# CHAPTER 462

# PLANNING, ZONING



**462.01** [Repealed, 1965 c 670 s 14]

**462.02** [Repealed, 1965 c 670 s 14]

**462.03** [Repealed, 1965 c 670 s 14]

**462.04** [Repealed, 1965 c 670 s 14]

**462.05** [Repealed, 1965 c 670 s 14]

**462.06** [Repealed, 1965 c 670 s 14]

**462.07** [Repealed, 1965 c 670 s 14]

**462.08** [Repealed, 1965 c 670 s 14]

**462.09** [Repealed, 1965 c 670 s 14]

**462.10** [Repealed, 1965 c 670 s 14]

**462.11** [Repealed, 1965 c 670 s 14]

**462.111** MS 2006 [Renumbered 15.001]

## RESTRICTED RESIDENCE DISTRICTS

### 462.12 RESTRICTED RESIDENCE DISTRICTS.

Any city of the first class may, through its council, upon petition of 50 percent 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 percent 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.

**History:** *(1618) 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*

## 462.13 COUNCIL GIVEN POWER 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.

**History:** *(1619) 1915 c 128 s 2; 1931 c 290 s 2; 2006 c 214 s 20*

## 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, 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.

Subd. 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.

Subd. 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.

Subd. 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 county recorder 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 10-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 the person's last known place of residence, if known to the city clerk, but if not known, then to the person's place of residence as given in the last published city directory of the city, if the person's 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.

Subd. 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.

Subd. 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.

Subd. 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 appraisement 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.

Subd. 8. **Council action.** Upon such report being filed, the city clerk shall give notice that such appraisement 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 appraisement 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 appraisement and assessment is annulled, the council may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisement, 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 appraisement.

Subd. 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 appraisement and award. In case any appeal or appeals shall be taken from the order confirming the appraisement 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 percent 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.

Subd. 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.

Subd. 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 the owner 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, 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 the owner is interested, affected by such proceedings and the owner's 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 court administrator 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 the appellant's written objection that as to the appellant the award or assessment of the appraisers ought not to stand, and whether the appraisers had jurisdiction to take action in the premises.

Subd. 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 they affect the property of the appellant proposed to be included in the district or damaged or assessed, and described in the written objection. If the amount of damages or benefits assessed is complained of by the appellant, the court shall, if the proceedings are confirmed in other respects, appoint three disinterested qualified voters as appraisers to reappraise the damages and reassess benefits as to the property of appellant. The parties to the appeal shall be heard by the court upon the appointment of the appraisers. The court shall fix the time and place of meeting of the appraisers. They shall be sworn to the faithful discharge of their duties as appraisers, and 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. The 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 provided in sections 462.12 to 462.17 for the government of appraisers appointed by the council. They shall, after the hearing and view of the premises, report to the court their award of damages and assessment of benefits in respect to the property of the appellant. The award shall be final unless set aside by the court. The motion to set aside shall be made within 15 days. If the report is set aside, the court may, in its discretion, recommit it to the same appraisers, or appoint new appraisers as it deems best. The court shall allow to the appraisers a reasonable compensation for their services, and make such award of costs on the appeal, including the compensation of appraisers as it deems just in the premises, and enforce the award by execution. If the court is of the opinion that the appeal was frivolous or vexatious, it may adjudge double costs against the appellant. An appeal may be taken from any final decision of the district court as in other civil cases.

Subd. 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 percent 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.

**History:** *(1620) 1915 c 128 s 3; 1919 c 297; 1925 c 122 s 2; 1931 c 290 s 3; 1976 c 181 s 2; 1983 c 247 s 157; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

**462.15 MAP, PLAT, PARCEL LIST MADE, FILED; TAX, ASSESSMENTS.**

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 county recorder 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 court administrator 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 installments and in such case the county auditor shall include one of the equal annual installments 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 installment 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 installment 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 installments, together with one year's interest upon such installment and all subsequent installments 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 installments 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 installments; 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 installments due on such parcel and accrued interest, penalties, and costs, and all installments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such installments, 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.

**History:** *(1621) 1915 c 128 s 4; 1925 c 122 s 3; 1976 c 181 s 2; 1Sp1986 c 3 art 1 s 82*

**462.16 POWER TO ENACT ORDINANCES TO ENFORCE COUNCIL RIGHTS.**

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 or confinement in the city workhouse not exceeding 90 days. Violations of the ordinances may be prosecuted in the district court. Restricted residence districts created pursuant to sections 462.12 to 462.16 shall be subject to the provisions of section 541.023. In construing the scope and effect of a residence district restriction, equitable principles shall be utilized and the following shall be considered: the historic pattern of enforcement or nonenforcement; changed circumstances; the length of time during which current uses have been allowed to exist; the actual impact of current land uses; and detrimental reliance.

**History:** *(1622) 1915 c 128 s 5; 1981 c 357 s 107; 1998 c 254 art 2 s 47*

**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.

**History:** *(1623) 1915 c 128 s 6*

**462.18** [Repealed, 1965 c 670 s 14]

**462.19** [Repealed, 1965 c 670 s 14]

**462.20** [Repealed, 1965 c 670 s 14]

**462.21** [Repealed, 1965 c 670 s 14]

**462.22** [Repealed, 1965 c 670 s 14]

**462.23** [Repealed, 1965 c 670 s 14]

**462.24** MS 1949 [Local]

**462.25** MS 1949 [Local]

**462.26** MS 1949 [Local]

**462.27** MS 1949 [Local]

**462.28** MS 1949 [Local]

**462.29** MS 1949 [Local]

**462.30** MS 1949 [Local]

**462.31** MS 1949 [Local]

**462.32** MS 1949 [Local]

**462.33** MS 1949 [Local]

**462.34** MS 1949 [Local]

**462.35** MS 1949 [Local]

## MUNICIPAL PLANNING

### 462.351 MUNICIPAL PLANNING AND DEVELOPMENT; POLICY STATEMENT.

The legislature finds that municipalities are faced with mounting problems in providing means of guiding future development of land so as to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities, to preserve agricultural and other open lands, and to promote the public health, safety, and general welfare. Municipalities can prepare for anticipated changes and by such preparations bring about significant savings in both private and public expenditures. Municipal planning, by providing public guides to future municipal action, enables other public and private agencies to plan their activities in harmony with the municipality's plans. Municipal planning will assist in developing lands more wisely to serve citizens more effectively, will make the provision of public services less costly, and will achieve a more secure tax base. It is the purpose of sections 462.351 to 462.364 to provide municipalities, in a single body of law, with the necessary powers and a uniform procedure for adequately conducting and implementing municipal planning.

**History:** *1965 c 670 s 1; 1980 c 566 s 18*

### 462.352 DEFINITIONS.

Subdivision 1. **Application.** For the purposes of sections 462.351 to 462.364 the terms defined in this section have the meanings given them.

Subd. 2. **Municipality.** "Municipality" means any city, including a city operating under a home rule charter, and any town.

Subd. 3. **Planning agency.** "Planning agency" means the planning commission or the planning department of a municipality.

Subd. 4. [Repealed, 1980 c 566 s 35]

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.

Subd. 6. **Land use plan.** "Land use plan" means a compilation of policy statements, goals, standards, and maps, and action programs for guiding the future development of private and public property. The term

includes a plan designating types of uses for the entire municipality as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may also include the proposed densities for development.

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.

Subd. 8. **Community facilities plan.** "Community facilities plan" means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the public or semipublic facilities of the municipality such as recreational, educational and cultural facilities.

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, 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.

Subd. 11. **Governing body.** "Governing body" in the case of cities means the council by whatever name known, and in the case of a town, means the town board.

Subd. 12. **Subdivision.** "Subdivision" means the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

(1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) creating cemetery lots;

(3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

Subd. 13. **Plat.** "Plat" means the drawing or map of a subdivision prepared for filing of record pursuant to chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to section 462.358 and chapter 505.

Subd. 14. **Subdivision regulation.** "Subdivision regulation" means an ordinance adopted pursuant to section 462.358 regulating the subdivision of land.

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.

Subd. 16. **Preliminary approval.** "Preliminary approval" means official action taken by a municipality on an application to create a subdivision which establishes the rights and obligations set forth in section 462.358 and the applicable subdivision regulation. In accordance with section 462.358, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

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

Subd. 18. **Urban growth area.** "Urban growth area" means the identified area around an urban area within which there is a sufficient supply of developable land for at least a prospective 20-year period, based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area.

**History:** *1965 c 670 s 2; 1973 c 123 art 5 s 7; 1974 c 317 s 2; 1980 c 509 s 153; 1980 c 566 s 19-23; 1982 c 507 s 21; 1982 c 520 s 3; 1985 c 194 s 17-22; 1989 c 209 art 2 s 1; 1997 c 202 art 4 s 7-9; 2001 c 7 s 69-73; 2005 c 41 s 16*

**462.353 AUTHORITY TO PLAN; FUNDS; FEES; APPEAL.**

Subdivision 1. **General authority.** A municipality may carry on comprehensive municipal planning activities for guiding the future development and improvement of the municipality and may prepare, adopt and amend a comprehensive municipal plan and implement such plan by ordinance and other official actions in accordance with the provisions of sections 462.351 to 462.364.

Subd. 2. **Studies and reports.** In exercising its powers under subdivision 1, a municipality may collect and analyze data, prepare maps, charts, tables, and other illustrations and displays, and conduct necessary studies. A municipality may publicize its purposes, suggestions, and findings on planning matters, may distribute reports thereon, and may advise the public on the planning matters within the scope of its duties and objectives. The commissioner of natural resources must provide the natural heritage data from the county biological survey, if available, to each municipality for use in the comprehensive plan.

Subd. 3. **Appropriation and contracts.** A municipality may appropriate moneys from any fund not dedicated to other purposes in order to finance its planning activities. A municipality may receive and expend grants and gifts for planning purposes and may enter into contracts with the federal and state governments or with other public or private agencies in furtherance of the planning activities authorized by sections 462.351 to 462.364.

Subd. 4. **Fees.** (a) 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. Except as provided in subdivision 4a, fees as prescribed must be by ordinance. Fees must be fair, reasonable, and proportionate and have a nexus to the actual cost of the service for which the fee is imposed.

(b) A municipality must adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected. Upon request, a municipality must explain the basis of its fees.

(c) Except as provided in this paragraph, a fee ordinance or amendment to a fee ordinance is effective January 1 after its adoption. A municipality may adopt a fee ordinance or an amendment to a fee ordinance with an effective date other than the next January 1, but the ordinance or amendment does not apply if an application for final approval has been submitted to the municipality.

(d) If a dispute arises over a specific fee imposed by a municipality related to a specific application, the person aggrieved by the fee may appeal under section 462.361, provided that the appeal must be brought within 60 days after approval of an application under this section and deposit of the fee into escrow. A municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee. An approved application may proceed as if the fee had been paid, pending a decision on the appeal. This paragraph must not be construed to preclude the municipality from conditioning approval of any proposed subdivision or development on an agreement to waive a challenge to the cost associated with municipally installed improvements of the type described in section 429.021.

Subd. 4a. **Fee schedule allowed.** A municipality that collects an annual cumulative total of $5,000 or less in fees under this section may prescribe the fees or refer to a fee schedule in the ordinance governing the official control or permit. A municipality may adopt a fee schedule under this subdivision by ordinance or resolution, either annually or more frequently, following publication of notice of proposed action on a fee schedule at least ten days prior to a public hearing held to consider action on or approval of the fee schedule. A municipality that collects a cumulative total in excess of $5,000 in fees under this section may prescribe a fee schedule by ordinance by following the notice and hearing procedures specified in this subdivision.

Subd. 5. **Certify taxes paid.** A municipality may require, either as part of the necessary information on an application or as a condition of a grant of approval, an applicant for an amendment to an official control established pursuant to sections 462.351 to 462.364, or for a permit or other approval required under an official control established pursuant to those sections to certify that there are no delinquent property taxes, special assessments, penalties, interest, and municipal utility fees due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order, or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this subdivision if all required payments that are due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.

