

chapter 269, as amended, anything in said chapter to the contrary notwithstanding.

· Approved April 24, 1959.

CHAPTER 559—H. F. No. 1549

[Coded]

An act authorizing county planning and zoning activities; establishing a board of adjustment; authorizing the enactment of official controls; and providing penalties for violation thereof.

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

Section 1. [394.21] **Authority to carry on county planning and zoning activities.** Subdivision 1. For the purpose of promoting the health, safety, morals, and general welfare of the community any county in the state having less than 300,000 population according to the 1950 federal census is authorized to carry on county planning and zoning activities.

Subd. 2. Sections 1 to 17 shall not become operative in any county until the board of county commissioners shall have passed a resolution declaring its intent to proceed under the provisions of these sections.

Sec. 2. [394.22] **Definitions.** Subdivision 1. The words or terms as used in sections 1 to 17 have the meanings given them in these sections unless a different meaning is clearly indicated by the context.

Subd. 2. "Board" means the board of county commissioners.

Subd. 3. "Governing body" means a town board of supervisors, the council of a municipality, or board of county commissioners.

Subd. 4. "Municipality" means a city, village, or borough however organized and any town having the powers of villages pursuant to law.

Subd. 5. "Planning agency" unless otherwise indicated means a planning commission or department however created or the office of a planning or zoning director or inspector or the office of any official designated as such planning or zoning

director or inspector together with any staff members, employees, or consultants of such commission, department, director, inspector, or official; and the board of adjustment and its employees or staff.

Subd. 6. "Official control" means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision control, platting, and the adoption of detailed maps.

Sec. 3. [394.23] **Comprehensive plan.** The board shall have the power and authority to prepare a comprehensive plan for the orderly future physical development of the area of the county or parts thereof outside the incorporated limits of municipalities. The plan, which may include text and maps, shall be approved and certified by the board and when so certified shall be referred to as the comprehensive plan. The plan may thereafter be amended or added to by the board.

Sec. 4. [394.24] **Official controls.** Subdivision 1. Official controls which shall further the purpose and objectives of the comprehensive plan and parts thereof shall be adopted by resolution by the board.

Subd. 2. Official controls adopted by a board shall apply to and be binding upon only that area or parts thereof outside the incorporated limits of a city, village, or borough and the limits of towns having the powers of villages pursuant to law.

Sec. 5. [394.25] **Forms of control.** Subdivision 1. Official controls may include but are not limited to the features set forth in this section.

Subd. 2. The establishment of zoning districts within which districts the use of land for agriculture, forestry, recreation, residence, industry, trade, soil conservation, water supply conservation, surface water drainage and removal, and additional uses of land may be encouraged, regulated, or prohibited and for such purpose the board may divide the county into districts of such number, shape, and area as may be deemed best suited to carry out the comprehensive plan.

Subd. 3. For each such district a zoning ordinance or map or regulations or provisions may also be adopted designating or limiting the location, height, bulk, number of stories,

size of, and the specific uses for which dwellings, buildings, and structures may hereafter be erected or altered; the minimum and maximum size of yards, courts, or other open spaces; sanitary, safety, and protective measures that shall be required for such dwellings, buildings, and structures; the area required to provide for off-street loading and parking facilities; heights of trees and structures near airports; and to avoid too great concentration or scattering of the population. All such provisions shall be uniform for each class of land or building throughout each district, but the provisions in one district may differ from those in other districts.

Subd. 4. Maps for highways, roadways, parkways, roads, and streets showing the exact alignment, gradients, dimensions, and other pertinent features, and including specific controls for set backs from the right of way against encroachment by buildings or other physical structures or facilities.

Subd. 5. Maps for other public facilities such as parks, playgrounds, schools, and other public buildings, civic centers, and travel service facilities showing exact location, size, boundaries, and other related features including appropriate regulations protecting such future sites against encroachment by buildings and other physical structures or facilities.

Subd. 6. A zoning ordinance as part of or supplemental to any of the provisions or regulations or controls adopted in accordance with the provisions of sections 1 to 17.

Subd. 7. Specific regulations and controls pertaining to other subjects incorporated in the comprehensive plan or establishing standards and procedures to be employed in land development including, but not limited to, subdividing of land and the approval of land plats and the preservation of streets and land for other public purposes requiring future dedication or acquisition and general design of physical improvement.

