

CHAPTER 394

BUILDING AND PLANNING COMMISSIONS; PLANNING DEVELOPMENT,
ZONING

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BUILDING COMMISSION

394.01 HOW CONSTITUTED; OFFICERS. In all counties in this state now having or which may hereafter have a population of over 100,000 and in which the building used for court-house purposes is not owned jointly or in common with any city for city hall purposes, there shall be and hereby is created a commission to be known and designated as the county building commission, which shall be constituted as follows: The chairman of the board of county commissioners, the auditor of the county, and the treasurer of the county. The chairman of the board of county commissioners shall be president of the commission, the county auditor shall be secretary of the commission, and the county treasurer shall be the treasurer of the commission. The secretary shall keep all of the records and accounts of the commission, and the treasurer shall keep a correct account of its receipts and expenditures.

[1909 c. 111 s. 1] (970)

394.02 POWERS; DUTIES. The county building commission shall have the entire care of all of the completed portions of the court-house and of the completed grounds surrounding the same and shall have power to assign unassigned rooms in any part of the building, with entire control of any room in the building not permanently assigned to any official use, and of all halls, corridors, and stairways, and of all boiler and machinery rooms. It shall have the care and control of all engines, boilers, machinery, elevators, and all mechanical and electrical appliances of every nature in the building and of the grounds surrounding the building or connected therewith. It shall cause all of the occupied portions of the building to be properly heated, lighted, cleaned, and kept in repair for public use, and it shall have full authority to appoint any and all employees necessary to properly perform the duties hereby devolved upon the commission, with authority to fix the compensation of such employees and remove any thereof at its pleasure. Nothing contained in sections 394.01 to 394.05 shall be construed to interfere in any manner with the powers and duties of any court-house commission that may be engaged in the completing and furnishing of such building as provided by Laws 1907, Chapter 223.

[1909 c. 111 s. 2] (971)

394.03 MONTHLY STATEMENTS OF EXPENSES; DUTIES OF AUDITOR AND TREASURER. The county building commission shall at the beginning of each calendar month render a detailed statement to the county auditor of all its expenses necessarily incurred for the purposes contemplated by sections 394.01 to 394.05 during the last preceding month, and it shall thereupon be the duty of the auditor to forthwith draw cash warrants upon the county treasurer for the

amount of the account so rendered by the commission. It shall be the duty of the treasurer to forthwith pay to the parties properly entitled thereto the several amounts specified in the account so rendered. The monthly account, before presentation to the auditor, shall be certified by each member of the commission as being just, true, and necessarily incurred.

[1909 c. 111 s. 3] (972)

394.04 COUNTY BOARD. The board of county commissioners of any such county having a county building commission shall have nothing to do with the care of any such court-house nor with the control of any portion of the building not specifically assigned for official use.

[1909 c. 111 s. 4] (973)

394.05 ANNUAL STATEMENT; TAX LEVY. It shall be the duty of the county building commission, on or before the first day of July each year, to prepare a detailed statement of the estimated expenses of the commission for the ensuing year and transmit the same to the board of county commissioners at its next regular meeting thereafter. It shall then be the duty of the board of county commissioners to levy a tax, at its proper meeting, sufficient to meet such estimated expenditures.

[1909 c. 111 s. 5] (974)

PLANNING COMMISSION, CERTAIN COUNTIES

394.06 PLANNING COMMISSION AUTHORIZED. There is hereby authorized to be created in any county of this state now or hereafter containing a city of the first class, the area of which city comprises at least 25 percent of the total area of the county, or city of the second class, a county planning commission of not less than four and not more than 20 members.

[1941 c. 210 s. 1; 1945 c. 551 s. 1]

394.07 TOWN BOARD MAY HAVE MEMBERS ON COMMISSION. The town board of any town desiring to be represented on said county planning commission may appoint, and at its pleasure may remove, two members of said commission. The governing body of each city and village, other than the city of the first or second class, desiring to be represented on said commission may appoint, and at its pleasure may remove, two members of said commission. When appointments to said commission are first made, the appointing authority shall appoint one member for a two year term and another member for a four year term, after which all subsequent appointments shall be for a four year term. Members shall hold office until their duly appointed successors have qualified. Appointments to fill vacancies shall be for the unexpired portion of the term. The county auditor and the county surveyor shall be members of said commission. Certified copies of the minutes of the meetings of the appointing bodies at which appointments under sections 394.06 to 394.17 are made shall be filed with the county auditor.