**History:** *1965 c 670 s 3; 1982 c 415 s 1; 1996 c 282 s 3; 1997 c 2 s 3; 2001 c 207 s 11; 2003 c 93 s 1,2; 2004 c 178 s 1; 2007 c 57 art 1 s 154*

**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*

**462.3535 COMMUNITY-BASED PLANNING.**

Subdivision 1. **General.** Each municipality is encouraged to prepare and implement a community-based comprehensive municipal plan.

Subd. 2. **Coordination.** A municipality that prepares a community-based comprehensive municipal plan shall coordinate its plan with the plans, if any, of the county and the municipality's neighbors both in order to prevent the plan from having an adverse impact on other jurisdictions and to complement the plans of other jurisdictions. The municipality shall prepare its plan to be incorporated into the county's community-based comprehensive plan, if the county is preparing or has prepared one, and shall otherwise assist and cooperate with the county in its community-based planning.

Subd. 3. **Joint planning.** Under the joint exercise of powers provisions in section 471.59, a municipality may establish a joint planning district with other municipalities or counties that are geographically contiguous, to adopt a single community-based comprehensive plan for the district. A municipality may delegate its authority to adopt official controls under sections 462.351 to 462.364, to the board of the joint planning district.

Subd. 4. **Cities; urban growth areas.** (a) The community-based comprehensive municipal plan for a statutory or home rule charter city, and official controls to implement the plan, must at a minimum, address any urban growth area identified in a county plan and may establish an urban growth area for the urbanized and urbanizing area. The city plan must establish a staged process for boundary adjustment to include the urbanized or urbanizing area within corporate limits as the urban growth area is developed and provided municipal services.

(b) Within the urban growth area, the plan must provide for the staged provision of urban services, including, but not limited to, water, wastewater collection and treatment, and transportation.

Subd. 5. **Urban growth area boundary adjustment process.** (a) After an urban growth area has been identified in a county or city plan, a city shall negotiate, as part of the comprehensive planning process and in coordination with the county, an orderly annexation agreement with the townships containing the affected unincorporated areas located within the identified urban growth area. The agreement shall contain a boundary adjustment staging plan that establishes a sequencing plan over the subsequent 20-year period for the orderly growth of the city based on its reasonably anticipated development pattern and ability to extend municipal services into designated unincorporated areas located within the identified urban growth area. The city shall include the staging plan agreed upon in the orderly annexation agreement in its comprehensive plan. Upon agreement by the city and town, prior adopted orderly annexation agreements may be included as part of the boundary adjustment plan and comprehensive plan without regard to whether the prior adopted agreement is consistent with this section. When either the city or town requests that an existing orderly annexation agreement affecting unincorporated areas located within an identified or proposed urban growth area be renegotiated, the renegotiated plan shall be consistent with this section.

(b) After a city's community-based comprehensive plan is approved under this section, the orderly annexation agreement shall be filed with the chief administrative law judge of the state Office of Administrative Hearings or any successor agency. Thereafter, the city may orderly annex the part or parts of the designated unincorporated area according to the sequencing plan and conditions contained in the

negotiated orderly annexation agreement by submitting a resolution to the chief administrative law judge. The resolution shall specify the legal description of the area designated pursuant to the staging plan contained in the agreement, a map showing the new boundary and its relation to the existing city boundary, a description of and schedule for extending municipal services to the area, and a determination that all applicable conditions in the agreement have been satisfied. Within 30 days of receipt of the resolution, the chief administrative law judge shall review the resolution and if it finds that the terms and conditions of the orderly annexation agreement have been met, shall order the annexation. The boundary adjustment shall become effective upon issuance of an order by the chief administrative law judge. The chief administrative law judge shall cause copies of the boundary adjustment order to be mailed to the secretary of state, Department of Revenue, state demographer, and Department of Transportation. No further proceedings under chapter 414 or 572A shall be required to accomplish the boundary adjustment. This section provides the sole method for annexing unincorporated land within an urban growth area, unless the parties agree otherwise.

(c) If a community-based comprehensive plan is updated, the parties shall renegotiate the orderly annexation agreement as needed to incorporate the adjustments and shall refile the agreement with the chief administrative law judge.

Subd. 6. **Review by adjacent municipalities; conflict resolution.** Before a community-based comprehensive municipal plan is incorporated into the county's plan under section 394.232, subdivision 3, a municipality's community-based comprehensive municipal plan must be coordinated with adjacent municipalities within the county. As soon as practical after the development of a community-based comprehensive municipal plan, the municipality shall provide a copy of the draft plan to adjacent municipalities within the county for review and comment. An adjacent municipality has 30 days after receipt to review the plan and submit written comments.

Subd. 7. **County review.** (a) If a city does not plan for growth beyond its current boundaries, the city shall submit its community-based comprehensive municipal plan to the county for review and comment. A county has 60 days after receipt to review the plan and submit written comments to the city. The city may amend its plan based upon the county's comments.

(b) If a town prepares a community-based comprehensive plan, it shall submit the plan to the county for review and comment. As provided in section 394.33, the town plan may not be inconsistent with or less restrictive than the county plan. A county has 60 days after receipt to review the plan and submit written comments to the town. The town may amend its plan based on the county's comment.

Subd. 8. **County approval.** (a) If a city plans for growth beyond its current boundaries, the city's proposed community-based comprehensive municipal plan and proposed urban growth area must be reviewed and approved by the county before the plan is incorporated into the county's plan. The county may review and provide comments on any orderly annexation agreement during the same period of review of a comprehensive plan.

(b) Upon receipt by the county of a community-based comprehensive plan submitted by a city for review and approval under this subdivision, the county shall, within 60 days of receipt of a city plan, review and approve the plan in accordance with this subdivision.

(c) In the event the county does not approve the plan, the county shall submit its comments to the city within 60 days. The city may, thereafter, amend the plan and resubmit the plan to the county. The county shall have an additional 60 days to review and approve a resubmitted plan. In the event the county and city are unable to come to agreement, either party may initiate the dispute resolution process contained in chapter 572A. Within 30 days of receiving notice that the other party has initiated dispute resolution, the city or

county shall send notice of its intent to enter dispute resolution. If the city refuses to enter the dispute resolution process, it must refund any grant received from the county for community-based planning activities.

Subd. 9. [Repealed, 2011 c 76 art 4 s 8]

Subd. 10. [Repealed, 2011 c 76 art 4 s 8]

**History:** *1997 c 202 art 4 s 10; 2008 c 196 art 2 s 9; 2011 c 76 art 4 s 2,3*

**462.354 ORGANIZATION FOR PLANNING.**

Subdivision 1. **Planning agency.** A municipality may by charter or ordinance create a planning agency. A planning agency created by ordinance may be abolished by two-thirds vote of all the members of the governing body. The planning agency shall be advisory, except as other powers and duties are imposed on it by sections 462.351 to 462.364, by statute, by charter, or by ordinance consistent with the municipal charter. The planning agency may take the following alternative forms:

(1) It may consist of a planning commission, which may or may not include municipal officials among its members. The planning commission may be provided with staff which may be a division of the administrative structure of the municipal government. The commission shall be advisory directly to the governing body.

(2) It may consist of a planning department with a planning commission advisory to it and shall function as a department advisory to the governing body and the municipal administration. The planning department may be provided with an executive director and other staff as in the case of other municipal departments.

Subd. 2. **Board of adjustments and appeals.** The governing body of any municipality adopting or having in effect a zoning ordinance or an official map shall provide by ordinance for a board of appeals and adjustments. The board shall have the powers set forth in section 462.357, subdivision 6 and section 462.359, subdivision 4. Except as otherwise provided by charter, the governing body may provide alternatively that there be a separate board of appeals and adjustments or that the governing body or the planning commission or a committee of the planning commission serve as the board of appeals and adjustments, and it may provide an appropriate name for the board. The board may be given such other duties as the governing body may direct.

In any municipality where the council does not serve as the board, the governing body may, except as otherwise provided by charter, provide that the decisions of the board on matters within its jurisdiction are final subject to judicial review or are final subject to appeal to the council and the right of later judicial review or are advisory to the council. Hearings by the board of appeals and adjustments shall be held within such time and upon such notice to interested parties as is provided in the ordinance establishing the board. The board shall within a reasonable time make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney. Subject to such limitations as may be imposed by the governing body, the board may adopt rules for the conduct of proceedings before it. Such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The board shall provide for a record of its proceedings which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order. In any municipality in which the planning agency does not act as the board of adjustments and appeals, the board shall make no decision on an appeal or petition until the planning agency, if there is one, or a representative authorized by it has had reasonable opportunity, not to exceed 60 days, to review and report to the board of adjustments and appeals upon the appeal or petition.

**History:** *1965 c 670 s 4; 1967 c 493 s 1*

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

Subdivision 1. **Preparation and review.** The planning agency shall prepare the comprehensive municipal plan. In discharging this duty the planning agency shall consult with and coordinate the planning activities of other departments and agencies of the municipality to insure conformity with and to assist in the development of the comprehensive municipal plan. In its planning activities the planning agency shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies. The planning agency shall periodically review the plan and recommend amendments whenever necessary. When preparing or recommending amendments to the comprehensive plan, the planning agency of a municipality located within a county that is not a greater than 80 percent area, as defined in section 103G.005, subdivision 10b, must consider adopting goals and objectives that will protect open space and the environment.

Subd. 1a. **Update by metropolitan municipalities.** Each municipality in the metropolitan area, as defined in section 473.121, subdivision 2, shall review and update its comprehensive plan and fiscal devices and official controls as provided in section 473.864, subdivision 2.

Subd. 2. **Procedure to adopt, amend.** The planning agency may, unless otherwise provided by charter or ordinance consistent with the municipal charter, recommend to the governing body the adoption and amendment from time to time of a comprehensive municipal plan. The plan may be prepared and adopted in sections, each of which relates to a major subject of the plan or to a major geographical section of the municipality. The governing body may propose the comprehensive municipal plan and amendments to it by resolution submitted to the planning agency. Before adopting the comprehensive municipal plan or any section or amendment of the plan, the planning agency shall hold at least one public hearing thereon. A notice of the time, place and purpose of the hearing shall be published once in the official newspaper of the municipality at least ten days before the day of the hearing.

Subd. 3. **Adoption by governing body.** A proposed comprehensive plan or an amendment to it may not be acted upon by the governing body until it has received the recommendation of the planning agency or until 60 days have elapsed from the date an amendment proposed by the governing body has been submitted to the planning agency for its recommendation. Unless otherwise provided by charter, the governing body may by resolution adopt and amend the comprehensive plan or portion thereof as the official municipal plan upon such notice and hearing as may be prescribed by ordinance. Except for amendments to permit affordable housing development, a resolution to amend or adopt a comprehensive plan must be approved by a two-thirds vote of all of the members. Amendments to permit an affordable housing development are approved by a simple majority of all of the members. For purposes of this subdivision, "affordable housing development" means a development in which at least 20 percent of the residential units are restricted to occupancy for at least ten years by residents whose household income at the time of initial occupancy does not exceed 60 percent of area median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development, and with respect to rental units, the rents for affordable units do not exceed 30 percent of 60 percent of area median income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development.

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:** *1965 c 670 s 5; 1976 c 127 s 21; 1977 c 347 s 68; 1980 c 566 s 24; 1983 c 216 art 1 s 67; 1985 c 62 s 1,2; 1995 c 176 s 4; 2004 c 258 s 1; 2005 c 41 s 17; 1Sp2005 c 1 art 1 s 91; 2008 c 297 art 1 s 59; 2010 c 347 art 1 s 24*

**462.356 PROCEDURE TO EFFECT PLAN: GENERALLY.**

Subdivision 1. **Recommendations for plan execution.** Upon the recommendation by the planning agency of the comprehensive municipal plan or sections thereof, the planning agency shall study and propose to the governing body reasonable and practicable means for putting the plan or section of the plan into effect. Subject to the limitations of the following sections, such means include, but are not limited to, zoning regulations, regulations for the subdivision of land, an official map, a program for coordination of the normal public improvements and services of the municipality, urban renewal and a capital improvements program.

