

## CHAPTER 392—S. F. No. 1486

[Not Coded]

*An act relating to the town of Cottage Grove, in Washington county; authorizing it to issue bonds for a road equipment garage.*

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

Section 1. **Cottage Grove, town of (Washington County); garage.** The town of Cottage Grove in Washington county may issue its general obligation bonds in an amount not exceeding \$110,000 for the purpose of acquiring a site for and constructing and equipping a garage for storing and servicing its road maintenance and construction equipment. Such bonds shall be issued subject to the approval of the voters and sold and issued in accordance with the provisions of Minnesota Statutes, Chapter 475.

Sec. 2. This act shall be effective upon its approval by a majority of the members of the board of supervisors of the town of Cottage Grove, and upon compliance with Minnesota Statutes, Section 645.021.

Approved May 11, 1965.

## CHAPTER 393—S. F. No. 642

[Coded]

*An act providing for the repair, remodeling, demolition, or removal of hazardous and substandard buildings in cities, villages, towns, and boroughs, and for the filling or protection of hazardous building excavations therein.*

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

Section 1. **Hazardous buildings; removal and repair; definitions.** [463.15] Subdivision 1. For purposes of this act the terms defined in this section have the meanings given them.

Subd. 2. **Building.** "Building" includes any structure or part of a structure.

Subd. 3. **Hazardous building.** "Hazardous building" means any building which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.

**Changes or additions indicated by italics, deletions by ~~strikeout~~.**

Sec. 2. **[463.16] Repair or removal of hazardous building.** The governing body of any city, village, town, or borough may order the owner of any hazardous building within the municipality to correct the hazardous condition of such building or to raze or remove the same.

Sec. 3. **[463.17] The order.** Subdivision 1. **Contents.** The order shall be in writing; recite the grounds therefor; specify the necessary repairs, if any, and provide a reasonable time for compliance; and shall state that a motion for summary enforcement of the order will be made to the district court of the county in which the hazardous building is situated unless corrective action is taken, or unless an answer is filed within the time specified in section 4.

Subd. 2. **Service.** The order shall be served upon the owner of record, or his agent if an agent is in charge of the building, and upon the occupying tenant, if there is one, and upon all lien holders of record, in the manner provided for service of a summons in a civil action. If the owner cannot be found, the order shall be served upon him by posting it at the main entrance to the building and by four weeks' publication in the official newspaper of the municipality if it has one, otherwise in a legal newspaper in the county.

Subd. 3. **Filing.** A copy of the order with proof of service shall be filed with the clerk of district court of the county in which the hazardous building is located not less than five days prior to the filing of a motion pursuant to section 5 to enforce the order. At the time of filing such order the municipality shall file for record with the register of deeds or registrar of titles a notice of the pendency of the proceeding, describing with reasonable certainty the lands affected and the nature of the order. If the proceeding be abandoned the municipality shall within ten days thereafter file with the register of deeds a notice to that effect.

Sec. 4. **[463.18] Answer.** Within twenty days from the date of service, any person upon whom the order is served may serve an answer in the manner provided for the service of an answer in a civil action, specifically denying such facts in the order as are in dispute.

Sec. 5. **[463.19] Default cases.** If no answer is served, the governing body may move the court for the enforcement of the order. If such a motion is made the court may, upon the presentation of such evidence as it may require, affirm or modify the order and enter judgment accordingly, fixing a time after which the governing body may proceed with the enforcement of the order. The clerk of the court shall cause a copy of the judgment to be mailed forthwith to persons upon whom the original order was served.

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Sec. 6. [463.20] **Contested cases.** If an answer is filed and served as provided in section 4, further proceedings in the action shall be governed by the rules of civil procedure for the district courts, except that the action has priority over all pending civil actions and shall be tried forthwith. If the order is sustained following the trial, the court shall enter judgment and shall fix a time after which the building shall be destroyed or repaired, as the case may be, in compliance with the order as originally filed or modified by the court. If the order is not sustained, it shall be annulled and set aside. The clerk of the court shall cause a copy of the judgment to be mailed forthwith to the persons upon whom the original order was served.

Sec. 7. [463.21] **Enforcement of judgment.** If a judgment is not complied with in the time prescribed, the governing body may cause the building to be repaired, razed, or removed as set forth in the judgment. The cost of such repairs, razing, or removal shall be a lien against the real estate on which the building is located and may be levied and collected only as a special assessment in the manner provided by Minnesota Statutes 1961, sections 429.061 to 429.081, but the assessment shall be payable in a single installment. When the building is razed or removed by the municipality, the governing body may sell the salvage and valuable materials at public auction upon three days' posted notice.