[1941 c. 210 s. 2; 1945 c. 551 s. 2]

394.08 MEETINGS; OFFICERS. The commission shall meet within 30 days after its appointment and elect a chairman and other necessary officers from its membership. The commission may adopt rules and bylaws not inconsistent with the provisions of sections 394.06 to 394.17. A majority of the members of the commission shall constitute a quorum. Members of the commission shall serve without compensation.

[1941 c. 210 s. 3]

394.09 DUTIES; POWERS. The county planning commission shall have power and authority; except as otherwise provided by law:

(1) To propose a general comprehensive plan or plans for the future physical development of the county or parts thereof outside of the limits of the city of the first or second class. Such plan or plans may include, among other things, the location, character, and extent of state highways, thoroughfares, viaducts, subways, bridges, water front blockades, by-ways, playgrounds, squares, parks, aviation fields, public ways, public forests, wild life sanctuaries, botanical garden grounds, public buildings, public utilities, building lines, and restricted building districts of all buildings, public or private;

(2) To propose a plan or plans which will divide the county into zones or districts and limit and regulate the construction, height, bulk, location, and use of buildings and other structures and premises and lot areas in such zones or districts;

(3) To propose a plan or plans concerning the marking of historical landmarks,

and location of statuary and other works of art which are or may become the property of the county and the removal or relocation of any such work belonging to the county;

(4) To propose a part of a plan covering one or more of the towns, cities, other than the city of the first class, villages, sections, or divisions of the county and may from time to time propose alterations, amendments, or additions to any plan or plans;

(5) To cooperate with other planning boards and commissions of the county in the execution of its powers and authority.

[1941 c. 210 s. 4; 1945 c. 551 s. 3]

394.10 PLANS PREPARED UPON REQUEST OF TOWN BOARD. Whenever requested by the town board or the governing body of any city or village, other than a city of the first or second class, the county planning commission shall, at the expense of the town or city or village making such request, prepare a plan or alteration, amendment, extension, or addition of any existing plan for the future growth and development of such town or city or village making such request, prepare a plan or alteration, amendment, extension, or addition of any existing plan for the future growth and development of such town or city or village. It shall submit said plan together with all maps, drawings, and recommendations of the commission to the town board or governing body of the city or village affected. Such town board or governing body shall give due notice of and shall hold at least one public hearing before accepting or rejecting such plan, which acceptance or rejection shall be made within 90 days of the date of its submission to the town board or governing body of the city or village.

[1941 c. 210 s. 5; 1945 c. 551 s. 4]

394.11 PLANS FILED WITH REGISTER OF DEEDS. If this plan, or any part thereof, or any amendment, extension, or addition thereto, shall be adopted by the town board or governing body of such city or village, the same, or a true and correct copy thereof, shall be filed with the register of deeds. In case of disapproval, the town board or the governing body of such city or village, shall communicate to the commission the reasons therefor.

[1941 c. 210 s. 6]

394.12 PLANS BINDING UPON ALL PROPERTY. After the adoption of the plan by any town, city, or village, its provisions shall be binding upon all persons and all property in relation to all matters and things contained therein so far as it affects the town, city, or village. No highway, thoroughfare, viaduct, subway, bridge, street, square, park, or other public way, and no public or private building or structure, or public utility, either publicly or privately owned, shall be constructed, altered, or changed until the location, character, and extent thereof have been first submitted to the county planning commission for comparison with the plan or plans, and approved by the commission. In the case of disapproval, the commission shall communicate its reasons to the local governing body which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its members.

[1941 c. 210 s. 7]

394.13 PLATTING AND RE-PLATTING. All matters concerning or relating to the platting of new areas or re-platting of existing areas; the vacation or rearrangement of boulevards, streets, or alleys; the routing or re-routing of street cars and other means of transportation; the assignment of traffic to particular arteries of travel; the location and development of parks, playgrounds, parkways, or other public spaces; the location and design of all public buildings, bridges, monuments, and street fixtures; the establishment of building lines; the establishment of restricted building districts; the disposition of lands owned by the city and no longer required for public purposes; the location and installation of traffic signals; the plans for additional street lighting; the installation of public utility projects; street naming; and all other matters relating to the planning or replanning of the county shall be referred to the commission for its consideration and recommendation at such times as the local governing body or bodies of the areas affected may direct.

[1941 c. 210 s. 8]

394.14 TAX LEVY FOR EXPENSES. The electors of any town and the governing body of any city or village, other than the city of the first or second class, are

hereby authorized to vote and levy a sum of money not in excess of \$1,000 per annum for the purpose of defraying their proportionate expense of the administration of sections 394.06 to 394.17.

