

district shall fill the vacancy by appointment; and the supervisor appointed shall hold office until December 31 following the next succeeding general election. If the term does not then expire, his successor shall be elected at the next succeeding general election following the appointment and hold office for the remainder of the term. If a vacancy except by reason of expiration of term shall occur in such office less than ~~45~~ 60 days before the next succeeding general election, the governing body of the district shall fill the vacancy by appointment; and the supervisor shall hold office until the expiration of the term or until December 31 following the second succeeding general election, whichever is the shortest term, when his successors shall be elected and hold office for the remainder of the term.

Approved April 11, 1974.

CHAPTER 571—S.F.No.2576
[Coded in Part]

An act relating to planning, development, zoning; authorizing all counties to carry on planning, development and zoning activities; setting forth authorities in land and water use controls; amending Minnesota Statutes 1971, Sections 394.22, Subdivision 6 and by adding subdivisions; 394.23; 394.24, Subdivisions 1 and 2 and by adding a subdivision; 394.25, Subdivisions 1, 2, 3, 4, 7 and 8 and by adding subdivisions; 394.26, Subdivision 2 and by adding subdivisions; 394.27, Subdivisions 1, 2, 5 and 6 and by adding subdivisions; 394.29; 394.30, Subdivisions 1 and 3 and by adding subdivisions; 394.32, Subdivisions 2 and 3; 394.33; 394.35; 394.36, Subdivisions 1 and 2 and by adding a subdivision; 394.37, Subdivision 1; 375.51, Subdivisions 1, 2 and 3; 599.13; Chapter 394 by adding sections; repealing Minnesota Statutes 1971, Sections 394.06 to 394.15; 394.16, as amended; 394.17; 394.21, Subdivision 2; 394.22, Subdivision 5; 394.25, Subdivisions 5 and 6; 394.26, Subdivisions 1 and 3; 394.30, Subdivision 2; 394.31; 394.32, Subdivision 4; and 396.01 to 396.21.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1971, Section 394.22, Subdivision 6, is amended to read:

Subd. 6. **COUNTIES; PLANNING, DEVELOPMENT AND ZONING.** "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~~, ~~planning controls~~, ~~site plan regulations~~, ~~sanitary codes~~, ~~building codes~~, ~~housing codes~~, and the ~~adoption of detailed~~ official maps.

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Sec. 2. Minnesota Statutes 1971, Section 394.22, is amended by adding a subdivision to read:

Subd. 7. "Conditional use" means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development conforms to the comprehensive land use plan of the county and (3) is compatible with the existing neighborhood.

Sec. 3. Minnesota Statutes 1971, Section 394.22, is amended by adding a subdivision to read:

Subd. 8. "Nonconformity" means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

Sec. 4. Minnesota Statutes 1971, Section 394.22, is amended by adding a subdivision to read:

Subd. 9. "Comprehensive plan" means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the county or any portion of the county.

Sec. 5. Minnesota Statutes 1971, Section 394.22, is amended by adding a subdivision to read:

Subd. 10. "Variance" means any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.

Sec. 6. Minnesota Statutes 1971, Section 394.22, is amended by adding a subdivision to read:

Subd. 11. "Town" means any town, including those with the powers of a statutory city pursuant to law.

Sec. 7. Minnesota Statutes 1971, Section 394.22, is amended by adding a subdivision to read:

Subd. 12. "Official map" means a map adopted in accordance with section 44 of this act which may show existing county roads and county state aid highways, proposed future county roads and highways

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and the area needed for widening existing county roads and highways. An official map may also show the location of existing public land and facilities and other land needed for future public purposes, including public facilities such as parks, playgrounds, schools, and other public buildings, civic centers, and travel service facilities. When requested in accordance with section 394.32, subdivision 3, an official map may include existing and planned public land uses within incorporated areas.

