention of any zoning ordinance or in contravention of the official plan of the city, village, or incorporated town or, in the absence of an official plan, of the plan, if any, adopted by the plan commission, if any, of the city, as evidenced by a report on such adopted plan prepared by such plan commission and on file with the redevelopment commission.

[1945 c. 493 s. 32]

**462.73 PROSPECTIVE DETERMINATION OF DEVELOPMENT COST.** (1) The redevelopment commission shall upon the issuance of a certificate of convenience and necessity pursuant to section 462.53 (unless the order by virtue of which the certificate was issued has been suspended pursuant to paragraph 2 of section 462.69) proceed to a prospective determination of the development cost of the development. In connection with such determination the redevelopment commission shall hold a hearing and may make such inquiry or investigation, and examine such witnesses, books, papers, accounts, documents, and contracts and require the filing of such data, as it may deem of assistance. The redevelopment commission shall require the neighborhood redevelopment corporation to disclose every interest of its directors in any transaction under investigation. The redevelopment commission shall have power to investigate all such transactions and inquire into the good faith thereof, to examine books, papers, accounts, documents, and contracts of neighborhood redevelopment corporations, construction companies, or other companies or of firms and individuals with whom the neighborhood redevelopment corporation shall have or shall have had financial transactions, for the purpose of enabling it to verify any statements furnished, and to examine into the cost of real property acquired or proposed to be acquired by such neighborhood redevelopment corporation. Upon the conclusion of the hearing, the redevelopment commission shall determine of its own judgment the prospective development cost and shall issue to the neighborhood redevelopment corporation a certificate stating the amount thereof as so determined. The amount as so determined shall thereafter be conclusive upon the redevelopment commission.

(2) A neighborhood redevelopment corporation may, at any time, whether prior or subsequent to the completion of its development, whenever it appears that the actual development cost will be greater in amount than the prospective determination thereof made pursuant to paragraph 1 of this section, apply to the redevelopment commission for a determination of additional development cost. The redevelopment commission shall, upon such application, proceed to the determination thereof, in the same manner and with the same authority as provided by paragraph 1 of this section. Upon the conclusion of its hearing and the determination of the application, the redevelopment commission shall issue to the neighborhood redevelopment corporation a certificate stating the amount of the additional develop-

ment cost, if any. The additional amount as so determined shall thereafter be conclusive upon the redevelopment commission.

[1945 c. 493 s. 33].

**462.74 ISSUANCE OF SHARES OR EXECUTION OF MORTGAGE DEEMED A SPECIAL PRIVILEGE.** The power of neighborhood redevelopment corporations to issue shares of stock and mortgages is a special privilege and shall be exercised only under the supervision and regulation of the redevelopment commission, acting for the state, according to the provisions of sections 462.41 to 462.81 and under such administrative rules and regulations as may be adopted by the redevelopment commission in discharging the functions given it by sections 462.41 to 462.81.

[1945 c. 493 s. 34]

**462.75 CONSENT TO ISSUANCE OF SHARES OR EXECUTION OF MORTGAGE.** (1) A neighborhood redevelopment corporation may issue shares and certificates of shares, both common and preferred, and mortgages, both senior and junior, in an amount, all securities in all, not to exceed the development cost of the neighborhood redevelopment corporation, determined as provided by section 462.74. For the purpose of the enforcement of this provision, prior to the issuance of securities the neighborhood redevelopment corporation shall make application to the redevelopment commission for an order approving the issuance and stating the amount thereof and the purpose or purposes to which the securities or the proceeds thereof are to be applied; provided, that the securities shall be issued for the following purposes and for no others, namely: for the defrayment of development cost, or for the discharge or refunding of securities originally issued to defray such development cost. Upon the approval of the application, the neighborhood redevelopment corporation may proceed to issue the securities described in the application in the amount and for the purpose or purposes so approved; provided, that the prior approval of the redevelopment commission shall not be requisite to the issuance of the common shares of a neighborhood redevelopment corporation issued upon pre-incorporation subscription as provided in paragraph 9 of section 462.47.

(2) The provisions of paragraph 1 of this section shall apply, as far as pertinent, to any change in the capital structure of a neighborhood redevelopment corporation, whether effected by increase or decrease of capital stock, by amendment to the articles of incorporation, or otherwise.

(3) No neighborhood redevelopment corporation shall apply the securities, or any part thereof, or any of the proceeds thereof, to any purpose not specified in the order of the redevelopment commission or to any purpose specified in the order of the redevelopment commission in excess of the amount authorized for that purpose. No neighborhood redevelopment corporation shall issue or dispose of the securities on any terms less favorable than those specified in the order of the redevelopment commission. The redevelopment commission shall have the power to require neighborhood redevelopment corporations to account for the disposition of the proceeds of the securities in such form and detail as it may find to be advisable, and to establish such administrative rules and regulations as it may find to be reasonable and necessary to insure the disposition of those proceeds for the purpose or purposes specified in sections 462.41 to 462.81.

(4) The fact that the redevelopment commission has approved the issuance of the securities shall not be held to mean that the redevelopment commission has in any way endorsed their merits, and it shall be unlawful for any person or corporation so to represent.