Subd. 2. **Compliance with plan.** After a comprehensive municipal plan or section thereof has been recommended by the planning agency and a copy filed with the governing body, no publicly owned interest in real property within the municipality shall be acquired or disposed of, nor shall any capital improvement be authorized by the municipality or special district or agency thereof or any other political subdivision having jurisdiction within the municipality until after the planning agency has reviewed the proposed acquisition, disposal, or capital improvement and reported in writing to the governing body or other special district or agency or political subdivision concerned, its findings as to compliance of the proposed acquisition, disposal or improvement with the comprehensive municipal plan. Failure of the planning agency to report on the proposal within 45 days after such a reference, or such other period as may be designated by the governing body shall be deemed to have satisfied the requirements of this subdivision. The governing body

may, by resolution adopted by two-thirds vote dispense with the requirements of this subdivision when in its judgment it finds that the proposed acquisition or disposal of real property or capital improvement has no relationship to the comprehensive municipal plan.

**History:** *1965 c 670 s 6*

**462.357 OFFICIAL CONTROLS: ZONING ORDINANCE.**

Subdivision 1. **Authority for zoning.** For the purpose of promoting the public health, safety, morals, and general welfare, a municipality may by ordinance regulate on the earth's surface, in the air space above the surface, and in subsurface areas, the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands, as defined in sections 103F.201 to 103F.221, access to direct sunlight for solar energy systems as defined in section 216C.06, flood control or other purposes, and may establish standards and procedures regulating such uses. To accomplish these purposes, official controls may include provision for purchase of development rights by the governing body in the form of conservation easements under chapter 84C in areas where the governing body considers preservation desirable and the transfer of development rights from those areas to areas the governing body considers more appropriate for development. No regulation may prohibit earth sheltered construction as defined in section 216C.06, subdivision 14, relocated residential buildings, or manufactured homes built in conformance with sections 327.31 to 327.35 that comply with all other zoning ordinances promulgated pursuant to this section. The regulations may divide the surface, above surface, and subsurface areas of the municipality into districts or zones of suitable numbers, shape, and area. The regulations shall be uniform for each class or kind of buildings, structures, or land and for each class or kind of use throughout such district, but the regulations in one district may differ from those in other districts. The ordinance embodying these regulations shall be known as the zoning ordinance and shall consist of text and maps. A city may by ordinance extend the application of its zoning regulations to unincorporated territory located within two miles of its limits in any direction, but not in a county or town which has adopted zoning regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the zoning of land on its side of a line equidistant between the two noncontiguous municipalities unless a town or county in the affected area has adopted zoning regulations. Any city may thereafter enforce such regulations in the area to the same extent as if such property were situated within its corporate limits, until the county or town board adopts a comprehensive zoning regulation which includes the area.

Subd. 1a. **Certain zoning ordinances.** A municipality must not enact, amend, or enforce a zoning ordinance that has the effect of altering the existing density, lot-size requirements, or manufactured home setback requirements in any manufactured home park constructed before January 1, 1995, if the manufactured home park, when constructed, complied with the then existing density, lot-size and setback requirements.

Subd. 1b. **Conditional uses.** A manufactured home park, as defined in section 327.14, subdivision 3, is a conditional use in a zoning district that allows the construction or placement of a building used or intended to be used by two or more families.

Subd. 1c. **Amortization prohibited.** Except as otherwise provided in this subdivision, a municipality must not enact, amend, or enforce an ordinance providing for the elimination or termination of a use by amortization which use was lawful at the time of its inception. This subdivision does not apply to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

Subd. 1d. **Nuisance.** Subdivision 1c does not prohibit a municipality from enforcing an ordinance providing for the prevention or abatement of nuisances, as defined in section 561.01, or eliminating a use determined to be a public nuisance, as defined in section 617.81, subdivision 2, paragraph (a), clauses (i) to (ix), without payment of compensation.

Subd. 1e. **Nonconformities.** (a) Except as otherwise provided by law, 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 estimated market value, as indicated in the records of the county assessor at the time of damage, 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 zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(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.

(d) Paragraphs (d) to (j) apply to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. A municipality shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to paragraphs (d) to (j).

(e) A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:

(1) all structure and septic system setback distance requirements can be met;

(2) a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and

(3) the impervious surface coverage does not exceed 25 percent of the lot.

(f) In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:

(1) the lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

(2) the lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;

(3) impervious surface coverage must not exceed 25 percent of each lot; and

(4) development of the lot must be consistent with an adopted comprehensive plan.

(g) A lot subject to paragraph (f) not meeting the requirements of paragraph (f) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(h) Notwithstanding paragraph (f), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

(i) In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

(j) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Subd. 1f. **Substandard structures.** Notwithstanding subdivision 1e, Minnesota Rules, parts 6105.0351 to 6105.0550, may allow for the continuation and improvement of substandard structures, as defined in Minnesota Rules, part 6105.0354, subpart 30, in the Lower Saint Croix National Scenic Riverway.

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.

Subd. 1h. **Comprehensive plans in greater Minnesota; open spaces.** When adopting or updating a comprehensive plan in a municipality located within a county that is not a greater than 80 percent area, as defined in section 103G.005, subdivision 10b, and that is located outside the metropolitan area, as defined by section 473.121, subdivision 2, the municipality shall consider adopting goals and objectives for the preservation of agricultural, forest, wildlife, and open space land and the minimization of development in sensitive shoreland areas. Within three years of updating the comprehensive plan, the municipality shall consider adopting ordinances as part of the municipality's official controls that encourage the implementation of the goals and objectives.

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.

Subd. 3. **Public hearings.** No zoning ordinance or amendment thereto shall be adopted until a public hearing has been held thereon by the planning agency or by the governing body. 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 day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

Subd. 4. **Amendments.** An amendment to a zoning ordinance may be initiated by the governing body, the planning agency, or by petition of affected property owners as defined in the zoning ordinance. An amendment not initiated by the planning agency shall be referred to the planning agency, if there is one, for study and report and may not be acted upon by the governing body until it has received the recommendation

of the planning agency on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the planning agency.

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.

Subd. 6. **Appeals and adjustments.** Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the

case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Subd. 6a. **Normal residential surroundings for persons with disabilities.** It is the policy of this state that persons with disabilities should not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings. For purposes of subdivisions 6a through 9, "person" has the meaning given in section 245A.02, subdivision 11.

Subd. 7. **Permitted single family use.** A state licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children shall be considered a permitted single family residential use of property for the purposes of zoning, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

Subd. 8. **Permitted multifamily use.** Except as otherwise provided in subdivision 7 or in any town, municipal or county zoning regulation as authorized by this subdivision, a state licensed residential facility serving from 7 through 16 persons or a licensed day care facility serving from 13 through 16 persons shall be considered a permitted multifamily residential use of property for purposes of zoning. A township, municipal or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of a facility, provided that no conditions shall be imposed on the facility which are more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the residents of the residential facility. Nothing herein shall be construed to exclude or prohibit residential or day care facilities from single family zones if otherwise permitted by a local zoning regulation.

Subd. 9. **Development goals and objectives.** In adopting official controls after July 1, 2008, in a municipality outside the metropolitan area, as defined by section 473.121, subdivision 2, the municipality shall consider restricting new residential, commercial, and industrial development so that the new development takes place in areas subject to the following goals and objectives:

(1) minimizing the fragmentation and development of agricultural, forest, wildlife, and open space lands, including consideration of appropriate minimum lot sizes;

(2) minimizing further development in sensitive shoreland areas;

(3) minimizing development near wildlife management areas, scientific and natural areas, and nature centers;

(4) identification of areas of preference for higher density, including consideration of existing and necessary water and wastewater services, infrastructure, other services, and to the extent feasible, encouraging full development of areas previously zoned for nonagricultural uses;

(5) encouraging development close to places of employment, shopping centers, schools, mass transit, and other public and private service centers;

(6) identification of areas where other developments are appropriate; and

(7) other goals and objectives a municipality may identify.

**History:** *1965 c 670 s 7; 1969 c 259 s 1; 1973 c 123 art 5 s 7; 1973 c 379 s 4; 1973 c 539 s 1; 1973 c 559 s 1,2; 1975 c 60 s 2; 1978 c 786 s 14,15; Ex1979 c 2 s 42,43; 1981 c 356 s 248; 1982 c 490 s 2; 1982 c 507 s 22; 1984 c 617 s 6-8; 1985 c 62 s 3; 1985 c 194 s 23; 1986 c 444; 1987 c 333 s 22; 1989 c 82 s 2; 1990 c 391 art 8 s 47; 1990 c 568 art 2 s 66,67; 1994 c 473 s 3; 1995 c 224 s 95; 1997 c 113 s 20; 1997 c 200 art 4 s 5; 1997 c 202 art 4 s 11; 1997 c 216 s 138; 1999 c 96 s 3,4; 1999 c 211 s 1; 2001 c 174 s 1; 2001 c 207 s 13,14; 2002 c 366 s 6; 2004 c 258 s 2; 2005 c 56 s 1; 1Sp2005 c 1 art 1 s 92; art 2 s 146; 2007 c 140 art 12 s 14; 2008 c 297 art 1 s 60,61; 2009 c 149 s 3; 2011 c 19 s 2*

**462.358 OFFICIAL CONTROLS: SUBDIVISION REGULATION; DEDICATION.**

Subdivision 1. [Repealed, 1980 c 566 s 35]

Subd. 1a. **Authority.** To protect and promote the public health, safety, and general welfare, to provide for the orderly, economic, and safe development of land, to preserve agricultural lands, to promote the availability of housing affordable to persons and families of all income levels, and to facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds, and other public services and facilities, a municipality may by ordinance adopt subdivision regulations establishing standards, requirements, and procedures for the review and approval or disapproval of subdivisions. The regulations may contain varied provisions respecting, and be made applicable only to, certain classes or kinds of subdivisions. The regulations shall be uniform for each class or kind of subdivision.

A municipality may by resolution extend the application of its subdivision regulations to unincorporated territory located within two miles of its limits in any direction but not in a town which has adopted subdivision regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the subdivision of land equal distance from its boundaries within this area.

Subd. 2. [Repealed, 1980 c 566 s 35]

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 floodplains, 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, bond, or other financial security 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.

A municipality may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the municipality for direct costs relating to professional services provided during the review, approval and inspection of the project. A municipality may only charge the applicant a rate equal to the value of the service to the municipality. Services provided by municipal staff or contract professionals must be billed at an established rate.

When the applicant vouches, by certified letter to the municipality, that the conditions required by the municipality for approval under this subdivision have been satisfied, the municipality has 30 days to release and return to the applicant any and all financial securities tied to the requirements. If the municipality fails to release and return the letters of credit within the 30-day period, any interest accrued will be paid to the applicant. If the municipality determines that the conditions required for approval under this subdivision have not been satisfied, the municipality must send written notice within seven business days upon receipt of the certified letter indicating to the applicant which specific conditions have not been met. The municipality shall require a maintenance or performance bond from any subcontractor that has not yet completed all remaining requirements of the municipality.

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.

Subd. 2b. **Dedication.** (a) The regulations may require that a reasonable portion of the buildable land, as defined by municipal ordinance, of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements, parks, recreational facilities as defined in section 471.191, playgrounds, trails, wetlands, or open space. The requirement must be imposed by ordinance or under the procedures established in section 462.353, subdivision 4a.

(b) If a municipality adopts the ordinance or proceeds under section 462.353, subdivision 4a, as required by paragraph (a), the municipality must adopt a capital improvement budget and have a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan subject to the terms and conditions in this paragraph and paragraphs (c) to (i).

(c) The municipality may choose to accept a cash fee as set by ordinance from the applicant for some or all of the new lots created in the subdivision, based on the average fair market value of the unplatted land for which park fees have not already been paid that is, no later than at the time of final approval or under the city's adopted comprehensive plan, to be served by municipal sanitary sewer and water service or community septic and private well as authorized by state law. For purposes of redevelopment on developed land, the municipality may choose to accept a cash fee based on fair market value of the land no later than the time of final approval. "Fair market value" means the value of the land as determined by the municipality annually based on tax valuation or other relevant data. If the municipality's calculation of valuation is objected to by the applicant, then the value shall be as negotiated between the municipality and the applicant, or based on the market value as determined by the municipality based on an independent appraisal of land in a same or similar land use category.