Sec. 6. [394.26] **Public hearing required.** Subdivision 1. Before approving all or any part of the comprehensive plan or any amendment, extension, or addition thereto, or any official control, or any amendment, extension, or addition thereto, at least one public hearing shall be held with regard to the plan or the control or any amendment, extension, or addition to either. Such public hearing may be continued from time to time and additional hearings may be held.

Subd. 2. Notice of the time, place, and purpose of any public hearing shall be given by publication in a newspaper of general circulation in the town, municipality, or other area

concerned, and in the official newspaper of the county, at least ten days before the hearing.

Sec. 7. [394.27] Creation of a board of adjustment.
Subdivision 1. Whenever a board of county commissioners shall have adopted official controls it shall at the same time as the adoption of such controls create a board of adjustment, provided that any county which prior to the effective date of this act has adopted a zoning ordinance or official controls shall create a board of adjustment within 90 days of the effective date of this act.

Subd. 2. The board of adjustment shall consist of three members whose appointment, term of office, or removal from the board shall be as provided in the resolution creating the board of adjustment; provided that no elected officer of the county nor any employee of the board of commissioners shall serve as a member of the board of adjustment and that one member of such board of adjustment shall also be a member of any planning commission appointed under the provisions of sections 1 to 17.

Subd. 3. The board of adjustment shall elect a chairman and vice chairman from among its members and shall appoint a secretary who need not be a member of a board. It shall adopt rules for the transaction of its business and shall keep a public record of its transaction, findings, and determinations.

Subd. 4. The meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify.

Subd. 5. The board of adjustment shall act upon all questions as they may arise in the administration of any ordinance or official control, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing any ordinance adopted pursuant to the provision of sections 1 to 17. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county, or state.

Subd. 6. Such appeal shall be taken in such time as shall be prescribed by the board of adjustment by general rule, by filing with the board of adjustment a notice of appeal specifying the grounds thereof. The board of adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom

the appeal is taken and decide the same within a reasonable time. The board of adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the board's decision shall be stated. The decision of such board shall not be final and any person having an interest affected by such ordinance shall have the right to appeal to the district court in the county in which the land is located on questions of law and fact.

Sec. 8. [394.28] Appropriation for planning activity. The board of county commissioners shall provide the funds, equipment, and accommodations necessary for such planning activity as the board determines. Such appropriation may include funds for the purpose of matching funds of other governmental units or for joint ventures engaged in with other governmental units.

Any county providing for county planning activities may receive grants-in-aid from or enter into reasonable agreements with any department or agency of the government of the United States or the state of Minnesota, to arrange for the receipt of federal or state funds in the interest of furthering the planning program.

Sec. 9. [394.29] May employ director or inspector and staff. To carry out the purposes of sections 1 to 17 the board may employ a planning director and inspector or either of them and such staff as it deems necessary; or the board may employ or contract with a planning agency, authority, or commission, or with planning consultants, or with other specialists for such services as it requires.

Sec. 10. [394.30] Planning advisory commission. Subdivision 1. The board of county commissioners which has adopted a resolution indicating its intent to avail itself of the authority granted by sections 1 to 17 may at that time or any subsequent time appoint a planning advisory commission composed of five members appointed by the chairman of the board. Four members of such commission shall be chosen from the electors of the county provided that not less than three shall be residents of the portion of the county lying outside the incorporated limits of municipalities. The fifth member of such commission shall be a member of the board. In addition the board may designate any county officer or employee as an ex officio member of such commission. The term of office and

removal as well as filling vacancies on the board shall be as provided in the resolution creating the commission.

Subd. 2. If such a planning advisory commission has been appointed it shall assist the planning agency in carrying out its duties including assistance in the preparation and execution of the comprehensive plan and recommendations to the agency for the adoption of official controls and amendments, extensions, or additions to the plan or controls; and it shall conduct such hearings as are required by sections 1 to 17 and shall make findings and conclusions therefrom which shall be transmitted to the agency which shall transmit the same to the board with such comments and recommendations it deems necessary.

Subd. 3. The members of such commission shall serve without compensation but may be paid their necessary expenses in attending meetings of the commission and in the conduct of the business of the commission.