Sec. 8. Minnesota Statutes 1971, Section 394.23, is amended to read:

394.23 COMPREHENSIVE PLAN. The board shall have the power and authority to prepare and adopt by ordinance, 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. A comprehensive plan or plans when adopted by ordinance shall be the basis for official controls adopted under the provisions of sections 394.21 to 394.37.

Sec. 9. Minnesota Statutes 1971, Section 394.24, Subdivision 1, is amended to read:

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 or ordinance~~ .

Sec. 10. Minnesota Statutes 1971, Section 394.24, Subdivision 2, is amended to read:

Subd. 2. Official controls adopted by a board shall apply to and be binding upon ~~only that area or the county or any parts thereof outside including areas within~~ the incorporated limits of a city, village, or borough municipality, when requested by the municipality under section 394.32 .

Sec. 11. Minnesota Statutes 1971, Section 394.24, is amended by adding a subdivision to read:

Subd. 3. For the area within which official controls adopted by the board are effective, such controls shall apply to the use of land for both private and public purposes, provided that the need for adequate, timely and convenient public and semi-public services and facilities must receive due consideration in the formulation, administration and enforcement of all official controls and no land owned or leased by the federal or state government shall be subject to official controls of the county. With respect to the use of land for public purposes, the provisions of this subdivision shall not apply in the metropolitan area as de-

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scribed in Minnesota Statutes, Section 473B.01.

Sec. 12. Minnesota Statutes 1971, Section 394.25, Subdivision 1, is amended to read:

394.25 FORMS OF CONTROL. Subdivision 1. Official controls shall be adopted by ordinance and may include but are not limited to the features set forth in this section.

Sec. 13. Minnesota Statutes 1971, Section 394.25, Subdivision 2, is amended to read:

Subd. 2. ~~The establishment of Zoning ordinances establishing~~ districts within which ~~districts~~ the use of land or the use of water or the surface of water pursuant to Minnesota Statutes, 1973 Supplement, Section 378.32 for agriculture, forestry, recreation, residence, industry, trade, soil conservation, water supply conservation, surface water drainage and removal, conservation of shorelands, as defined in section 105.485, and additional uses of land and of the surface of water pursuant to Minnesota Statutes, 1973 Supplement, Section 378.32, may be by official controls 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. Official controls may also be applied to wetlands preservation, open space, parks, sewage disposal, protection of ground water, protection of flood plains as defined in section 104.02, protection of wild, scenic or recreational rivers as defined in section 104.33, protection of slope, soils, unconsolidated materials or bedrock from potentially damaging development, preservation of forests, woodlands and essential wildlife habitat, reclamation of non-metallic mining lands; and the preservation of agricultural lands.

Sec. 14. Minnesota Statutes 1971, Section 394.25, Subdivision 3, is amended to read:

Subd. 3. ~~For~~ Within each such district a zoning ordinance ~~ordinances or map maps 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; setback from existing roads and highways and roads and highways designated on an official map; ~~sanitary, safety, and~~ protective measures necessary to protect the public interest including but not limited to controls relating to appearance, signs, lighting, hours of operation and other esthetic performance characteristics including but not limited to noise, heat, glare, vibrations and smoke 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 dis-

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trict, but the provisions in one district may differ from those in other districts.

Sec. 15. Minnesota Statutes 1971, Section 394.25, Subdivision 4, is amended to read:

Subd. 4. ~~Maps for Official maps as defined in section 7, of this act 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 .~~

Sec. 16. Minnesota Statutes 1971, Section 394.25, Subdivision 7, is amended to read:

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 and dedication of streets and land for other public purposes ~~requiring future dedication or acquisition and the~~ general design of physical improvement.