(d) In establishing the portion to be dedicated or preserved or the cash fee, the regulations shall give due consideration to the open space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve for the subdivision.

(e) The municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision as a result of approval of the subdivision.

(f) Cash payments received must be placed by the municipality in a special fund to be used only for the purposes for which the money was obtained.

(g) Cash payments received must be used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park systems plan. Cash payments must not be used for ongoing operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or open space.

(h) The municipality must not deny the approval of a subdivision based solely on an inadequate supply of parks, open spaces, trails, or recreational facilities within the municipality.

(i) Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then the park dedication or per-lot cash fee must apply only to the net increase of lots.

Subd. 2c. **Nexus.** (a) There must be an essential nexus between the fees or dedication imposed under subdivision 2b and the municipal purpose sought to be achieved by the fee or dedication. The fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development.

(b) If a municipality is given written notice of a dispute over a proposed fee in lieu of dedication before the municipality's final decision on an application, a municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee in lieu of dedication.

(c) An application may proceed as if the fee had been paid, pending a decision on the appeal of a dispute over a proposed fee in lieu of dedication, if (1) the person aggrieved by the fee puts the municipality on written notice of a dispute over a proposed fee in lieu of dedication, (2) prior to the municipality's final decision on the application, the fee in lieu of dedication is deposited in escrow, and (3) the person aggrieved by the fee appeals under section 462.361, within 60 days of the approval of the application. If such an appeal is not filed by the deadline, or if the person aggrieved by the fee does not prevail on the appeal, then the funds paid into escrow must be transferred to the municipality.

Subd. 3. [Repealed, 1980 c 566 s 35]

Subd. 3a. **Platting.** The regulations may require that any subdivision creating parcels, tracts, or lots, shall be platted. The regulations shall require that all subdivisions which create five or more lots or parcels which are 2-1/2 acres or less in size shall be platted. The regulations shall not conflict with the provisions of chapter 505 but may address subjects similar and additional to those in that chapter.

Subd. 3b. **Review procedures.** The regulations shall include provisions regarding the content of applications for proposed subdivisions, the preliminary and final review and approval or disapproval of applications, and the coordination of such reviews with affected political subdivisions and state agencies. Subdivisions including lands abutting upon any existing or proposed trunk highway, county road or highway, or county state-aid highway shall also be subject to review. The regulations may provide for the consolidation

of the preliminary and final review and approval or disapproval of subdivisions. Preliminary or final approval may be granted or denied for parts of subdivision applications. The regulations may delegate the authority to review proposals to the planning commission, but final approval or disapproval shall be the decision of the governing body of the municipality unless otherwise provided by law or charter. A municipality must approve a preliminary plat that meets the applicable standards and criteria contained in the municipality's zoning and subdivision regulations unless the municipality adopts written findings based on a record from the public proceedings why the application shall not be approved. The regulations shall require that a public hearing shall be held on all subdivision applications prior to preliminary approval, unless otherwise provided by law or charter. The hearing shall be held following publication of notice of the time and place thereof in the official newspaper at least ten days before the day of the hearing. At the hearing, all persons interested shall be given an opportunity to make presentations. A subdivision application shall be preliminarily approved or disapproved within 120 days following delivery of an application completed in compliance with the municipal ordinance by the applicant to the municipality, unless an extension of the review period has been agreed to by the applicant. When a division or subdivision to which the regulations of the municipality do not apply is presented to the city, the clerk of the municipality shall within ten days certify that the subdivision regulations of the municipality do not apply to the particular division.

If the municipality or the responsible agency of the municipality fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed preliminarily approved, and upon demand the municipality shall execute a certificate to that effect. Following preliminary approval the applicant may request final approval by the municipality, and upon such request the municipality shall certify final approval within 60 days if the applicant has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which the preliminary approval is expressly conditioned either through performance or the execution of appropriate agreements assuring performance. If the municipality fails to certify final approval as so required, and if the applicant has complied with all conditions and requirements, the application shall be deemed finally approved, and upon demand the municipality shall execute a certificate to that effect. After final approval a subdivision may be filed or recorded.

Subd. 3c. **Effect of subdivision approval.** For one year following preliminary approval and for two years following final approval, unless the subdivider and the municipality agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the municipality may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, a municipality may by resolution or agreement grant the rights referred to herein for such periods of time longer than two years which it determines to be reasonable and appropriate.

Subd. 4. [Repealed, 1982 c 415 s 3]

Subd. 4a. **Disclosure by seller; buyer's action for damages.** A person conveying a new parcel of land which, or the plat for which, has not previously been filed or recorded, and which is part of or would constitute a subdivision to which adopted municipal subdivision regulations apply, shall attach to the instrument of conveyance either: (a) recordable certification by the clerk of the municipality that the subdivision regulations do not apply, or that the subdivision has been approved by the governing body, or that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the

municipality in this case because compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the regulations; or (b) a statement which names and identifies the location of the appropriate municipal offices and advises the grantee that municipal subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction on it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, nonapplicability, or waiver from the municipality. In any action commenced by a buyer of such a parcel against the seller thereof, the misrepresentation of or the failure to disclose material facts in accordance with this subdivision shall be grounds for damages. If the buyer establishes a right to damages, a district court hearing the matter may in its discretion also award to the buyer an amount sufficient to pay all or any part of the costs incurred in maintaining the action, including reasonable attorney fees, and an amount for punitive damages not exceeding five per centum of the purchase price of the land.

Subd. 4b. **Restrictions on filing and recording conveyances.** (a) In a municipality in which subdivision regulations are in force and have been filed or recorded as provided in this section, no conveyance of land to which the regulations are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961 or to an unapproved plat made after such regulations become effective.

(b) The foregoing provision does not apply to a conveyance if the land described:

(1) was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter, or

(2) was the subject of a written agreement to convey entered into prior to such time, or

(3) was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on January 1, 1966, or

(4) was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980, or

(5) is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or

(6) is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

(c) In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.

(d) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subdivision shall forfeit and pay to the municipality a penalty of not less than $100 for each lot or parcel so conveyed.

(e) A municipality may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.

Subd. 5. **Permits.** Except as otherwise provided by this section all electric and gas distribution lines or piping, roadways, curbs, walks and other similar improvements shall be constructed only on a street, alley, or other public way or easement which is designated on an approved plat, or properly indicated on the official map of the municipality, or which has otherwise been approved by the governing body. When a municipality has adopted an official map, no permit for the erection of any building shall be issued unless the building is to be located upon a parcel of land abutting on a street or highway which has been designated upon an approved plat or on the official map or which has been otherwise approved by the governing body, and unless the buildings conform to the established building line. This limitation on issuing permits shall not apply to planned developments approved by the governing body pursuant to its zoning ordinance. No permit shall be issued for the construction of a building on any lot or parcel conveyed in violation of the provisions of this section.

Subd. 6. **Variances.** Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the regulations. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

Subd. 7. **Vacation.** The governing body of a municipality may vacate any publicly owned utility easement or boulevard reserve or any portion thereof, which are not being used for sewer, drainage, electric, telegraph, telephone, gas and steam purposes or for boulevard reserve purposes, in the same manner as vacation proceedings are conducted for streets, alleys and other public ways under a home rule charter or other provisions of law.

A boulevard reserve means an easement established adjacent to a dedicated street for the purpose of establishing open space adjacent to the street and which area is designated on the recorded plat as "boulevard reserve".

Subd. 8. **Plat approval under other laws.** Nothing in this section is to be construed as a limitation on the authority of municipalities which have not adopted subdivision regulations to approve plats under any other provision of law.

Subd. 9. **Unplatted parcels.** Subdivision regulations adopted by municipalities may apply to parcels which are taken from existing parcels of record by metes and bounds descriptions, and the governing body or building authority may deny the issuance of permits or approvals, building permits issued under sections 326B.101 to 326B.194, or other permits or approvals to any parcels so divided, pending compliance with subdivision regulations.

Subd. 10. **Limitations.** Nothing in this section shall be construed to require a municipality to regulate subdivisions or to regulate all subdivisions which it is authorized to regulate by this section.

Subd. 11. **Affordable housing.** For the purposes of this subdivision, a "development application" means subdivision, planned unit development, site plan, or other similar type action. If a municipality, in approving a development application that provides all or a portion of the units for persons and families of low and moderate income, so proposes, the applicant may request that provisions authorized by clauses (1) to (4) will apply to housing for persons of low and moderate income, subject to agreement between the municipality and the applicant:

(1) establishing sales prices or rents for housing affordable to low- and moderate-income households;

(2) establishing maximum income limits for initial and subsequent purchasers or renters of the affordable units;

(3) establishing means, including, but not limited to, equity sharing, or similar activities, to maintain the long-term affordability of the affordable units; and

(4) establishing a land trust agreement to maintain the long-term affordability of the affordable units.

Clauses (1) to (3) shall not apply for more than 20 years from the date of initial occupancy except where public financing or subsidy requires longer terms.

**History:** *1965 c 670 s 8; 1971 c 842 s 1; 1973 c 67 s 1; 1973 c 176 s 1; 1975 c 98 s 1; 1976 c 181 s 2; 1978 c 786 s 16,17; 1980 c 560 s 6; 1980 c 566 s 25-33; 1981 c 85 s 7; 1982 c 415 s 2; 1982 c 507 s 23; 1985 c 194 s 24; 1986 c 444; 1989 c 196 s 1; 1989 c 200 s 1; 1989 c 209 art 2 s 1; 1995 c 254 art 1 s 90; art 3 s 6,7; 2000 c 497 s 1; 2001 c 7 s 74; 2002 c 315 s 1; 2004 c 178 s 2,3; 2006 c 209 s 1; 2006 c 269 s 1; 2006 c 270 art 1 s 6; 2007 c 116 s 1; 2007 c 140 art 4 s 61; art 13 s 4; 2013 c 85 art 5 s 41*

**462.3585 JOINT PLANNING BOARD.**

Upon request of a home rule charter or statutory city council or county or town board by resolution presented to the county auditor of the county of the affected territory a board shall be established to exercise planning and land use control authority in the unincorporated area within two miles of the corporate limits of a city. The board shall have members in a number determined by the city, county, and town. Each governmental unit shall have an equal number of members. The members shall be appointed from the governing bodies of the city, county, and town. Upon request of more than one county or town board with respect to the unincorporated area within two miles of the corporate limits of a single city, the parties may create one board rather than a separate board for each county or town, with equal membership from each affected governmental unit. The board shall serve as the governing body and board of appeals and adjustments for purposes of sections 462.351 to 462.364 within the two-mile area. The board shall have all of the powers contained in sections 462.351 to 462.364 and shall have authority to adopt and enforce the State Fire Code promulgated pursuant to section 326B.02, subdivision 5. The city shall provide staff for the preparation and administration of land use controls unless otherwise agreed by the governmental units. If a municipality extends the application of its subdivision regulations to unincorporated territory located within two miles of its limits pursuant to section 462.358, subdivision 1a, before the creation of a joint board, the subdivision regulations which the municipality has extended shall apply until the joint board adopts subdivision regulations.

**History:** *1982 c 507 s 24; 2005 c 136 art 9 s 14; 2007 c 140 art 3 s 6; art 13 s 4*

**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.

Subd. 4. **Appeals.** If a land use or zoning permit or approval for a building in such location is denied, the board of appeals and adjustments shall have the power, upon appeal filed with it by the owner of the land, to grant a permit or approval for building in such location in any case in which the board finds, upon the evidence and the arguments presented to it, (a) that the entire property of the appellant of which such area identified for public purposes forms a part cannot yield a reasonable return to the owner unless such a permit or approval is granted, and (b) that balancing the interest of the municipality in preserving the integrity of the official map and of the comprehensive municipal plan and the interest of the owner of the property in the use of the property and in the benefits of ownership, the grant of such permit or approval is required by considerations of justice and equity. In addition to the notice of hearing required by section 462.354, subdivision 2, a notice shall be published in the official newspaper once at least ten days before the day of the hearing. If the board of appeals and adjustments authorizes the issuance of a permit or approval the governing body or other board or commission having jurisdiction shall have six months from the date of the decision of the board to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the officer responsible for issuing permits or approvals shall issue the permit or approval if the application otherwise conforms to local ordinances. The board shall specify the exact location, ground area, height and other details as to the extent and character of the building for which the permit or approval is granted.

