

## CHAPTER 462

## HOUSING, REDEVELOPMENT, PLANNING, ZONING

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## 462.352 DEFINITIONS.

*[For text of subs 1 to 9, see M.S.2004]*

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, highways, and airports 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 those areas against encroachment by buildings or other physical structures or facilities.

*[For text of subs 11 to 18, see M.S.2004]*

**History:** 2005 c 41 s 16

## 462.355 ADOPT, AMEND COMPREHENSIVE PLAN; INTERIM ORDINANCE.

*[For text of subs 1 to 3, see M.S.2004]*

Subd. 4. **Interim ordinance.** (a) If a municipality is conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of a comprehensive plan or official controls as defined in section 462.352, subdivision 15, or if new territory for which plans or controls have not been adopted is annexed to a municipality, the governing body of the municipality may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety and welfare of its citizens. The interim ordinance may regulate, restrict, or prohibit any use, development, or subdivision within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective.

(b) If a proposed interim ordinance purports to regulate, restrict, or prohibit activities relating to livestock production, a public hearing must be held following a ten-day notice given by publication in a newspaper of general circulation in the municipality before the interim ordinance takes effect.

(c) The period of an interim ordinance applicable to an area that is affected by a city’s master plan for a municipal airport may be extended for such additional periods as the municipality may deem appropriate, not exceeding a total additional period of 18 months. In all other cases, no interim ordinance may halt, delay, or impede a subdivision that has been given preliminary approval, nor may any interim ordinance extend the time deadline for agency action set forth in section 15.99 with respect to any application filed prior to the effective date of the interim ordinance. The governing body of the municipality may extend the interim ordinance after a public hearing and written findings have been adopted based upon one or more of the conditions in clause (1), (2), or (3). The public hearing must be held at least 15 days but not more than 30 days before the expiration of the interim ordinance, and notice of the hearing must be published at least ten days before the hearing. The interim ordinance may be extended

for the following conditions and durations, but, except as provided in clause (3), an interim ordinance may not be extended more than an additional 18 months:

(1) up to an additional 120 days following the receipt of the final approval or review by a federal, state, or metropolitan agency when the approval is required by law and the review or approval has not been completed and received by the municipality at least 30 days before the expiration of the interim ordinance;

(2) up to an additional 120 days following the completion of any other process required by a state statute, federal law, or court order, when the process is not completed at least 30 days before the expiration of the interim ordinance; or

(3) up to an additional one year if the municipality has not adopted a comprehensive plan under this section at the time the interim ordinance is enacted.

**History:** 2005 c 41 s 17; 1Sp2005 c 1 art 1 s 91

#### 462.357 OFFICIAL CONTROLS: ZONING ORDINANCE.

*[For text of subs 1 to 1d, see M.S.2004]*

Subd. 1e. **Nonconformities.** (a) 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, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

(b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or 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.

(c) Notwithstanding paragraph (a), a municipality shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

*[For text of subd 1f, see M.S.2004]*

Subd. 1g. **Feedlot zoning controls.** (a) A municipality proposing to adopt a new feedlot zoning control or to amend an existing feedlot zoning control must notify the Pollution Control Agency and commissioner of agriculture at the beginning of the process, no later than the date notice is given of the first hearing proposing to adopt or amend a zoning control purporting to address feedlots.

(b) Prior to final approval of a feedlot zoning control, the governing body of a municipality may submit a copy of the proposed zoning control to the Pollution Control Agency and to the commissioner of agriculture and request review, comment, and recommendations on the environmental and agricultural effects from specific provisions in the ordinance.

(c) The agencies' response to the municipality may include:

(1) any recommendations for improvements in the ordinance; and

(2) the legal, social, economic, or scientific justification for each recommendation under clause (1).

(d) At the request of the municipality's governing body, the municipality must prepare a report on the economic effects from specific provisions in the ordinance. Economic analysis must state whether the ordinance will affect the local economy and describe the kinds of businesses affected and the projected impact the proposal will have on those businesses. To assist the municipality, the commissioner of agriculture, in cooperation with the Department of Employment and Economic Development, must develop a template for measuring local economic effects and make it available to the municipality. The report must be submitted to the commissioners of employment and economic development and agriculture along with the proposed ordinance.