[1945 c. 493 s. 35]

**462.76 VOID ISSUANCE OF SHARES OR EXECUTION OF MORTGAGE.** All shares and certification of shares and all mortgages of a neighborhood redevelopment corporation issued without an order of the redevelopment commission approving such issuance except the issuance of common shares upon pre-incorporation subscription shall be void; and likewise every share and certificate of share and every mortgage issued with the approval of the redevelopment commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of approval of the redevelopment commission to contain, shall be void, but no failure in any other respect to comply with the terms or conditions of the order of approval of the redevelopment commission shall render void any such security except as to a corporation or person taking the same with notice of the failure to comply with the order of the redevelopment commission.

[1945 c. 493 s. 36]

**462.77 AUTHORIZED INVESTMENTS.** The state and all counties, cities, villages, incorporated towns, and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings, loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds, money, or other funds belonging to them or within their control in any mortgage of a neighborhood redevelopment corporation approved in its issuance as provided in section 462.75, which the Federal Housing Administrator has insured or has made a commitment to insure under the National Housing Act, it being the purpose of this section to authorize the investment in such mortgages of all sinking, insurance, retirement, compensation, pension, and trust funds, whether owned or controlled by private or public persons or officers; provided, that nothing contained in this section shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in the selection of securities.

[1945 c. 493 s. 37]

**462.78 CONDEMNATION PROCEEDINGS; PREREQUISITES; CONDITIONS.**

(1) Before a condemnation proceeding may be instituted by a neighborhood redevelopment corporation, such neighborhood redevelopment corporation shall present to the redevelopment commission an application requesting approval of the proposed condemnation proceeding, which shall contain, among other things:

(a) The legal description, and the description thereof by city blocks, street and number, if any, of the real property proposed to be condemned, and the character of the estates, in fee-simple or otherwise, thus to be acquired.

(b) Proof that such real property is within the development area of the applicant neighborhood redevelopment corporation.

(c) Proof that the neighborhood redevelopment corporation has acquired by purchase or has secured options to purchase 60 per cent or more in area of the land within the development area.

(d) A copy of any proposed contract or contracts with contractors for the work proposed to be done in the development of the development area, and a copy of any bond or bonds to be required by the neighborhood redevelopment corporation from the contractors to insure the performance of the contract or contracts.

(2) The redevelopment commission shall determine within a reasonable time thereafter the sufficiency of the statements in the application and the verity of the copies of the contracts and bonds appended to the application. If the redevelopment commission finds:

(a) That the determination should be in the affirmative;

(b) That the bond or bonds are sufficient in form, amount and security; and

(c) That the development plan of the applicant neighborhood redevelopment corporation has been approved by the redevelopment commission and the procedure for judicial review thereof has not been initiated within the time prescribed by sections 462.41 to 462.81, or, if a judicial review has been so initiated, that a final order shall have been had, as specified in section 462.56, whereby the development plan was "Approved," then the redevelopment commission shall issue to the applicant neighborhood redevelopment corporation a certificate of approval of the institution of the proposed condemnation proceeding, which certificate shall contain a legal description of the real property proposed to be condemned and the character of the estates, in fee-simple or otherwise, thus to be acquired, the facts so determined with respect thereto, and a statement that the real property proposed to be condemned is required for a public use and that its acquisition for such use is necessary and convenient.

(3) The acquisition by condemnation of real property by a neighborhood redevelopment corporation shall be in the manner now provided by law for condemnation.

(4) The provisions of this section shall be applicable to any proceeding to condemn real property pursuant to a development plan amended in accordance with sections 462.41 to 462.81; provided, however, that in the instance of the increase of

a development area pursuant to sections 462.41 to 462.81, the provisions of subparagraph (c) of paragraph 1 of this section shall not apply to the additional area forming the increase.

[1945 c. 493 s. 38]

**462.79 CITY PLANNING COMMISSION MAY BE DESIGNATED.** The city planning commission, where any such commission now exists, may be designated, by the governing body of the city, to be the redevelopment commission with all the powers and duties otherwise provided by sections 462.41 to 462.81.

[1945 c. 493 s. 39]

**462.80 CITY OF FIRST CLASS; DETERMINATION OF SLUM OR-BLIGHT AREA; PROCEDURE.** Any city of the first class may acquire the title to any real property by gift or purchase or by exercise of the right of eminent domain of any area which, under the conditions existing at the time is a slum and blight area as defined by this act. In lieu of the application of a neighborhood redevelopment corporation as provided in sections 462.41 to 462.81 the governing body of such city may by resolution direct the redevelopment commission to determine whether any definitely described area is a slum and blight area. Such redevelopment commission shall then proceed, in all cases applicable under the terms of sections 462.41 to 462.81 to determine such question which shall be determined with all rights of hearing, review and appeal as provided by sections 462.41 to 462.81. If the city shall acquire title to any such slum and blight area such city may sell or lease the same to any neighborhood redevelopment corporation for development as provided in sections 462.41 to 462.81.

[1945 c. 493 s. 40]

**462.81 GIFT; FORFEITED TAX PROPERTY.** Any neighborhood redevelopment corporation or any city may accept gifts of money or property for the purposes of use under sections 462.41 to 462.81. Any real property which has been or shall be forfeited to the state for non-payment of taxes shall be conveyed by the state to the city whenever it shall be desired for use under sections 462.41 to 462.81.

[1945 c. 493 s. 41]