Sec. 17. Minnesota Statutes 1971, Section 394.25, Subdivision 8, is amended to read:

Subd. 8. Any statute of Minnesota, any administrative rule or regulation of any department of the state of Minnesota affecting the county, or any code, adopted by reference as part of the official control . The term "code" as used herein means any compilation of regulations or standards or part thereof prepared by any governmental agency or any trade or professional association for general distribution in printed form as a standard or model on the subject of building construction, plumbing, electric wiring, inflammable liquids, sanitary provisions, public health, safety, or welfare. ~~All requirements of statutes for the publication or posting of resolutions shall be satisfied in such case if the resolution incorporating the statute, regulation, ordinance or code is published or posted in the required manner and if, Prior to such posting or publication, adoption at least three copies one copy of the statute, rule, regulation, ordinance or code are~~ shall be marked as official copies and filed for use and examination by the public in the office of the county auditor. Provisions of the statute, rule, regulation, ordinance or code thus incorporated in such resolution ordinance by reference shall be as much a part of the resolution ordinance as if they had been set out in full therein.

Sec. 18. Minnesota Statutes 1971, Section 394.25, is amended by adding a subdivision to read:

Subd. 9. Erosion and sediment controls with regard to clearing, grading, excavation, transporting and filling of lands. Erosion and sedi-

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ment controls may include, but need not be limited to requiring the development of plans before any land is disturbed. Plans for disturbing land may be submitted to the appropriate soil and water conservation district for comment and review.

Sec. 19. Minnesota Statutes 1971, Section 394.25, is amended by adding a subdivision to read:

Subd. 10. An amendment to official controls may be initiated by the board, the planning commission, or by petition of affected property owners as defined in the official controls. An amendment not initiated by the planning commission shall be referred to the planning commission, if there is one, for study and report and may not be acted upon by the board until it has received the recommendation of the planning commission.

Sec. 20. Minnesota Statutes 1971, Section 394.26, is amended by adding a subdivision to read:

Subd. 1a. In addition to public hearings required by section 375.51 prior to the adoption by ordinance of any comprehensive plan or amendments thereto or of any official control or amendment thereto, public hearings shall be held before any conditional use permit, any variance, and any proposal for a subdivision is approved or denied by the responsible authority, and in circumstances where a public hearing is otherwise required by sections 394.21 to 394.37. Such public hearings may be continued from time to time and additional hearings may be held.

Sec. 21. Minnesota Statutes 1971, Section 394.26, Subdivision 2, is amended to read:

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, except that notice of public hearings in connection with the adoption by ordinance of any comprehensive plan or amendments thereto or adoption or amendment of any official controls shall be given in the manner provided by section 375.51, subdivision 2. In addition to the requirements of section 375.51, subdivision 2, written notice of public hearings on all official controls and amendments thereto shall be sent to the governing bodies of all towns and all municipalities located within the county. Written notice of public hearings regarding the application of official controls to specific properties, including conditional uses, variances and subdivisions, shall be sent to all property owners of record within 500 feet of the affected property, in incorporated areas, and one-half mile in unincorporated areas, the affected board of town supervisors, and the municipal council of any municipality within two miles of the affected property.

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Sec. 22. Minnesota Statutes 1971, Section 394.26, is amended by adding a subdivision to read:

Subd. 3a. The board may assign responsibility to conduct public hearings for one or more purposes to the planning commission, board of adjustment or any official or employee of the county, except as provided in Minnesota Statutes, Section 375.51.

Sec. 23. Minnesota Statutes 1971, Section 394.27, Subdivision 1, is amended to read:

394.27 CREATION AND DUTIES 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 Laws 1959, Chapter 559, has adopted a zoning ordinance or official controls shall create a board of adjustment within 90 days of the effective date of Laws 1959, Chapter 559 by ordinance .~~

Sec. 24. Minnesota Statutes 1971, Section 394.27, Subdivision 2, is amended to read:

Subd. 2. The board of adjustment shall consist of at least three but not more than seven members , including at least one member from the unincorporated area of the county, whose appointment, term of office, or removal from the board shall be as provided in the ~~resolution-ordinance~~ 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 394.21 to 394.37. In an ordinance creating a three member board of adjustment, provision may be made for one alternate member. The alternate board member shall, when directed by the chairman, attend all meetings of the board and participate fully in its activities but shall not vote on any issue unless authorized to do so by the chairman. The chairman shall authorize the alternate board member to vote on an issue when a regular member is absent, physically incapacitated, abstains because of a possible conflict of interest, or is prohibited by law from voting on that issue. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular board member from voting thereon shall be decided by majority vote of all regular board members except the member who is being challenged. In the ordinance establishing the board of adjustment provision may be made for removal of any member for nonperformance of duty or misconduct in office and for the filling of vacancies for any unexpired term. The regular and alternate members of such board of adjustment shall serve without compensation but may be paid compensation in an amount determined by the county board and may be paid their necessary expenses in attending meetings of the board and in the conduct of

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the business of the board.

Sec. 25. Minnesota Statutes 1971, Section 394.27, Subdivision 5, is amended to read:

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 have the~~ authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision, or determination made by ~~an~~ any administrative official charged with enforcing any ordinance adopted pursuant to the provision of sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county, or state.

Sec. 26. Minnesota Statutes 1971, Section 394.27, Subdivision 6, is amended to read:

Subd. 6. ~~Such~~ An appeal from any order, requirement, decision, or determination of any administrative official shall be taken in such time as shall be prescribed by the ordinance creating 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 to the public and decide the same within a reasonable time which shall be defined in the ordinance establishing the board of adjustment. An appeal stays all proceedings in furtherance of the action appealed from unless the board of adjustment to whom the appeal is taken certifies that by reason of the facts stated in the certificate a stay would cause imminent peril to life or property. The board of adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination ~~appealed from 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 in writing. ~~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. 27. Minnesota Statutes 1971, Section 394.27, is amended by adding a subdivision to read:

Subd. 7. The board of adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes

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and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control, and when the terms of the variance are consistent with the comprehensive plan. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest.

Sec. 28. Minnesota Statutes 1971, Section 394.27, is amended by adding a subdivision to read:

Subd. 8. A certified copy of any order issued by the board of adjustment acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance, shall be filed with the register of deeds or registrar of titles for record. The order issued by the board of adjustment shall include the legal description of the property involved. The board by ordinance shall designate the county official or employee responsible for meeting the requirements of this subdivision.

Sec. 29. Minnesota Statutes 1971, Section 394.27, is amended by adding a subdivision to read:

Subd. 9. All decisions by the board of adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the state shall have the right to appeal within 30 days, after receipt of notice of the decision, to the district court in the county in which the land is located on questions of law and fact.

Sec. 30. Minnesota Statutes 1971, Section 394.29, is amended to read:

394.29 MAY EMPLOY DIRECTOR AND STAFF. To carry out the purposes of sections 394.21 to 394.37 the board may employ a planning director ~~and inspector or either of them~~ and such staff as it deems necessary ~~to assist the planning director in carrying out his assigned responsibilities, including but not limited to a zoning administrator, sanitary inspector and a building official. If no planning director is appointed, the board shall designate a chief administrative officer who shall administer the official controls.~~ ~~or~~ The board may employ or con-

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tract with a planning ~~agency~~; authority ; or commission, any agency of the state or federal government, a regional development commission or with planning consultants, or with other specialists for such services as it requires.

Sec. 31. Minnesota Statutes 1971, Section 394.30, Subdivision 1, is amended to read:

394.30 PLANNING COMMISSION. Subdivision 1. ~~The~~ Any board of county commissioners ~~which has adopted a resolution indicating its intent to avail itself of the authority granted by sections 394.21 to 394.27~~ may at that time or any subsequent time ~~by ordinance~~ appoint a planning ~~advisory~~ commission composed of not less than five nor more than eleven 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. One member of such commission shall be a member of the board. At least two members shall be residents of the portion of the county outside the corporate limits of municipalities. The manner of appointment and terms of office of the members shall be as provided in the ordinance. No more than one voting member of the commission shall be an officer or employee of the county. No voting member of the commission shall have received, during the two years prior to appointment, any substantial portion of his income from business operations involving the development of land within the county for urban and urban related purposes. In addition~~ In the ordinance establishing the planning commission the board may designate any county officer or employee as an ex officio member of such commission. The term of office and removal of any member for nonperformance of duty or misconduct in office as well as filling vacancies on the board shall be as provided in the ~~resolution~~ ordinance creating the commission.