Sec. 11. [394.31] **Relation to other county authority.** Nothing in sections 1 to 17 shall prevent the board acting pursuant to the authority granted in Minnesota Statutes, Sections 394.06 to 394.17, or Sections 396.01 to 396.21; but any county acting under the authority of said sections prior to the effective date of this act, by resolution may elect to avail itself of the powers granted herein, and after the adoption of a comprehensive plan may adopt as official controls those zoning ordinances, maps, regulations, or otherwise which were adopted prior to the effective date of this act by reference as part of the official controls for said county.

Sec. 12. [394.32] **Cooperation with municipalities.** Subdivision 1: The governing body of any municipality may contract with the board for planning and zoning services to be provided by the county, and the contract may provide that the municipality shall pay such fees as are agreed for the services performed.

Subd. 2. The contract between the governing body of the municipality and the board may provide among other things for joint county-municipal planning activities, or it may designate a county planning agency as the planning agency for the municipality.

Subd. 3. The governing body of any municipality may request a county planning agency to submit to such governing body a comprehensive plan for the municipality setting forth such provisions as the planning agency deems applicable to the municipality and for its best interests; or to include the

area within the municipality in a county-wide comprehensive plan, or to prepare official controls to apply to the area within the municipality. Notwithstanding the adoption of the comprehensive plan and recommendations for the municipality the plan and recommendations shall not be binding until official controls are adopted by the municipality in accordance with the plan.

Subd. 4. The board of supervisors of any town which has adopted building and zoning regulations and restrictions pursuant to law shall have the authority granted the governing body of any municipality as provided in this section.

Sec. 13. [394.33] **Relations with townships.** The governing body of any township may continue to exercise the authority to plan and zone as provided by law, but after the adoption of official controls for a county or portion thereof by the board of county commissioners no township other than those having the powers of villages shall enact official controls inconsistent with the standards prescribed in the official control adopted by the board.

Sec. 14. [394.34] **Interim zoning.** If a county is conducting, or in good faith intends to conduct studies within a reasonable time, or has held or is holding a hearing for the purpose of considering a comprehensive plan or official controls or an amendment, extension, or addition to either, or in the event new territory for which no zoning may have been adopted, may be annexed to a municipality, the board in order to protect the public health, safety, and general welfare may adopt as an emergency measure a temporary interim zoning map or temporary interim zoning ordinance, the purpose of which shall be to classify and regulate uses and related matters as constitutes the emergency. Such interim resolution shall be limited to one year from the date it becomes effective and to one year to renewal thereafter.

Sec. 15. [394.35] **Filing with register of deeds.** Upon the adoption of any ordinance or other official control including any maps or charts supplemented to or as part thereof, the county auditor shall file a certified copy thereof with the register of deeds for record.

Sec. 16. [394.36] **Nonconforming uses.** Subdivision 1. The lawful use or occupation of land or premises existing at the time of the adoption of an official control hereunder may be continued, although such use or occupation does not conform to the provisions thereof, but if such nonconforming use or occupancy is discontinued for a period of more than

one year, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

Subd. 2. The board may by resolution as herein provided prescribe such regulations not contrary to law as it deems desirable or necessary to regulate and control, or reduce the number or extent of or the gradual elimination of non-conforming uses and occupancies.

Sec. 17. [394.37] **Enforcement.** Subdivision 1. The board shall provide for the enforcement of sections 1 to 17 and of ordinances, resolutions, and regulations made thereunder, and may impose enforcement duties on any officer, department, agency, or employee of the county.

Subd. 2. It is declared unlawful for any person to violate any of the terms and provisions of sections 1 to 17 or the provisions of any ordinance, regulation, or other official control adopted by the board. Violation thereof shall be a misdemeanor. All fines for violations shall be paid to the county and shall be credited to the general revenue fund.

Subd. 3. In the event of a violation or a threatened violation of sections 1 to 17 or of any ordinance, regulation, or other official control adopted hereunder, the board, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations, and it is the duty of the county attorney to institute such action.

Subd. 4. Any taxpayer of the county may institute mandamus proceedings in district court to compel specific performance by the proper official or officials of any duty required by sections 1 to 17 or by any ordinance adopted thereunder.

Approved April 24, 1959.

CHAPTER 560—H. F. No. 469

An act relating to fox bounties; amending Minnesota Statutes 1957, Section 348.071, Subdivisions 1, 2, and 3.

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

Section 1. Minnesota Statutes 1957, Section 348.071, Subdivision 1, is amended to read:

348.071 Wolf, lynx, bobcat, fox. Subdivision 1.