(e) A local ordinance that contains a setback for new feedlots from existing residences must also provide for a new residence setback from existing feedlots located in areas zoned agricultural at the same distances and conditions specified in the setback for new feedlots, unless the new residence is built to replace an existing residence. A municipality may grant a variance from this requirement under section 462.358, subdivision 6.

*[For text of subds 2 to 8, see M.S.2004]*

**History:** *1Sp2005 c 1 art 1 s 92; art 2 s 146*

#### **462.359 PROCEDURE TO EFFECT PLAN: OFFICIAL MAPS.**

Subdivision 1. **Statement of purpose.** Land that is needed for future street purposes or for aviation purposes and as sites for other necessary public facilities and services is frequently diverted to nonpublic uses that could have been located on other lands without hardship or inconvenience to the owners. When this happens, public uses of land may be denied or may be obtained later only at prohibitive cost or at the expense of dislocating the owners and occupants of the land. Identification on an official map of land needed for future public uses permits both the public and private property owners to adjust their building plans equitably and conveniently before investments are made that will make adjustments difficult to accomplish.

Subd. 2. **Adoption.** After the planning agency has adopted a major thoroughfare plan and a community facilities plan, it may, for the purpose of carrying out the policies of the major thoroughfare plan and community facilities plan, prepare and recommend to the governing body a proposed official map covering the entire municipality or any portion thereof. The governing body may, after holding a public hearing, adopt and amend the official map by ordinance. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the date of the hearing. The official map or maps shall be prepared in sufficient detail to permit the establishment of the future acquisition lines on the ground. In unplatted areas a minimum of a centerline survey shall have been made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by a licensed land surveyor. After adoption, a copy of the official map, or sections thereof with a copy of the adopting ordinance attached shall be recorded with the county recorder as provided in sections 462.351 to 462.364.

Subd. 3. **Effect.** After an official map has been adopted and filed, the issuance of building permits by the municipality is subject to this section. Whenever any street or highway is widened or improved or any new street is opened, or interests in lands for other public purposes, including aviation purposes, are acquired by the municipality, it is not required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit within the limits of the mapped street or outside of any building line that may have been established upon the existing street or within any area thus identified for public purposes. The adoption of an official map does not give the municipality any right, title, or interest in areas identified for public purposes thereon, but the adoption of the map does authorize the municipality to acquire interests without paying compensation for buildings or structures erected in those areas without a permit or in violation of the conditions of a permit.

*[For text of subd 4, see M.S.2004]*

**History:** 2005 c 4 s 109; 2005 c 41 s 18,19

#### **462.3595 CONDITIONAL USE PERMITS.**

*[For text of subs 1 to 3, see M.S.2004]*

Subd. 4. **Recording of permit.** A certified copy of any conditional use permit shall be recorded with the county recorder or registrar of titles of the county or counties in which the municipality is located for record. The conditional use permit shall include the legal description of the property included.

**History:** 2005 c 4 s 110

#### **462.36 CERTIFIED COPIES FILED WITH COUNTY RECORDER.**

Subdivision 1. **Required documents.** A certified copy of every ordinance, resolution, map, or regulation adopted under the provisions of sections 462.358, 462.359, and 462.3595 shall be filed with the county recorder of the county or counties in which the municipality adopting it is located. A certified copy of every variance to abstract or registered property granted under section 462.358 shall be recorded with the county recorder or the registrar of titles of the county or counties in which the municipality granting it is located; except that the requirement to record a variance is satisfied if a certified copy of the resolution citing the existence of the variance is recorded identifying the location where the variance documents are available for inspection. Ordinances, resolutions, maps, regulations or variances recorded pursuant to this subdivision do not constitute encumbrances on real property. The order issued by the governing body or board of appeals and adjustments as the case may be, shall include the legal description of the property involved. Failure to record an ordinance, resolution, map, regulation, variance, or order shall not affect its validity or enforceability.

*[For text of subs 2 and 3, see M.S.2004]*

**History:** 2005 c 4 s 111