**History:** *1965 c 670 s 9; 1976 c 181 s 2; 1986 c 444; 1995 c 254 art 3 s 8; 1998 c 324 s 9; 2005 c 4 s 109; 2005 c 41 s 18,19*

**462.3593 TEMPORARY FAMILY HEALTH CARE DWELLINGS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Caregiver" means an individual 18 years of age or older who:

(1) provides care for a mentally or physically impaired person; and

(2) is a relative, legal guardian, or health care agent of the mentally or physically impaired person for whom the individual is caring.

(c) "Instrumental activities of daily living" has the meaning given in section 256B.0659, subdivision 1, paragraph (i).

(d) "Mentally or physically impaired person" means a person who is a resident of this state and who requires assistance with two or more instrumental activities of daily living as certified in writing by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in this state.

(e) "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle, aunt, nephew, or niece of the mentally or physically impaired person. Relative includes half, step, and in-law relationships.

(f) "Temporary family health care dwelling" means a mobile residential dwelling providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that meets the requirements of subdivision 2.

Subd. 2. **Temporary family health care dwelling.** A temporary family health care dwelling must:

(1) be primarily assembled at a location other than its site of installation;

(2) be no more than 300 gross square feet;

(3) not be attached to a permanent foundation;

(4) be universally designed and meet state-recognized accessibility standards;

(5) provide access to water and electric utilities either by connecting to the utilities that are serving the principal dwelling on the lot or by other comparable means;

(6) have exterior materials that are compatible in composition, appearance, and durability to the exterior materials used in standard residential construction;

(7) have a minimum insulation rating of R-15;

(8) be able to be installed, removed, and transported by a one-ton pickup truck as defined in section 168.002, subdivision 21b, a truck as defined in section 168.002, subdivision 37, or a truck tractor as defined in section 168.002, subdivision 38;

(9) be built to either Minnesota Rules, chapter 1360 or 1361, and contain an Industrialized Buildings Commission seal and data plate or to American National Standards Institute Code 119.2; and

(10) be equipped with a backflow check valve.

Subd. 3. **Temporary dwelling permit; application.** (a) Unless the municipality has designated temporary family health care dwellings as permitted uses, a temporary family health care dwelling is subject to the provisions in this section. A temporary family health care dwelling that meets the requirements of this section cannot be prohibited by a local ordinance that regulates accessory uses or recreational vehicle parking or storage.

(b) The caregiver or relative must apply for a temporary dwelling permit from the municipality. The permit application must be signed by the primary caregiver, the owner of the property on which the temporary family health care dwelling will be located, and the resident of the property if the property owner does not reside on the property, and include:

(1) the name, address, and telephone number of the property owner, the resident of the property if different from the owner, and the primary caregiver responsible for the care of the mentally or physically

impaired person; and the name of the mentally or physically impaired person who will live in the temporary family health care dwelling;

(2) proof of the provider network from which the mentally or physically impaired person may receive respite care, primary care, or remote patient monitoring services;

(3) a written certification that the mentally or physically impaired person requires assistance with two or more instrumental activities of daily living signed by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in this state;

(4) an executed contract for septic service management or other proof of adequate septic service management;

(5) an affidavit that the applicant has provided notice to adjacent property owners and residents of the application for the temporary dwelling permit; and

(6) a general site map to show the location of the temporary family health care dwelling and other structures on the lot.

(c) The temporary family health care dwelling must be located on property where the caregiver or relative resides. A temporary family health care dwelling must comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. The temporary family health care dwelling must be located on the lot so that septic services and emergency vehicles can gain access to the temporary family health care dwelling in a safe and timely manner.

(d) A temporary family health care dwelling is limited to one occupant who is a mentally or physically impaired person. The person must be identified in the application. Only one temporary family health care dwelling is allowed on a lot.

(e) Unless otherwise provided, a temporary family health care dwelling installed under this section must comply with all applicable state law, local ordinances, and charter provisions.

Subd. 4. **Initial permit term; renewal.** The initial temporary dwelling permit is valid for six months. The applicant may renew the permit once for an additional six months.

Subd. 5. **Inspection.** The municipality may require that the permit holder provide evidence of compliance with this section as long as the temporary family health care dwelling remains on the property. The municipality may inspect the temporary family health care dwelling at reasonable times convenient to the caregiver to determine if the temporary family health care dwelling is occupied and meets the requirements of this section.

Subd. 6. **Revocation of permit.** The municipality may revoke the temporary dwelling permit if the permit holder violates any requirement of this section. If the municipality revokes a permit, the permit holder has 60 days from the date of revocation to remove the temporary family health care dwelling.

Subd. 7. **Fee.** Unless otherwise provided by ordinance, the municipality may charge a fee of up to $100 for the initial permit and up to $50 for a renewal of the permit.

Subd. 8. **No public hearing required; application of section 15.99.** (a) Due to the time-sensitive nature of issuing a temporary dwelling permit for a temporary family health care dwelling, the municipality does not have to hold a public hearing on the application.

(b) The procedures governing the time limit for deciding an application for the temporary dwelling permit under this section are governed by section 15.99, except as provided in this section. The municipality has 15 days to issue a permit requested under this section or to deny it, except that if the statutory or home rule charter city holds regular meetings only once per calendar month the statutory or home rule charter city has 30 days to issue a permit requested under this section or to deny it. If the municipality receives a written request that does not contain all required information, the applicable 15-day or 30-day limit starts over only if the municipality sends written notice within five business days of receipt of the request telling the requester what information is missing. The municipality cannot extend the period of time to decide.

Subd. 9. **Opt-out.** A municipality may by ordinance opt-out of the requirements of this section.

**History:** *2016 c 111 s 3*

**462.3595 CONDITIONAL USE PERMITS.**

Subdivision 1. **Authority.** The governing body may by ordinance designate certain types of developments, including planned unit developments, and certain land development activities as conditional uses under zoning regulations. Conditional uses may be approved by the governing body or other designated authority by a showing by the applicant that the standards and criteria stated in the ordinance will be satisfied. The standards and criteria shall include both general requirements for all conditional uses, and insofar as practicable, requirements specific to each designated conditional use.

Subd. 2. **Public hearings.** Public hearings on the granting of conditional use permits shall be held in the manner provided in section 462.357, subdivision 3.

Subd. 3. **Duration.** A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section shall prevent the municipality from enacting or amending official controls to change the status of conditional uses.

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:** *1982 c 507 s 25; 2005 c 4 s 110*

**462.3597 INTERIM USES.**

Subdivision 1. **Definition.** An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Subd. 2. **Authority.** Zoning regulations may permit the governing body to allow interim uses. The regulations may set conditions on interim uses. The governing body may grant permission for an interim use of property if:

(1) the use conforms to the zoning regulations;

(2) the date or event that will terminate the use can be identified with certainty;

(3) permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and

(4) the user agrees to any conditions that the governing body deems appropriate for permission of the use.

Any interim use may be terminated by a change in zoning regulations.

Subd. 3. **Public hearings.** Public hearings on the granting of interim use permits shall be held in the manner provided in section 462.357, subdivision 3.

**History:** *1989 c 200 s 2*

**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.

Subd. 2. **Filing with contiguous planning authorities.** A copy of a comprehensive plan adopted by a planning agency under the provisions of sections 462.351 to 462.364 shall be filed with the governing body of each contiguous municipality and with the regional planning agency, if any, established to serve the area in which the municipality is located.

Subd. 3. **Plat approval; filing.** Copies of resolutions approving subdivision plats of land within a municipality, but contiguous to another municipality shall be filed with the governing body of the contiguous municipality. Copies of resolutions approving subdivision plats of land outside a municipality but subject to its subdivision regulations shall be filed with the clerk of the town in which the land is situated.

**History:** *1965 c 670 s 10; 1976 c 181 s 2; 1980 c 509 s 168; 1982 c 507 s 26; 1983 c 187 s 1; 1983 c 216 art 1 s 68; 1988 c 583 s 1; 2005 c 4 s 111*

**462.361 JUDICIAL REVIEW.**

Subdivision 1. **Review of action.** Any person aggrieved by an ordinance, rule, regulation, decision or order of a governing body or board of adjustments and appeals acting pursuant to sections 462.351 to 462.364 may have such ordinance, rule, regulation, decision or order, reviewed by an appropriate remedy in the district court, subject to the provisions of this section.

Subd. 2. **Exhaustion of remedies.** In actions brought under this section, a municipality may raise as a defense the fact that the complaining party has not attempted to remedy the grievance by use of procedures available for that purpose under ordinance or charter, or under sections 462.351 to 462.364. If the court finds that such remedies have not been exhausted, it shall require the complaining party to pursue those remedies unless it finds that the use of such remedies would serve no useful purpose under the circumstances of the case.

**History:** *1965 c 670 s 11; 1986 c 444*

**462.3612 HOUSING FISCAL IMPACT NOTES.**

Subdivision 1. **Definition.** "Housing fiscal impact" means increased or decreased costs that a housing development would incur as a result of an official control adopted or amended by a municipality after August 1, 2002, that adds to or changes the regulation of the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, percentage of the lot occupied, size of yards and other open spaces, density and distribution of population, uses of buildings, or design of residential housing in a municipality that has adopted the State Building Code and is located in a county with a population of 30,000 or more.

Subd. 2. **Conditions; contents.** The responsible municipality may prepare a housing fiscal impact note prior to the public hearing on the proposed adoption or amendment of an official control.

The housing fiscal impact note may:

(1) estimate in dollar amounts the increase or decrease in the costs as a result of the municipal proposed action;

(2) specify long-range implications of the proposed action;

(3) describe appropriate alternatives to the proposed action; and

(4) discuss the rationale for the proposed change.

**History:** *2002 c 315 s 2*

**462.362 ENFORCEMENT AND PENALTY.**

A municipality may by ordinance provide for the enforcement of ordinances or regulations adopted under sections 462.351 to 462.364 and provide penalties for violation thereof. A municipality may also enforce any provision of sections 462.351 to 462.364 or of any ordinance adopted thereunder by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

**History:** *1965 c 670 s 12*

**462.363 PRESENT ORDINANCES CONTINUED.**

Except as otherwise provided in sections 462.351 to 462.364, valid ordinances and regulations now in effect shall continue in effect until amended or repealed.

**History:** *1965 c 670 s 13*

**462.364 INCONSISTENT LAWS.**

Inconsistent special laws and general laws of special application are superseded by sections 462.351 to 462.364 to the extent of inconsistency. Nothing in sections 462.351 to 462.364 is to be construed to affect, alter or modify the provisions of Special Laws of 1887, chapter 108, or Laws 1933, chapter 93.

**History:** *1965 c 670 s 14; 1976 c 46 s 1; 1977 c 347 s 58*

**462.365 EXTENSION OF TIME FOR COMPLIANCE.**

Any municipality which has in effect on or before the effective date of Laws 1980, chapter 566 an ordinance for subdivision controls may elect not to come into compliance with any change in subdivision

regulations as may be required by Laws 1980, chapter 566 until such time as the ordinance for subdivision controls is next amended.

**History:** *1980 c 566 s 34*

## REGIONAL PLANNING

### 462.371 REGIONAL PLANNING ACTIVITIES.

Any two or more counties, cities or towns may enter into an agreement under section 471.59 for the conduct of regional planning activities.

**History:** *1965 c 694 s 1; 1973 c 123 art 5 s 7*

### 462.372 REGIONAL PLANNING BOARDS.

The agreement creating a regional planning agency shall provide for a regional planning board composed of members selected from the governing bodies of the participating governmental units. The number, term of office, method of appointment and removal of members, shall be provided for in the agreement.

