

CHAPTER 462

HOUSING, REDEVELOPMENT, PLANNING, ZONING

462.352	Definitions.	462.358	Procedure for plan effectuation; subdivision regulations.
462.353	Authority to plan.	462.39	Powers and duties.
462.3531	Waiver of rights.	462.396	Grants; levies; budget; accounts; audits; bids; deposits.
462.357	Procedure for plan effectuation; zoning.		

462.352 DEFINITIONS.

[For text of subs 1 to 3, see M.S.2000]

Subd. 5. **Comprehensive municipal plan.** "Comprehensive municipal plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

[For text of subd 6, see M.S.2000]

Subd. 7. **Transportation plan.** "Transportation plan" means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the various modes of transportation of the municipality and its environs, such as streets and highways, mass transit, railroads, air transportation, trucking and water transportation, and includes a major thoroughfare plan.

[For text of subd 8, see M.S.2000]

Subd. 9. **Capital improvement program.** "Capital improvement program" means an itemized program setting forth the schedule and details of specific contemplated public improvements by fiscal year, together with their estimated cost, the justification for each improvement, the impact that such improvements will have on the current operating expense of the municipality, and such other information on capital improvements as may be pertinent.

Subd. 10. **Official map.** "Official map" means a map adopted in accordance with section 462.359 which may show existing and proposed future streets, roads, and highways of the municipality and county, the area needed for widening of existing streets, roads, and highways of the municipality and county, and existing and future county state aid highways and state trunk highway rights-of-way. An official map may also show the location of existing and future public land and facilities within the municipality. In counties in the metropolitan area as defined in section 473.121, official maps may for a period of up to five years designate the boundaries of areas reserved for purposes of soil conservation, water supply conservation, flood control and surface water drainage and removal including appropriate regulations, protecting such areas against encroachment by buildings, other physical structures or facilities.

[For text of subs 11 to 14, see M.S.2000]

Subd. 15. **Official controls.** "Official controls" or "controls" means ordinances and regulations which control the physical development of a city, county or town or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

[For text of subd 16, see M.S.2000]

Subd. 17. [Repealed, 2001 c 7 s 91]

[For text of subd 18, see M.S.2000]

History: 2001 c 7 s 69-73

462.353 AUTHORITY TO PLAN.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Fees.** A municipality may prescribe fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control established pursuant to sections 462.351 to 462.364 or an application for a permit or other approval required under an official control established pursuant to those sections. Fees as prescribed must be by ordinance and must be fair, reasonable, and proportionate to the actual cost of the service for which the fee is imposed. A municipality shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

If a dispute arises over a specific fee imposed by a municipality related to a specific application, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal under section 462.361. An approved application may proceed as if the fee had been paid, pending a decision on the appeal.

[For text of subd 5, see M.S.2000]

History: 2001 c 207 s 11

462.3531 WAIVER OF RIGHTS.

Any waiver of rights of appeal under section 429.081 is effective only for the amount of assessment estimated or for the assessment amount agreed to in the development agreement. An effective waiver of rights of appeal under section 429.081 may contain additional conditions providing for increases in assessments that will not be subject to appeal if:

- (1) the increases are a result of requests made by the developer or property owner;
- or
- (2) the increases are otherwise approved by the developer or property owner in a subsequent separate written document.

History: 2001 c 207 s 12

462.357 PROCEDURE FOR PLAN EFFECTUATION; ZONING.

[For text of subs 1 to 1d, see M.S.2000]

Subd. 1e. **Nonconformities.** Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair or maintenance, but if the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may by ordinance impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

Subd. 2. **General requirements.** (a) At any time after the adoption of a land use plan for the municipality, the planning agency, for the purpose of carrying out the policies and goals of the land use plan, may prepare a proposed zoning ordinance and submit it to the governing body with its recommendations for adoption.

(b) Subject to the requirements of subdivisions 3, 4, and 5, the governing body may adopt and amend a zoning ordinance by a majority vote of all its members. The adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the governing body.

(c) The land use plan must provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the land use plan.