Sec. 32. Minnesota Statutes 1971, Section 394.30, Subdivision 3, is amended to read:

Subd. 3. The members of ~~such~~ the commission ~~shall serve without compensation but may be compensated in an amount determined by the county board~~ and may be paid their necessary expenses in attending meetings of the commission and in the conduct of the business of the commission.

Sec. 33. Minnesota Statutes 1971, Section 394.30, is amended by adding a subdivision to read:

Subd. 4. The planning commission shall elect a chairman and secretary from among its members and cooperate with the planning director and other employees of the county in preparing and recommending to the board for adoption a comprehensive plan and recommendations for plan execution in the form of official controls and other measures, and amendments thereto. In all instances in which the planning com-

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mission is not the final authority, as authorized in subdivision 5, the commission shall review all applications for conditional use permits and plans for subdivisions of land and report thereon to the board.

Sec. 34. Minnesota Statutes 1971, Section 394.30, is amended by adding a subdivision to read:

Subd. 5. The board may by ordinance assign additional duties and responsibilities to the planning commission including but not restricted to the conduct of public hearings, the authority to order the issuance of some or all categories of conditional use permits, the authority to approve some or all categories of subdivisions of land, and the authority to approve some or all categories of planned unit developments. The planning commission may be required by the board to review any comprehensive plans and official controls and any plans for public land acquisition and development sent to the county for that purpose by any local unit of government or any state or federal agency and shall report thereon in writing to the board.

Sec. 35. Minnesota Statutes 1971, Chapter 394, is amended by adding a section to read:

[394.301] CONDITIONAL USE PERMITS. Subdivision 1. The board 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 upon a showing by an applicant that standards and criteria stated in the ordinance will be satisfied. Such 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. Conditional use permits shall be issued by the officer administering the official controls only upon the order of the board or the planning commission as designated by ordinance as the approval authority for one or more categories of conditional uses. The planning commission shall in all instances have an opportunity to review conditional uses prior to any final decision by the designated approval authority. Public hearings shall be held in accordance with section 394.26. In connection with ordering the issuance of a conditional use permit the designated approval authority may impose such additional restrictions or conditions as it deems necessary to protect the public interest, including but not limited to matters relating to appearance, lighting, hours of operation and performance characteristics. When appropriate, restrictive covenants may be entered into regarding such matters.

Subd. 3. A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this section shall prevent the board from enacting or amending official controls to change the status of conditional uses.

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Subd. 4. A certified copy of any conditional use permit shall be filed with the register of deeds or registrar of titles for record. The conditional use permit shall include the legal description of the property involved. The board by ordinance shall designate the county official or employee responsible for meeting the requirements of the subdivision.

Sec. 36. Minnesota Statutes 1971, Chapter 394, is amended by adding a section to read:

[394.312] RELATION TO OTHER COUNTY AUTHORITY. All official controls in effect on the effective date of this act shall remain in full force and effect until amended or repealed whether such controls were adopted by resolution of the board or by ordinance and whether or not comprehensive plans had been adopted before the official controls were adopted. Any official controls and any procedures for the administration of official controls which are in existence on the effective date of this act shall be brought into compliance with this act within three years from the effective date of this act.

Sec. 37. Minnesota Statutes 1971, Section 394.32, Subdivision 2, is amended to read:

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~~ the board as the planning agency for the municipality.

Sec. 38. Minnesota Statutes 1971, Section 394.32, Subdivision 3, is amended to read:

Subd. 3. The governing body of any municipality may request a county ~~planning agency-board~~ to submit to such governing body a comprehensive plan for the municipality setting forth such provisions as the ~~planning agency-board~~ 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 or until the county adopts official controls for the areas within the incorporated limits of the municipality when requested by the governing body of the municipality. After the county adopts official controls for areas within a municipality, the county shall enforce the controls unless the county and municipality provided otherwise by agreement. A municipality may at any time, by resolution of its governing body, take over planning functions, including adoption and enforcement of official controls, with respect to areas within its corporate limits for which a county has adopted official controls.