**History:** *1965 c 694 s 2*

### 462.373 REGIONAL PLANNING BOARD; POWERS AND DUTIES.

Subdivision 1. **Staff, advisors, contracts.** The regional planning board may employ a planning director and necessary staff, or appoint an advisory planning commission, or both, to assist it in exercising its powers and duties. The regional planning board may hire experts and consultants and contract with other planning agencies for necessary services.

Subd. 2. **Regional development plan.** The regional planning board may prepare and from time to time revise, amend, extend, or add to a plan or plans for the development of the region, which plan or plans collectively shall be known as the regional development plan. No portion of a regional development plan shall be adopted by the regional planning board until it has been referred to the governing bodies of participating units for their review and their recommendation within such time as is prescribed in the agreement.

Subd. 3. **Funds, grants, services of others.** The regional planning board may accept funds, grants, and services from the government of the United States or its agencies, from the state of Minnesota or its departments, agencies or instrumentalities, or from any governmental unit whether participating in the regional agency or not, and from private and civic sources.

**History:** *1965 c 694 s 3*

### 462.374 ADOPTION OF PLAN BY LOCAL UNITS.

Any local governmental unit within the region may adopt all or any portion of the regional development plan. No comprehensive plan shall be adopted in any participating unit until such plan has been referred to the regional planning board for its review and recommendation within such time as is prescribed in the agreement.

**History:** *1965 c 694 s 4*

### 462.375 REGIONAL DEVELOPMENT PLAN; FILING AND DISTRIBUTION.

The regional planning agency shall transmit the regional development plan and any revisions thereto, to the commissioner of employment and economic development, the governing bodies of cooperating governmental units, and to planning agencies in contiguous areas. The agency may prepare additional copies of the plan for general distribution or sale.

**History:** *1965 c 694 s 5; 1967 c 299 s 9; 1981 c 356 s 223; 1983 c 289 s 115 subd 1; 1987 c 312 art 1 s 26 subd 2; 1Sp2003 c 4 s 1*

## REGIONAL DEVELOPMENT ACT OF 1969

### 462.381 TITLE.

Sections 462.381 to 462.398 may be cited as the "Regional Development Act."

**History:** *1969 c 1122 s 1; 1Sp1986 c 3 art 1 s 57; 1997 c 231 art 12 s 1*

### 462.382 APPLICATION.

The provisions of sections 462.381 to 462.398 have no application to the Metropolitan Council created by or the region defined by Laws 1967, chapter 896.

**History:** *1969 c 1122 s 2; 1Sp1986 c 3 art 1 s 57*

### 462.383 PURPOSE: GOVERNMENT COOPERATION AND COORDINATION.

Subdivision 1. **Legislative findings.** The legislature finds that problems of growth and development in urban and rural regions of the state so transcend the boundary lines of local government units that no single unit can plan for their solution without affecting other units in the region; that coordination of multijurisdictional activities is essential to the development and implementation of effective policies and programs; that intergovernmental cooperation is an effective means of pooling the resources of local government to approach common problems; and that the assistance of the state is needed to make the most effective use of local, state, federal, and private programs in serving the citizens of such urban and rural regions.

Subd. 2. **By creating regional commission.** It is the purpose of sections 462.381 to 462.398 to authorize the establishment of regional development commissions to work with and on behalf of local units of government to develop plans or implement programs to address economic, social, physical, and governmental concerns of each region of the state. The commissions may assist with, develop, or implement plans or programs for individual local units of government.

**History:** *1969 c 1122 s 3; 1Sp1986 c 3 art 1 s 57; 1997 c 231 art 12 s 2*

### 462.384 DEFINITIONS.

Subdivision 1. **Application.** For the purposes of sections 462.381 to 462.398 the terms defined in this section have the meanings given them.

Subd. 2. **Governmental unit.** "Governmental unit" means a county, city, town, school district, or other political subdivision of the state.

Subd. 3. **Municipality.** "Municipality" means a city.

Subd. 4. **Commission.** "Commission" means a regional development commission created under sections 462.381 to 462.398.

Subd. 5. **Development region, region.** "Development region" or "region" means a geographic region composed of a grouping of counties as established by sections 462.381 to 462.398.

Subd. 6. **Subregion, subdistrict.** "Subregion" or "subdistrict" means any combination of governmental units formed under sections 462.371 to 462.375, 471.59 or under any other statute combining or enabling the combination of governmental units for special purposes.

Subd. 7. [Repealed, 1997 c 231 art 12 s 27]

**History:** *1969 c 1122 s 4; 1973 c 123 art 5 s 7; 1981 c 356 s 224,248; 1983 c 289 s 115 subd 1; 1984 c 558 art 4 s 10; 1986 c 444; 1Sp1986 c 3 art 1 s 13,57; 1987 c 186 s 15; 1991 c 345 art 2 s 57; 1997 c 231 art 12 s 3*

**462.385 DESIGNATION OF REGIONS.**

Subdivision 1. **By governor's order; hearings.** Development regions for the state shall consist of the following counties:

Region 1: Kittson, Roseau, Marshall, Pennington, Red Lake, Polk, and Norman.

Region 2: Lake of the Woods, Beltrami, Mahnomen, Clearwater, and Hubbard.

Region 3: Koochiching, Itasca, St. Louis, Lake, Cook, Aitkin, and Carlton.

Region 4: Clay, Becker, Wilkin, Otter Tail, Grant, Douglas, Traverse, Stevens, and Pope.

Region 5: Cass, Wadena, Crow Wing, Todd, and Morrison.

Region 6E: Kandiyohi, Meeker, Renville, and McLeod.

Region 6W: Big Stone, Swift, Chippewa, Lac qui Parle, and Yellow Medicine.

Region 7E: Mille Lacs, Kanabec, Pine, Isanti, and Chisago.

Region 7W: Stearns, Benton, Sherburne, and Wright.

Region 8: Lincoln, Lyon, Redwood, Pipestone, Murray, Cottonwood, Rock, Nobles, and Jackson.

Region 9: Sibley, Nicollet, LeSueur, Brown, Blue Earth, Waseca, Watonwan, Martin, and Faribault.

Region 10: Rice, Goodhue, Wabasha, Steele, Dodge, Olmsted, Winona, Freeborn, Mower, Fillmore, and Houston.

Region 11: Anoka, Hennepin, Ramsey, Washington, Carver, Scott, and Dakota.

Subd. 2. [Repealed, 1997 c 231 art 12 s 27]

Subd. 3. **Ongoing boundary studies; changes.** Modification of regional boundaries may be initiated by a county requesting assignment to a region other than that within which it is designated. If a request for reassignment is unacceptable to the commission whose boundaries would be modified, the county requesting

reassignment shall remain in the originally designated region until the legislature determines the final assignment.

**History:** *1969 c 1122 s 5; 1981 c 356 s 225,226; 1983 c 298 s 115 subd 1; 1987 c 186 s 15; 1997 c 231 art 12 s 4,5*

**462.386 OTHER PLANNING REGIONS TO CONFORM; EXCEPTION.**

Subdivision 1. **Exception, working agreements.** All coordination, planning, and development regions assisted or created by the state of Minnesota or pursuant to federal legislation shall conform to the regions except where, after review and approval by the governor or designee, nonconformance is clearly justified. The governor or designee shall develop working agreements with state and federal departments and agencies to insure conformance with this subdivision.

Subd. 2. [Repealed, 1971 c 153 s 13]

**History:** *1969 c 1122 s 6; 1981 c 356 s 227; 1983 c 289 s 115 subd 1; 1987 c 186 s 15; 1997 c 231 art 12 s 6*

**462.387 REGIONAL DEVELOPMENT COMMISSIONS; ESTABLISHMENT.**

Subdivision 1. **Petition.** Any combination of counties or municipalities representing a majority of the population of the region for which a commission is proposed may petition the governor or designee by formal resolution setting forth its desire to establish, and the need for, the establishment of a regional development commission. For purposes of this section the population of a county does not include the population of a municipality within the county.

Subd. 1a. **Operating commission.** Regional development commissions shall be those organizations operating pursuant to sections 462.381 to 462.398 which were formed by formal resolution of local units of government and those which may petition by formal resolution to establish a regional development commission.

Subd. 2. [Repealed, 1971 c 153 s 13]

Subd. 3. **Establishment.** Upon receipt of a petition as provided in subdivision 1 a regional development commission shall be established by the governor or designee and all local government units within the region for which the commission is proposed shall be notified. The notification shall be made within 60 days of the governor's receipt of a petition under subdivision 1.

Subd. 4. **Selection of membership.** The governor or designee shall call together each of the membership classifications except citizen groups, defined in section 462.388, within 60 days of the establishment of a regional development commission for the purpose of selecting the commission membership.

Subd. 5. **Name of commission.** The name of the organization shall be determined by formal resolution of the commission.

**History:** *1969 c 1122 s 7; 1971 c 153 s 1-3; 1981 c 356 s 228; 1983 c 289 s 115 subd 1; 1986 c 444; 1987 c 186 s 15; 1997 c 231 art 12 s 7*

**462.388 COMMISSION MEMBERSHIP.**

Subdivision 1. **Representation of various members.** A commission shall consist of the following members:

(1) one member from each county board of every county in the development region;

(2) one additional county board member from each county of over 100,000 population;

(3) the town clerk, town treasurer, or one member of a town board of supervisors from each county containing organized towns;

(4) one additional member selected by the county board of any county containing no townships;

(5) one mayor or council member from a municipality of under 10,000 population from each county, selected by the mayors of all such municipalities in the county;

(6) one mayor or council member from each municipality of over 10,000 in each county;

(7) two school board members elected by a majority of the chairs of school boards in the development region;

(8) one member from each council of governments;

(9) one member appointed by each native American tribal council located in each region; and

(10) citizens representing public interests within the region including members of minority groups to be selected after adoption of the bylaws of the commission.

Subd. 2. **Terms, selection method.** The terms of office and method of selection of members shall be provided in the bylaws of the commission. The commission shall adopt rules setting forth its procedures.

Subd. 3. [Repealed, 1971 c 153 s 13]

Subd. 4. [Expired]

Subd. 5. **Per diem; board members.** Members of the regional commission may receive a per diem of not over $50, the amount to be determined by the commission, and shall be reimbursed for their reasonable expenses as determined by the commission. The commission may provide for the election of a board of directors and provide, at its discretion, for a per diem of not over $50 a day for meetings of the board and expenses. A member of the board of directors who is a member of the commission shall receive only the per diem payable to board members when meetings of the board of directors and the commission are held on the same day.

**History:** *1969 c 1122 s 8; 1971 c 153 s 4,5; 1971 c 174 s 1; 1975 c 176 s 1; 1977 c 78 s 1; 1986 c 444; 1997 c 231 art 12 s 8*

**462.389 DEVELOPMENT COMMISSION CHAIR; OFFICERS AND STAFF.**

Subdivision 1. **Chair.** The chair of the commission shall have been a resident of the region for at least one year and shall be a person experienced in the field of government affairs. The chair shall preside at the meetings of the commission and board of directors and be responsible for carrying out all policy decisions of the commission. The chair's expense allowances shall be fixed by the commission. The term of the first chair shall be one year, and the chair shall serve until a successor is selected and qualifies. At the expiration of the term of the first chair, the chair shall be elected from the membership of the commission according to procedures established in its bylaws.

Subd. 2. **Officers.** Except as provided in subdivision 1, the commission shall elect such officers as it deems necessary for the conduct of its affairs. Times and places of regular and special meetings shall be

fixed by the commission and may be provided in the commission bylaws. In the performance of its duties the commission may adopt bylaws, rules governing its operation, establish committees, divisions, departments, and bureaus, and staff the same as necessary to carry out its duties and when specifically authorized by law make appointments to other governmental agencies and districts. All officers and employees shall serve at the pleasure of the commission and in accordance with this section.

Subd. 3. **Executive director.** The commission may appoint an executive director to serve as the chief administrative officer. The director may be chosen from among the citizens of the nation at large, and shall be selected on the basis of training and experience in the field of government affairs.