[For text of subds 3 and 4, see M.S.2000]

Subd. 5. Amendment; certain cities of the first class. The provisions of this subdivision apply to the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial of a property located in a city of the first class, except a city of the first class in which a different process is provided through the operation of the city's home rule charter. In a city to which this subdivision applies, amendments to a zoning ordinance shall be made in conformance with this section but only after there shall have been 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 total contiguous descriptions of real estate held by the same owner or any party purchasing any such contiguous property within one year preceding the request, and after the affirmative vote in favor thereof by a majority of the members of the governing body of any such city. The governing body of such city may, by a two-thirds vote of its members, after hearing, adopt a new zoning ordinance without such written consent whenever the planning commission or planning board of such city shall have made a survey of the whole area of the city or of an area of not less than 40 acres, within which the new ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of descriptions of real estate affected by such changes and alterations renders the obtaining of such written consent impractical, and such planning commission or planning board shall report in writing as to whether in its opinion the proposals of the governing body in any case are reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall have conducted a public hearing on such proposed ordinance, changes or alterations, of which hearing published notice shall have been given in a daily newspaper of general circulation at least once each week for three successive weeks prior to such hearing, which notice shall state the time, place and purpose of such hearing, and shall have reported to the governing body of the city its findings and recommendations in writing.

[For text of subds 6 to 8, see M.S.2000]

History: 2001 c 174 s 1; 2001 c 207 s 13,14

462.358 PROCEDURE FOR PLAN EFFECTUATION; SUBDIVISION REGULATIONS.

[For text of subd 1a, see M.S.2000]

Subd. 2a. Terms of regulations. The standards and requirements in the regulations may address without limitation: the size, location, grading, and improvement of lots, structures, public areas, streets, roads, trails, walkways, curbs and gutters, water supply, storm drainage, lighting, sewers, electricity, gas, and other utilities; the planning and design of sites: access to solar energy; and the protection and conservation of flood plains, shore lands, soils, water, vegetation, energy, air quality, and geologic and ecologic features. The regulations shall require that subdivisions be consistent with the municipality's official map if one exists and its zoning ordinance, and may require consistency with other official controls and the comprehensive plan. The regulations may prohibit certain classes or kinds of subdivisions in areas where prohibition is consistent with the comprehensive plan and the purposes of this section, particularly

the preservation of agricultural lands. The regulations may prohibit, restrict or control development for the purpose of protecting and assuring access to direct sunlight for solar energy systems. The regulations may prohibit the issuance of permits or approvals for any tracts, lots, or parcels for which required subdivision approval has not been obtained.

The regulations may permit the municipality to condition its approval on the construction and installation of sewers, streets, electric, gas, drainage, and water facilities, and similar utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, or bond in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. Sections 471.345 and 574.26 do not apply to improvements made by a subdivider or a subdivider's contractor.

The regulations may permit the municipality to condition its approval on compliance with other requirements reasonably related to the provisions of the regulations and to execute development contracts embodying the terms and conditions of approval. The municipality may enforce such agreements and conditions by appropriate legal and equitable remedies.

[For text of subs 2b to 10, see M.S.2000]

History: 2001 c 7 s 74

462.39 POWERS AND DUTIES.

Subdivision 1. **General powers.** The commission shall have and exercise all powers which may be necessary or convenient to enable it to perform and carry out the duties and responsibilities of sections 462.381 to 462.398 or which may hereafter be imposed upon it by law. Such powers include the specific powers enumerated in this section. The commission is an instrumentality of the state for purposes of section 297A.70, subdivisions 1, 2, and 3.

[For text of subs 2 to 4, see M.S.2000]

History: 2000 c 418 art 1 s 44

462.396 GRANTS; LEVIES; BUDGET; ACCOUNTS; AUDITS; BIDS; DEPOSITS.

[For text of subs 1 to 5, see M.S.2000]

Subd. 6. **Depositories.** The commission shall from time to time designate one or more national or state banks, or trust companies authorized to do a banking business, as official depositories for money of the commission, and thereupon shall require the treasurer to deposit all or part of such money in such bank or banks. Such designation shall be in writing and set forth all the terms and conditions upon which the deposits are made, and shall be signed by the chair and secretary, and made a part of the minutes of the commission. Any bank or trust company so designated shall qualify as a depository by furnishing a corporate surety bond or collateral as required by chapter 118A, and shall thereafter, as long as money of the commission is on deposit therein, maintain such bond or collateral and shall be required to secure any deposit, insofar as it is insured under federal law, as provided in section 118A.03.

History: 2001 c 7 s 90