Sec. 8. [463.22] **Statement of moneys received.** The municipality shall keep an accurate account of the expenses incurred in carrying out the order and of all other expenses theretofore incurred in connection with its enforcement, including specifically, but not exclusively, filing fees, service fees, publication fees, appraisers' fees, witness fees, including expert witness fees, and traveling expenses incurred by the municipality from the time the order was originally made, and shall credit thereon the amount, if any, received from the sale of the salvage, or building or structure, and shall report its action under the order, with a statement of monies received and expenses incurred to the court for approval and allowance. Thereupon the court shall examine, correct, if necessary, and allow the expense account, and, if the amount received from the sale of the salvage, or of the building or structure, does not equal or exceed the amount of expenses as allowed, the court shall by its judgment certify the deficiency in the amount so allowed to the municipal clerk for collection. The owner or other party in interest shall pay the same, without penalty added thereon, and in default of payment by October 1, the clerk shall certify the amount of the expense to the county auditor for entry on the tax lists of the county as a special charge against the real estate on which the building is or was situated and the same shall be collected in the same manner as

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other taxes and the amount so collected shall be paid into the municipal treasury. If the amount received for the sale of the salvage or of the building or structure exceeds the expense incurred by the municipality as allowed by the court, and if there are no delinquent taxes, the court shall direct the payment of the surplus to the owner or the payment of the same into court, as provided in this act. If there are delinquent taxes against the property, the court shall direct the payment of the surplus to the county treasurer to be applied on such taxes.

Sec. 9. **[463.23] Payment, tender, deposit in court.** The net proceeds of a sale under section 7 or section 10 shall be paid to persons designated in the judgment in the proportions as their interests shall appear therein. Acceptance of such payment shall be taken as a waiver of all objections to the payment and to the proceedings leading thereto on the part of the payee and of all persons for whom he is lawfully empowered to act. In case any party to whom a payment of damages is made be not a resident of the state, or his place of residence be unknown, or he be an infant or other person under legal disability, or, being legally capable, refuses to accept payment, or if for any reason it be doubtful to whom any payment should be paid, the municipality may pay the same to the clerk, to be paid out under the direction of the court; and, unless an appeal be taken such deposit with the clerk shall be deemed a payment of the award.

Sec. 10. **[463.24] Personal property or fixtures.** If any building ordered razed, removed, or made safe and sanitary by repairs contains personal property or fixtures which will unreasonably interfere with the razing, removal, or repair of such building, or if the razing or removal of the building makes necessary the removal of such personal property or fixtures, the original order of the governing body may direct the removal of such personal property or fixtures within a reasonable time. If the property or fixtures are not removed by the time specified, and the governing body subsequently desires to enforce a judgment under this Act, it may sell the same at public auction as provided in section 7, or if without appreciable value, the governing body may destroy the same.

Sec. 11. **[463.25] Hazardous excavations.** If in any city, village or borough, an excavation for building purposes is left open for more than six months without proceeding with the erection of a building thereon, whether or not completed, or if any excavation or basement is not filled to grade or otherwise protected after a building is destroyed, demolished or removed, the governing body may order such excavation to be filled or protected or in the alternative that erection of a building begin forthwith if the excavation is for building purposes. The order shall be served upon the owner

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or his agent in the manner provided by section 3. If the owner of the land fails to comply with the order within fifteen days after the order is served upon him, the governing body shall cause the excavation to be filled to grade or protected and the cost shall be charged *against the real estate as provided in section 7.*

Sec. 12. [463.26] **Local acts and charter provisions.** This act is supplementary to other statutory and charter provisions and does not limit the authority of any city, village or borough to enact and enforce ordinances on the same subject.

Approved May 11, 1965.

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CHAPTER 394—S. F. No. 780

[Coded in Part]

*An act relating to the taxes on and measured by net income of small business corporations; amending Minnesota Statutes 1961, Section 290.971, as amended, by adding a new subdivision and Section 290.972, Subdivision 3.*

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

Section 1. Minnesota Statutes 1961, Section 290.971, Subdivision 1, as amended by Laws 1963, Chapter 355, Section 19, is amended by adding a new subdivision to read:

**Subd. 4. Income tax; small business corporations; ownership of certain stock.** *For purposes of subdivision 1, a corporation shall not be considered a member of an affiliated group at any time during any taxable year by reason of the ownership of stock in another corporation if such other corporation*

*(1) has not begun business at any time on or after the date of its incorporation and before the close of such taxable year, and*

*(2) does not have taxable income for the period included within such taxable year.*

Sec. 2. Minnesota Statutes 1961, Section 290.972, Subdivision 3, is amended to read:

**Subd. 3. Where and how made.** (1) **In general.** An election under subdivision 1 may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such

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