Subd. 4. **Employees.** The commission may adopt a personnel system for its officers and employees including terms and conditions for the employment, the fixing of compensation, their classification, benefits, and the filing of performance and fidelity bonds, and such policies of insurance as it may deem advisable, the premiums for which, however, shall be paid for by the commission. Officers and employees are public employees within the meaning of chapter 353. The commission shall make the employer's contributions to pension funds of its employees.

Subd. 5. [Repealed, 1997 c 231 art 12 s 27]

Subd. 6. **Consultants.** The commission may contract for the services of consultants who perform engineering, legal, or other services of a professional nature for peak workloads, continuing advice on program direction, and for specialized and technical services. Such contracts shall not be subject to the requirements of any law relating to public bidding.

**History:** *1969 c 1122 s 9; 1971 c 153 s 6-8; 1973 c 507 s 45; 1980 c 617 s 47; 1986 c 444; 1997 c 231 art 12 s 9-11*

**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.

Subd. 2. **Regional programs.** The commission is authorized to receive public and private funds for purposes including, but not limited to program administration, multicounty planning, coordination, and development.

Subd. 3. **Planning.** The commission may prepare and submit for adoption, after appropriate study and such public hearings as may be necessary, comprehensive plans for local units of government, individually or collectively, within the region. Plans may consist of policy statements, goals, standards, programs, and maps prescribing guides for orderly development within the jurisdiction subject to the plan. The plans shall recognize and incorporate planning principles which encompass physical, social, or economic needs of the region. In preparing development plans the commission shall use to the maximum extent feasible the resources studies and data available from other planning agencies within the region, including counties, municipalities, special districts, and subregional planning agencies, and it shall utilize the resources of state agencies to the same purpose.

Subd. 4. **Comprehensive planning.** The creation of a regional development commission does not affect the right of counties or municipalities to conduct subregional or district planning under sections 462.371 to 462.375 or 471.59. It is the purpose of sections 462.381 to 462.398 to encourage local and subdistrict planning

capability and the regional commission shall as far as practical use the data, resources, and input of the local planning agencies.

Subd. 5. **Local planning assistance.** A regional development commission or, in regions not served by regional development commissions, a regional organization selected by the commissioner of employment and economic development, may develop a program to support planning on behalf of local units of government. The local planning must be related to issues of regional or statewide significance and may include, but is not limited to, the following:

(1) local planning and development assistance, which may include local zoning ordinances and land use plans;

(2) community or economic development plans, which may include workforce development plans, housing development plans and market analysis, JOBZ administration, grant writing assistance, and grant administration;

(3) environment and natural resources plans, which may include solid waste management plans, wastewater management plans, and renewable energy development plans;

(4) rural community health services; and

(5) development of geographical information systems to serve regional needs, including hardware and software purchases and related labor costs.

Each regional development commission or organization shall submit to the commissioner of employment and economic development an annual work program that outlines the work items for the upcoming year and establishes the relationship of the work items to development issues of regional or statewide significance. The entity completing the annual work program and identifying the statewide development issues shall consider input from the Departments of Employment and Economic Development, Natural Resources, Transportation, Agriculture, Commerce, and other state agencies as appropriate to the issues.

**History:** *1969 c 1122 s 10; 1973 c 589 s 1; 1978 c 786 s 18; 1981 c 356 s 229,230; 1983 c 289 s 115 subd 1; 1Sp1986 c 3 art 1 s 57; 1997 c 231 art 12 s 12,13; 2000 c 418 art 1 s 44; 2007 c 135 art 2 s 32*

**462.391 SPECIFIC POWERS AND DUTIES.**

Subdivision 1. [Repealed, 1997 c 231 art 12 s 27]

Subd. 1a. **Review of local plans.** The commission may review and provide comments and recommendations on local plans or development proposals which in the judgment of the commission have a substantial effect on regional development. Local units of government may request that a regional commission review, comment, and provide advisory recommendations on local plans or development proposals.

Subd. 2. [Repealed, 1997 c 231 art 12 s 27]

Subd. 2a. **Staff services.** To avoid duplication of staff for various regional bodies assisted by federal or state government, the commission may provide basic administrative, research, and planning services for all regional planning and development bodies. The commissions may contract to obtain or perform services with state agencies, for-profit or nonprofit entities, subdistricts organized as the result of federal or state programs, councils of governments organized under section 471.59, or any other law, and with local governments.

Subd. 3. [Repealed, 1997 c 231 art 12 s 27]

Subd. 3a. **Data and information.** The commission may be designated as a regional data center providing data collection, storage, analysis, and dissemination to be used by it and other governmental and private users, and may accept gifts or grants to provide this service.

Subd. 4. [Repealed, 1997 c 231 art 12 s 27]

Subd. 5. **Research.** Where studies have not been otherwise authorized by law the commission may study the feasibility of programs including, but not limited to, water, land use, economic development, housing, demographics, cultural issues, governmental issues, human services, natural resources, communication, technology, transportation, and other subjects of concern to the citizens of the region, may institute demonstration projects in connection therewith, and may enter into contracts or accept gifts or grants for such purposes as otherwise authorized in sections 462.381 to 462.398.

Subd. 6. [Repealed, 1997 c 231 art 12 s 27]

Subd. 7. [Repealed, 1997 c 231 art 12 s 27]

Subd. 8. [Repealed, 1997 c 231 art 12 s 27]

Subd. 9. [Repealed, 1997 c 231 art 12 s 27]

Subd. 10. **Service to local government.** The commission may contract with local units of government to provide them with services and technical assistance in the conduct of local planning and development activities.

Subd. 11. **Program operation.** Upon approval of the appropriate authority from local, state, and federal government units, commissions may be regarded as general purpose units of government to receive funds and operate programs on a regional or subregional basis to provide economies of scale or to enhance program efficiency.

Subd. 12. **Property ownership.** A commission may buy, lease, acquire, own, hold, improve, and use real or personal property or an interest in property, wherever located in the state for purposes of housing the administrative office of the regional commission.

Subd. 13. **Property disposition.** A commission may sell, convey, mortgage, create a security interest in, lease, exchange, transfer, or dispose of all or part of its real or personal property or an interest in property, wherever located in the state.

**History:** *1969 c 1122 s 11; 1971 c 153 s 9; 1973 c 123 art 5 s 7; 1975 c 271 s 6; 1981 c 356 s 231-233; 1983 c 289 s 115 subd 1; 1Sp1986 c 3 art 1 s 57; 1997 c 231 art 12 s 14-20*

**462.3911 PRAIRIELAND EXPO.**

The Southwest Regional Development Commission is authorized to establish, construct, and operate a facility to display, preserve, and interpret historical information and to enhance the tourism potential of the region. The commission may enter into a lease or management contract with another entity for operation of the facility.

**History:** *1994 c 643 s 74*

**462.3912 REGIONAL HOUSING DEVELOPMENT.**

The Headwaters Regional Development Commission may establish a not-for-profit corporation for the purposes of increasing the supply of affordable housing and improving opportunities for home ownership in development region two. The not-for-profit corporation may, among other things, acquire land, accept grant and loan funds from the state and federal governments, construct and rehabilitate housing units, and sell or manage housing in the region.

**History:** *1998 c 292 s 1*

**462.392** [Repealed, 1997 c 231 art 12 s 27]

**462.393 ANNUAL REPORT TO UNITS, PUBLIC, GOVERNOR, LEGISLATURE.**

Subdivision 1. **Contents.** (a) On or before September 1 of each year, the commission shall prepare a report for the governmental units, the public within the region, the legislature and the governor.

(b) The report shall include:

(1) a statement of the commission's receipts and expenditures by category since the preceding report;

(2) a detailed budget for the year in which the report is filed and a tentative budget for the following year including an outline of its program for such period;

(3) a description of any plan adopted in whole or in part for the region;

(4) summaries of any studies and the recommendations resulting therefrom made for the region;

(5) a summary of significant accomplishments;

(6) a listing of plans of local governmental units submitted to the region, and actions taken in relationship thereto;

(7) recommendations of the commission regarding federal and state programs, cooperation, funding, and legislative needs; and

(8) a summary of any audit report made during the previous year relative to the commission.

Subd. 2. **Assessment every five years.** In 2001 and every five years thereafter the commission shall review its activities and issue a report assessing its performance in fulfilling the purposes of the Regional Development Act. The report shall address whether the existence of the commission is in the public welfare and interest.

**History:** *1969 c 1122 s 13; 1971 c 153 s 10; 1980 c 557 s 1; 1997 c 231 art 12 s 21*

**462.394 CITIZEN PARTICIPATION AND ADVISORY COMMITTEES.**

The commission may appoint advisory committees of interested and affected citizens to assist in the review of plans, programs, and other matters referred for review by the commission. Whenever a special advisory committee is required by any federal or state regional program the commission shall, as far as practical, appoint such committees as advisory groups to the commission. Members of the advisory committees shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the commission.

**History:** *1969 c 1122 s 14; 1986 c 444; 1997 c 231 art 12 s 22*

**462.395 DUTIES OF STATE AGENCIES.**

All state departments and agencies shall cooperate with regional development commissions established under sections 462.381 to 462.398 and shall make available to them studies, reports, data, and other informational and technical assistance within financial and personnel limitations. The commissioner shall coordinate the state's assistance programs to regional planning and development commissions.

**History:** *1969 c 1122 s 15; 1981 c 356 s 234; 1983 c 289 s 115 subd 1; 1Sp1986 c 3 art 1 s 57; 1987 c 186 s 15*

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

Subdivision 1. **Grant making, tax levy.** The governor and the legislature shall determine the amount of state assistance and designate an agency to make grants to any commission created under sections 462.381 to 462.398 from appropriations made available for those purposes. Any regional commission may levy a tax on all taxable property in the region to provide money for the purposes of sections 462.381 to 462.398.

Subd. 2. **Budget; hearing; levy limits.** On or before August 20 each year, the commission shall submit its proposed budget for the ensuing calendar year showing anticipated receipts, disbursements and ad valorem tax levy with a written notice of the time and place of the public hearing on the proposed budget to each county auditor and municipal clerk within the region and those town clerks who in advance have requested a copy of the budget and notice of public hearing. On or before September 15 each year, the commission shall adopt, after a public hearing held not later than September 15, a budget covering its anticipated receipts and disbursements for the ensuing year and shall decide upon the total amount necessary to be raised from ad valorem tax levies to meet its budget. After adoption of the budget and no later than September 15, the secretary of the commission shall certify to the auditor of each county within the region the county share of the tax, which shall be an amount bearing the same proportion to the total levy agreed on by the commission as the net tax capacity of the county bears to the net tax capacity of the region. (1) For taxes levied in 1998, the maximum amounts of levies made for the purposes of sections 462.381 to 462.398 are the following amounts: for Region 1, $180,337; for Region 2, $180,000; for Region 3, $353,110; for Region 5, $195,865; for Region 6E, $197,177; for Region 6W, $180,000; for Region 7E, $180,000; for Region 8, $206,107; for Region 9, $343,572. (2) For taxes levied in 1999 and thereafter, the maximum amount that may be levied by each commission shall be the amount authorized in clause (1), or 103 percent of the amount levied in the previous year, whichever is greater. The auditor of each county in the region shall add the amount of any levy made by the commission within the limits imposed by this subdivision to other tax levies of the county for collection by the county treasurer with other taxes. When collected the county treasurer shall make settlement of the taxes with the commission in the same manner as other taxes are distributed to political subdivisions.

Subd. 3. **Gifts, grants, loans.** The commission is a special purpose unit of government which may accept gifts, apply for and use grants or loans of money or other property from the United States, the state, or any person, local or governmental body for any commission purpose and may enter into agreements required in connection therewith and may hold, use, and dispose of such moneys or property in accordance with the terms of the gift, grant, loan, agreement, or contract relating thereto.

For purposes of receipt of state or federal funds for community and economic development, regional commissions shall be considered general purpose units of government.

