

CHAPTER 93—S. F. No. 437

An act authorizing the governing body of any city now or hereafter having 50,000 inhabitants or over and having over 35 per cent of the land area of said city unplatted land and having a city planning commission, to authorize and empower such commission to control the platting of land; determining the subdivision jurisdiction of such commission; the scope of subdivision control; authorizing the adoption of local subdivision regulations; prescribing the general procedure in the approval and recording of a plat; making certain acts misdemeanors and providing penalties and methods of enforcement; prescribing subdivision duties of the county Register of Deeds; prohibiting public improvements and services in unapproved streets or the erection of buildings on lots fronting on such streets and providing for council approval of streets; providing for the repeal of statutes in conflict therewith; and providing for court review of the decisions of the planning commission.

Be it enacted by the Legislature of the State of Minnesota :

Section 1. **Definitions.**—For the purpose of this act, certain terms are defined as follows:

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

The term “street” includes street, avenue, boulevard, road, lane, alley, viaduct, and other ways.

Sec. 2. **City planning commissions to control platting.**—The governing body of any city of the first class, having more than 35 per cent of the land area of said city unplatted land may, by ordinance, authorize and empower its city planning commission to control the platting of land.

Sec. 3. **Jurisdiction.**—The territorial jurisdiction of such planning commission over the subdivision of land shall include all land located in the municipality and all land lying within 3 miles of the corporate limits of the municipality and not located in any other municipality, except that, in case of any such nonmunicipal land lying within 3 miles of more than one municipality having a planning commission, the jurisdiction of such planning commission

shall terminate at a boundary line equidistant from the respective corporate limits of such municipalities.

Sec. 4. Plats must be approved by commission.—Whenever such planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction or part thereof, and shall have filed a certified copy of such plan in the office of the register of deeds of the county in which such territory or part is located, no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by such planning commission and such approval entered in writing on the plat by the chairman or secretary of the commission.

Sec. 5. May adopt regulations.—Before exercising the powers referred to in Section 2, the planning commission shall adopt regulations governing the subdivision of land within its jurisdiction, so as to secure a harmonious development and to provide for the coordination of streets with other streets and with the city plan and to provide for open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may include reasonable provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping or other facilities shall be installed as a condition precedent to the approval of the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat, the city may accept a bond with surety to secure to the municipality the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by the municipality. The municipality is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies.

All such regulations shall be published as provided by law for the publication of ordinances, and, before adoption, a public hearing shall be held thereon. A copy thereof shall be certified by the planning commission to the register of deeds of the county or counties in which the municipality and territory are located.

Sec. 6. Must approve plat within forty-five days.—The planning commission shall approve or disapprove a plat within 45 days after the submission thereof; otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand: Provided, however, that the applicant for the planning commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records

of the commission. Any plat submitted to the planning commission shall contain the name and address of a person to whom notice of a hearing shall be sent; and no plat shall be acted on by the planning commission without affording a hearing thereon. Notice shall be sent to the said address by registered mail of the time and place of such hearing not less than five days before the date fixed therefor. Every plat approved by the commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the city plan and a part thereof. Approval of a plat by the planning commission shall be deemed the acceptance by the public of any street or other open space offered therein for dedication, but shall not impose any duty upon the governing body to maintain or improve such dedicated areas until the governing body shall have authorized maintenance or improvement of the same, in accordance with charter or other local provisions governing public expenditures for such purposes.

Sec. 7. Not to sell until plat is approved.—Whoever, being the owner or agent of the owner of any land located within a subdivision transfers or sells or agrees to sell or negotiates to sell any land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been approved by the planning commission and recorded or filed in the office of the county register of deeds, shall forfeit and pay a penalty of \$100 for each lot or parcel so transferred or sold or agreed or negotiated to be sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The municipal corporation may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the said penalty by a civil action in any court of competent jurisdiction.

Sec. 8. Plats must be approved before filing.—The county register of deeds shall not file or record a plat of a subdivision unless such plat has the approval of the planning commission as required by law.

Sec. 9. Street improvements.—The municipality shall not accept, lay out, open, improve, grade, pave, curb, or light any street, or lay or authorize water mains or sewers or connections to be laid in any street, within any portion of territory for which the planning commission shall have adopted a major street plan, unless such street (a) shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to the adoption of such plan; or unless such street (b) is a street on

a subdivision plat approved by the planning commission or a street on a street plat made by and adopted by the commission. The city council may, however, accept any street not shown on or not corresponding with a street on an approved subdivision plat or an approved street plat, provided the ordinance accepting such street be first submitted to the planning commission for its approval and, if approved by the commission, be enacted or passed by not less than a majority of the entire membership of the council, or, if disapproved by the commission, be enacted or passed by not less than two-thirds of the entire membership of the city council.

Sec. 10. Building restrictions.—From and after the time when the planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction or part thereof, no building shall be erected on any lot within such territory or part, nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be placed (a) shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to that time, or unless such street (b) corresponds with a street shown on the city plan or with a street on a subdivision plat approved by the planning commission or with a street accepted by the city council, after submission to the planning commission, by the favorable vote required in Section 9 of this act. Any building erected in violation of this section shall be deemed an unlawful structure, and the building inspector or other appropriate official may cause it to be vacated and have it removed.

Sec. 11. Inconsistent acts repealed.—Platting control by the planning commission, as provided in this act, shall be exclusive within the territory under its jurisdiction, and all statutory control over plats or subdivision of land granted by other statutes, insofar as inconsistent with the provision of this act, are hereby repealed.

Sec. 12. May appeal to District Court.—Any person or persons, jointly or severally aggrieved by any decision of the planning commission concerning such plat, or any officer, department, board or bureau of the municipality, may present to the district court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to the court within thirty days after the filing of the decision in the office of the planning commission.

Upon the presentation of such petition, the court may allow a writ of certiorari directed to the planning commission to review such decision of the planning commission and shall prescribe therein the time within which a return thereto must be made and served

upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall stay proceedings upon the decision appealed from.

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

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

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

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

Sec. 13. This act shall take effect and be in force from and after its passage.

Approved March 20, 1933.

CHAPTER 94—S. F. No. 511

An act relating to the angling season for fish in the waters of the Lake of the Woods on the international border and the rivers tributary thereto.

Be it enacted by the Legislature of the State of Minnesota :

Section 1. **Open season for fish in Lake of the Woods.**—The Commissioner of Conservation may open the season for taking fish by hook and line from the waters of Lake of the Woods on the international border, and the rivers tributary thereto, during all or any part of the Canadian open season upon such waters. This open season shall be in addition to the seasons now fixed by law.

Approved March 20, 1933.