Sec. 39. Minnesota Statutes 1971, Section 394.33, is amended to
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read:

394.33 RELATIONS WITH TOWNS. Subdivision 1. The governing body of any town including any town with the powers of a statutory city pursuant to law 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 town shall enact or enforce official controls inconsistent with or less restrictive than the standards prescribed in the official ~~control~~ controls adopted by the board. Nothing in this section shall limit any town's power to ~~zone~~ adopt official controls, including shoreland regulations which are more restrictively restrictive than provided in the controls adopted by the county. Upon the adoption or amendment of any official controls the governing body of the town shall file a certified copy thereof with the register of deeds or registrar of titles for record. A certified copy of any official controls of any town which are in effect on the effective date of this act shall also be filed by the governing body of the town with the register of deeds or registrar of titles for record within one year from the effective date of this act.

Subd. 2. The board of supervisors of any town which has adopted or desires to adopt building and zoning regulations and restrictions pursuant to law shall have the authority granted the governing body of any municipality as provided in section 394.32.

Sec. 40. Minnesota Statutes 1971, Section 394.35, is amended to read:

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. Ordinances, resolutions, maps or regulations filed with the register of deeds or registrar of titles pursuant to sections 394.21 to 394.37 do not constitute encumbrances on real property.

Sec. 41. Minnesota Statutes 1971, Section 394.36, Subdivision 1, is amended to read:

394.36 NONCONFORMITIES. Subdivision 1. Any nonconformity including the lawful use or occupation of land or premises existing at the time of the adoption of an official control hereunder may be continued, except as regulated, terminated or acquired by the board as provided in subdivisions 2 or 3, although such use or occupation does not conform to the provisions thereof, but if such ~~nonconforming use nonconformity~~ or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

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Sec. 42. Minnesota Statutes 1971, Section 394.36, Subdivision 2, is amended to read:

Subd. 2. The board may by ~~resolution as herein provided pre-~~
~~scribe ordinance~~ adopt such regulations not contrary to law as it
deems desirable or necessary to classify, regulate and control, or
reduce the number or extent of or and provide for the gradual elimina-
tion of nonconforming uses-nonconformities and occupancies, includ-
ing requiring nonconformities to conform with the official controls of
the county or terminate within a reasonable time as specified in the of-
ficial controls. The board may by ordinance impose upon nonconformi-
ties additional regulations relating to appearance, signs, lighting, hours
of operation and other esthetic performance characteristics including
but not limited to noise, heat, glare, vibrations and smoke.

Sec. 43. Minnesota Statutes 1971, Section 394.36, is amended by
adding a subdivision to read:

Subd. 3. A nonconformity that is determined by the board to be
detrimental to the achievement of the goals and objectives of the com-
prehensive plan may be acquired by the board by purchase.

Sec. 44. Minnesota Statutes 1971, Chapter 394, is amended by
adding a section to read:

[394.361] OFFICIAL MAP. Subdivision 1. Land that is needed for
future street and highway purposes and as sites for other necessary
public facilities and services is frequently diverted to nonpublic uses
which could have been located on other lands without hardship or in-
convenience 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. Iden-
tification on official maps 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 which
will make such adjustments difficult to accomplish.

Subd. 2. The planning commission may develop and recommend
for adoption by the board official maps and amendments thereto cov-
ering all or any portion of the unincorporated area of the county. Pub-
lic hearings on proposed official maps and amendments thereto shall
be held in accordance with section 394.26. The official map may be
adopted and amended by ordinance by the board.