Subd. 4. **Accounting; checks; annual audit.** The commission shall keep an accurate account of its receipts and disbursement. Disbursements of funds of the commission shall be made by check signed by the chair or vice-chair or secretary of the commission and countersigned by the executive director or an authorized

deputy thereof after such auditing and approval of the expenditure as may be provided by rules of the commission. The state auditor may audit the books and accounts of the commission once each year, or as often as funds and personnel of the state auditor permit. The commission shall pay to the state the total cost and expenses of such examination, including the salaries paid to the auditors while actually engaged in making such examination. The general fund shall be credited with all collections made for any such examination. In lieu of an annual audit by the state auditor, the commission shall contract with a certified public accountant for the annual audit of the books and accounts of the commission. If a certified public accountant performs the audit, the commission shall send a copy of the audit to the state auditor.

Subd. 5. **Bid law.** Every contract of the commission for the purchase of merchandise, materials, or supplies shall be let in accordance with the provisions of section 471.345.

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:** *1969 c 1122 s 16; 1971 c 153 s 11,12; 1973 c 492 s 7; 1973 c 589 s 2; 1973 c 773 s 1; 1981 c 356 s 235; 1986 c 444; 1Sp1986 c 3 art 1 s 57; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 60; 1989 c 329 art 13 s 20; 1989 c 335 art 4 s 86; 1990 c 604 art 3 s 39; 1991 c 345 art 2 s 58; 1992 c 592 s 8; 1994 c 416 art 1 s 46; 1996 c 399 art 2 s 12; 1997 c 231 art 12 s 23-25; 1998 c 389 art 3 s 17; 2001 c 7 s 90*

**462.397 BORROWING MONEY; CERTIFICATES OF INDEBTEDNESS.**

Subdivision 1. **Tax anticipation.** At any time after a tax has been levied by the commission and certified to the county auditors to be spread on the next tax roll for collection, the commission may borrow money and in evidence thereof issue and sell its certificates of indebtedness in anticipation of the collection of such levy.

Subd. 2. **Up to 50 percent.** The aggregate principal amount of such certificates then remaining outstanding, issued in anticipation of any levies whatsoever, plus the then unpaid accrued interest and interest to accrue to maturity on all such certificates, shall not exceed 50 percent of all taxes certified to the county auditors to be spread and collected which are not delinquent, less the amount thereof received by the commission before the latest certificates were issued.

Subd. 3. **Up to 1-1/2 year maturity.** All certificates shall mature not later than April 1 following the close of the year of collection of the taxes in anticipation of which they were issued, and may be made subject to redemption before maturity.

Subd. 4. **Formalities in resolution.** The commission shall, by the resolution authorizing each issue of certificates, fix the amount, date, maturity or maturities, prepayment provisions, form, denominations, interest rate or rates, and other details of the certificates, and also pledge the full faith and credit of the commission for the payment thereof. In and by such resolution, the commission shall also irrevocably appropriate to a special fund such amount, stated in dollars, of the levy anticipated as will be required to pay the principal of and interest on the certificates when due.

Subd. 5. **Levy for delinquencies.** If, due to delinquencies in collection thereof, the levy is not received at the times and in the amounts sufficient to meet principal of and interest on certificates payable therefrom, the commission may levy and cause to be extended, assessed and collected upon all taxable property within the region, such ad valorem taxes as may be required to pay such principal and interest and to restore to other funds advances made for that purpose.

Subd. 6. **Negotiation; sale.** All such certificates may be negotiated and sold in such manner as may be determined by the commission.

**History:** *1973 c 589 s 3*

**462.398 TERMINATION OF COMMISSION.**

Subdivision 1. **Petition; population.** Any combination of counties or municipalities representing a majority of the population of the region for which a commission exists may petition the governor by formal resolution stating that the existence of the commission is no longer in the public welfare and interest and is not needed to accomplish the purposes of the Regional Development Act. For purposes of this section the population of a county does not include the population of a municipality within the county. Any formal resolution adopted by the governing body of a county or municipality for the termination of a commission shall be effective for a period of one year for the purpose of determining the requisite population of the region needed to petition the governor.

Subd. 2. **Hearings; recommendation, termination date.** Within 35 days of the filing of the petition, the governor or designee shall fix a time and place within the region for a hearing. The director shall give notice of the hearing by publication once each week for two successive weeks before the date of the hearing in a legal newspaper in each of the counties which the commission represents. The hearing shall be conducted by members of the commission. If the commission determines that the existence of the commission is no longer in the public welfare and interest and that it is not needed to accomplish the purposes of the Regional Development Act, the commission shall recommend to the governor or designee that the governor or designee terminate the commission. Within 60 days after receipt of the recommendation, the governor or designee shall terminate the commission by giving notice of the termination to all government units within the region for which the commission was established. Unless otherwise provided by this subdivision, the hearing shall be in accordance with sections 14.001 to 14.69.

Subd. 3. **30 months between petitions.** The governor or designee shall not accept a petition for termination more than once in 30 months for each regional development commission.

**History:** *1980 c 557 s 2; 1981 c 356 s 236; 1982 c 424 s 130; 1983 c 289 s 115 subd 1; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 1997 c 231 art 12 s 26*

**462.41** [Repealed, 1947 c 487 s 61]

**462.411** [Repealed, 1987 c 291 s 244]

**462.415** [Repealed, 1987 c 291 s 244]

**462.42** [Repealed, 1947 c 487 s 61]

**462.421** [Repealed, 1987 c 291 s 244]

**462.425** [Repealed, 1987 c 291 s 244]

**462.426** [Repealed, 1987 c 291 s 244]

**462.427** [Repealed, 1987 c 291 s 244]

**462.428** [Repealed, 1987 c 291 s 244]

**462.429** [Repealed, 1987 c 291 s 244]

**462.4291** [Repealed, 1987 c 291 s 244]

**462.43** [Repealed, 1947 c 487 s 61]

**462.431** [Repealed, 1981 c 79 s 2]

**462.432** [Repealed, 1987 c 291 s 244]

**462.435** [Repealed, 1987 c 291 s 244]

**462.44** [Repealed, 1947 c 487 s 61]

**462.441** [Repealed, 1987 c 291 s 244]

**462.445** [Repealed, 1987 c 291 s 244]

**462.45** [Repealed, 1947 c 487 s 61]

**462.451** [Repealed, 1987 c 291 s 244]

**462.455** [Repealed, 1987 c 291 s 244]

**462.46** [Repealed, 1947 c 487 s 61]

**462.461** [Repealed, 1987 c 291 s 244]

**462.465** [Repealed, 1987 c 291 s 244]

**462.466** [Repealed, 1987 c 291 s 244]

**462.47** [Repealed, 1947 c 487 s 61]

**462.471** [Repealed, 1987 c 291 s 244]

**462.475** [Repealed, 1987 c 291 s 244]

**462.48** [Repealed, 1947 c 487 s 61]

**462.481** [Repealed, 1987 c 291 s 244]

**462.485** [Repealed, 1987 c 291 s 244]

**462.49** [Repealed, 1947 c 487 s 61]

**462.491** [Repealed, 1987 c 291 s 244]

**462.495** [Repealed, 1987 c 291 s 244]

**462.50** [Repealed, 1947 c 487 s 61]

**462.501** [Repealed, 1987 c 291 s 244]

**462.505** [Repealed, 1987 c 291 s 244]

**462.51** [Repealed, 1947 c 487 s 61]

**462.511** [Repealed, 1987 c 291 s 244]

**462.515** [Repealed, 1987 c 291 s 244]

**462.52** [Repealed, 1947 c 487 s 61]

**462.521** [Repealed, 1987 c 291 s 244]

**462.525** [Repealed, 1987 c 291 s 244]

**462.53** [Repealed, 1947 c 487 s 61]

**462.531** [Repealed, 1987 c 291 s 244]

**462.535** [Repealed, 1987 c 291 s 244]

**462.54** [Repealed, 1947 c 487 s 61]

**462.541** [Repealed, 1987 c 291 s 244]

**462.545** [Repealed, 1987 c 291 s 244]

**462.55** [Repealed, 1947 c 487 s 61]

**462.551** [Repealed, 1987 c 291 s 244]

**462.555** [Repealed, 1987 c 291 s 244]

**462.556** [Repealed, 1987 c 291 s 244]

**462.56** [Repealed, 1947 c 487 s 61]

**462.561** [Repealed, 1987 c 291 s 244]

**462.565** [Repealed, 1987 c 291 s 244]

**462.57** [Repealed, 1947 c 487 s 61]

**462.571** [Repealed, 1987 c 291 s 244]

**462.575** [Repealed, 1987 c 291 s 244]

**462.58** [Repealed, 1947 c 487 s 61]

**462.581** [Repealed, 1987 c 291 s 244]

**462.585** [Repealed, 1987 c 291 s 244]

**462.59** [Repealed, 1947 c 487 s 61]

**462.591** [Repealed, 1987 c 291 s 244]

**462.595** [Repealed, 1987 c 291 s 244]

**462.60** [Repealed, 1947 c 487 s 61]

**462.601** [Repealed, 1987 c 291 s 244]

**462.605** [Repealed, 1987 c 291 s 244]

**462.61** [Repealed, 1947 c 487 s 61]

**462.611** [Repealed, 1987 c 291 s 244]

**462.615** [Repealed, 1987 c 291 s 244]

**462.62** [Repealed, 1947 c 487 s 61]

**462.621** [Repealed, 1987 c 291 s 244]

**462.625** [Repealed, 1987 c 291 s 244]

**462.63** [Repealed, 1947 c 487 s 61]

**462.631** [Repealed, 1987 c 291 s 244]

**462.635** [Repealed, 1987 c 291 s 244]

**462.64** [Repealed, 1947 c 487 s 61]

**462.641** [Repealed, 1987 c 291 s 244]

**462.645** [Repealed, 1987 c 291 s 244]

**462.65** [Repealed, 1947 c 487 s 61]

**462.651** [Repealed, 1987 c 291 s 244]

**462.655** [Repealed, 1987 c 291 s 244]

**462.66** [Repealed, 1947 c 487 s 61]

**462.661** [Repealed, 1987 c 291 s 244]

**462.665** [Repealed, 1987 c 291 s 244]

**462.67** [Repealed, 1947 c 487 s 61]

**462.671** [Repealed, 1987 c 291 s 244]

**462.675** [Repealed, 1987 c 291 s 244]

**462.68** [Repealed, 1947 c 487 s 61]

**462.681** [Repealed, 1987 c 291 s 244]

**462.685** [Repealed, 1987 c 291 s 244]

**462.69** [Repealed, 1947 c 487 s 61]

**462.691** [Repealed, 1987 c 291 s 244]

**462.695** [Repealed, 1987 c 291 s 244]

**462.70** [Repealed, 1947 c 487 s 61]

**462.701** [Repealed, 1987 c 291 s 244]

**462.705** [Repealed, 1987 c 291 s 244]

**462.71** [Repealed, 1947 c 487 s 61]

**462.711** [Repealed, 1981 c 356 s 247]

**462.712** [Repealed, 1987 c 291 s 244]

**462.713** [Repealed, 1987 c 291 s 244]

**462.714** [Repealed, 1987 c 291 s 244]

**462.715** [Repealed, 1987 c 291 s 244]

**462.716** [Repealed, 1987 c 291 s 244]

**462.72** [Expired]

**462.73** [Repealed, 1947 c 487 s 61]

**462.731** [Expired]

**462.74** [Repealed, 1947 c 487 s 61]

**462.741** [Expired]

**462.75** [Repealed, 1947 c 487 s 61]

**462.751** [Expired]

**462.76** [Repealed, 1947 c 487 s 61]

**462.761** [Expired]

**462.77** [Repealed, 1947 c 487 s 61]

**462.771** [Expired]

**462.78** [Repealed, 1947 c 487 s 61]

**462.781** [Expired]

**462.79** [Repealed, 1947 c 487 s 61]

**462.791** [Expired]

**462.80** [Repealed, 1947 c 487 s 61]

**462.801** [Expired]

**462.81** [Repealed, 1947 c 487 s 61]

**462.811** [Expired]

**462.82** [Expired]