All official maps shall be prepared in sufficient detail to permit
the establishment of future acquisition lines on the ground. In unplat-
ted 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 at-
tested to by the county surveyor. Copies of official maps and amend-
ments shall be filed in accordance with section 394.35. One copy of the

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official map shall be furnished to the town clerk of each affected town.

Subd. 3. After an official map has been adopted and filed, the issuance of building permits by the county shall be subject to the provisions of 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 are acquired by the county, 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 highway 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 official maps does not give the county any right, title or interest in areas identified for public purposes thereon, but the adoption of a map does authorize the county to acquire such interests without paying compensation for buildings or structures erected in such areas without a permit or in violation of the conditions of a permit. The provisions of this subdivision shall not apply to buildings or structures in existence prior to the filing of the official map.

Subd. 4. If a permit for a building in such location is denied, the board of adjustment shall have the power, upon appeal by the owner of the land to authorize the issuance of a permit 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 be put to a reasonable use by the owner unless such a permit is granted, and (b) that balancing the interest of the county in preserving the integrity of the official map and the comprehensive plan and interest of the owner of the property in the use of his property and in the benefits of ownership, the issuance of such permit is required by considerations of justice and equity. Prior to reaching a decision upon the appeal, public hearings shall be held in accordance with section 394.26. If the board of adjustment authorizes the issuance of a permit the board shall have six months from the date of the decision of the board of adjustment to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the officer responsible shall issue a permit in accordance with the conditions stated in the authorization specifying the exact location, ground area, height and other details as to the extent and character of the building for which the permit is granted.

Sec. 45. Minnesota Statutes 1971, Chapter 394, is amended by adding a section to read:

[394.362] Subdivision 1. The applicant for a variance which, in the opinion of the board of adjustment, may result in a material adverse effect on the environment may be requested by the board to demonstrate the nature and extent of the effect.

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Subd. 2. The applicant for a conditional use permit which, in the opinion of the planning commission, may result in a material adverse effect on the environment may be requested by the board to demonstrate the nature and extent of the effect.

Sec. 46. Minnesota Statutes 1971, Section 394.37, Subdivision 1, is amended to read:

394.37 ENFORCEMENT. Subdivision 1. The board shall provide for the enforcement of sections 394.21 to 394.37 and of ordinances ; ~~resolutions~~; and regulations made thereunder, and may impose enforcement duties on any officer, department, agency, or employee of the county. ~~In a county in which subdivision regulations or controls are in force and have been filed or recorded as provided in section 394.36, 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 June 4, 1971, or to an unapproved plat made after such regulations have become effective. The foregoing provision does not apply to a conveyance if the land described:~~

~~(1) was a separate parcel of record on the date of adoption of subdivision regulations under sections 394.12 to 394.37, 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 two and one half acres in area an 300 feet.~~

~~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 board may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded. 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 county a penalty of not less than \$100 for each lot or parcel so conveyed. A county may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.~~

Sec. 47. Minnesota Statutes 1971, Section 375.51, Subdivision 1, is amended to read:

375.51 ORDINANCES; ENACTMENT, PUBLICATION. Subdivision 1. **ENACTMENT.** In any instance in which a county board is authorized by law to enact ordinances, such county ordinances shall be adopted in the manner hereinafter prescribed except as otherwise provided by law. A public hearing shall be held prior to the enactment of any ordinance adopting or amending a comprehensive plan or official control as defined in section 394.22. Every county ordinance shall be

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enacted by a majority vote of all the members of the county board except where a larger number is required by law. It shall be signed by the chairman of the board and attested by the clerk of the board. The ordinance shall be published as hereinafter provided. Proof of the publication shall be attached to and filed with the ordinance in the office of the county auditor. Every ordinance shall be recorded in an ordinance book in the office of the county auditor within 20 days after its publication. All ordinances shall be suitably entitled and shall be substantially in the style: "The county board of County ordains:".

Sec. 48. Minnesota Statutes 1971, Section 375.51, Subdivision 2, is amended to read:

Subd. 2. **NOTICE OF INTENTION.** No ordinance of a county shall be enacted unless a notice of the intention to enact such ordinance has been published in the official newspaper of the county not less than ten days before the meeting or public hearing required by subdivision 1 at which the ordinance is to be considered. Public hearings may be continued from time to time and additional hearings may be held. The notice shall state the subject matter and the general purpose of the proposed ordinance. Proof of the publication of the notice shall be attached to and filed with the ordinance, if enacted, in the office of the county auditor.

Sec. 49. Minnesota Statutes 1971, Section 375.51, Subdivision 3, is amended to read:

Subd. 3. **PUBLICATION.** Every ordinance enacted by a county board shall be published at least once as part of the proceedings of the meeting at which the ordinance was enacted. Publication shall be made in the official newspaper of the county but additional publications, either in the official newspaper or other newspaper, may be ordered. An ordinance may be published in its entirety, or otherwise as hereinafter provided.

To the extent of the authority described in subdivision 1 of this section, a county may incorporate in an ordinance by reference any statute of Minnesota, any administrative rule or regulation of any department of the state of Minnesota affecting the county, or any code. The term "code" as used herein means any compilation of regulations or standards or parts thereof prepared by any governmental agency or any trade or professional association for general distribution in printed form as a standard or model on the subject of building construction, plumbing, electric wiring, inflammable liquids, sanitary provisions, public health, safety, or general welfare.

In the case of lengthy ordinances, or ordinances which include charts or maps, the ordinance need not be published in its entirety if the title of the ordinance and a summary of the ordinance is included in the publication of the proceedings of the meeting at which the ordinance was enacted. In such case and in the case a statute, administra-

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tive rule or regulation or a code is adopted by reference, all requirements of statute for the publication of ordinances shall be satisfied if the summary of the ordinance or the ordinance incorporating the statute, regulation, ordinance or code is published in the required manner and if, prior to such publication, at least ~~three copies~~ one copy of the entire ordinance or of the statute, rule, regulation or code are marked as the official copies copy and filed for use and examination by the public in the office of the county auditor. Provisions of the entire ordinance or of the statute, rule, regulation or code thus incorporated in such ordinance by reference shall be as much a part of the ordinance as if they had been set out in full therein.

Sec. 50. Minnesota Statutes 1971, Section 599.13, is amended to read:

599.13 MUNICIPAL AND COUNTY ORDINANCES. Copies of the ordinances, bylaws, resolutions, and regulations of any city, village, ~~or~~ borough, or county, certified by the mayor or president of the council, and the clerk thereof, under its seal or by the county auditor or chairman of the county board, and copies of the same printed in any newspaper, book, pamphlet, or other form, and which purport to be published by authority of the council of such city or village, or county board, shall be prima facie evidence thereof and, after three years from the compilation and publication of any such book or pamphlet, shall be conclusive proof of the regularity of their adoption and publication.

Sec. 51. Minnesota Statutes 1971, Sections 394.06; 394.07; 394.08; 394.09; 394.10; 394.11; 394.12; 394.13; 394.14; 394.15; 394.16, as amended by Laws 1973, Chapter 35, Section 68; 394.17; 394.21, Subdivision 2; 394.22, Subdivision 5; 394.25, Subdivisions 5 and 6; 394.26, Subdivisions 1 and 3; 394.30, Subdivision 2; 394.31; 394.32, Subdivision 4; 396.01; 396.02; 396.03; 396.04; 396.05; 396.051; 396.06; 396.07; 396.08; 396.09; 396.10; 396.11; 396.12; 396.13; 396.14; 396.15; 396.16; 396.17; 396.18; 396.19; 396.20; and 396.21, are repealed.

Approved April 11, 1974.

CHAPTER 572—S.F.No.2580
[Coded]

An act relating to education; establishing grounds and procedures for the suspension, exclusion, and expulsion of public school pupils; repealing Minnesota Statutes 1971, Section 127.071.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [127.26] **CITATION.** This act may be cited as "The pupil fair dismissal act of 1974".

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