[1941 c. 210 s. 9; 1945 c. 551 s. 5]

394.15 ADDITIONAL POWERS TO COMMISSION. The town boards of all towns within said county and the governing bodies of the said cities and villages, other than the city of the first or second class, may grant to such planning commission such further and additional powers as may be necessary to carry out the purposes of sections 394.06 to 394.17.

[1941 c. 210 s. 10; 1945 c. 551 s. 6]

394.16 VIOLATION A MISDEMEANOR. Subdivision 1. **Prohibition; penalty.** It is hereby declared unlawful for any person to violate any of the terms and provisions of sections 394.06 to 394.17, or the provisions of any plan or plans proposed by the county planning commission and accepted by the town board or the city or village council. Violation thereof shall be a misdemeanor. These fines shall be paid to the county and shall be credited to the general revenue fund.

Subd. 2. **Establishment of department of investigation in the office of county engineer.** In order to permit more effective regulation and enforcement of this act or the regulations adopted pursuant thereto any such town, city or village may by resolution, duly adopted, apply to the board of county commissioners to establish in the office of the county engineer, and under his supervision, a department, the duty of which shall be to make all investigations and to perform all acts necessary for the application or enforcement of this act or the regulations relating to zoning. Upon the receipt of a certified copy of such resolution, the board of county commissioners may establish such department and thereupon, the county engineer shall exercise all of the authority and duties imposed upon or vested in any officer of any such municipality under this act or the regulations adopted pursuant thereto, relating to investigations and the enforcement of the provisions of this act and such regulations.

The authority of the county engineer should not extend to any city, village or township unless the governing body of such municipality shall by resolution request or authorize the exercise of such authority.

The county board shall provide the county engineer with such technical and clerical assistance and such equipment as may be required.

[1941 c 210 s 11; 1947 c 361 s 1; 1971 c 23 s 34]

394.17 LIMITATIONS OF SECTIONS 394.06 to 394.16. None of the provisions of sections 394.06 to 394.16 shall affect the powers and duties of the board of county commissioners of any such county.

[1941 c. 210 s. 12]

PLANNING DEVELOPMENT, ZONING

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 394.21 to 394.37 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.

[1959 c 559 s 1]

394.22 DEFINITIONS. Subdivision 1. The words or terms as used in sections 394.21 to 394.37 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.

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.

[1959 c 559 s 2; 1963 c 692 s 1]

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.

[1959 c 559 s 3]

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.

[1959 c 559 s 4; 1963 c 692 s 2]

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, conservation of shorelands, as defined in section 105.485, 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 394.21 to 394.37.

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.

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. 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, at least three copies of the statute, rule, regulation, ordinance or code are 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 by reference shall be as much a part of the resolution as if they had been set out in full therein.

[1959 c 559 s 5; 1963 c 692 s 3; 1969 c 777 s 2]

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.

Subd. 3. Public hearings required by this subdivision shall be conducted by the planning advisory commission as provided in section 394.30, subdivision 2, or in the event no planning advisory commission has been established, the meeting shall be conducted by such person as the board of county commissioners shall direct.

[1959 c 559 s 6; 1963 c 692 s 4]

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 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.

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 394.21 to 394.37. The members of such board of adjustment shall serve without compensation but may be paid their necessary expenses in attending meetings of the board and in the conduct of the business of the board.

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 394.21 to 394.37. 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 reason-

able 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.

[1959 c 559 s 7; 1963 c 692 s 5]

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.

[1959 c 559 s 8]

394.29 MAY EMPLOY DIRECTOR OR INSPECTOR 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; 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.

[1959 c 559 s 9]

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 394.21 to 394.37 may at that time or any subsequent time 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. 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 394.21 to 394.37 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.

[1959 c 559 s 10; 1963 c 692 s 6]

394.31 RELATION TO OTHER COUNTY AUTHORITY. Nothing in sections 394.21 to 394.37 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 Laws 1959, Chapter 559, 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 Laws 1959, Chapter 559, by reference as part of the official controls for said county.

[1959 c 559 s 11]

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.

[1959 c 559 s 12]

394.33 RELATIONS WITH TOWNS. The governing body of any town 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 official controls inconsistent with the standards prescribed in the official control adopted by the board. Nothing in this section shall limit any town's power to zone more restrictively than provided in the controls adopted by the county.

[1959 c 559 s 13; 1963 c 692 s 7; 1965 c 678 s 1]

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.

[1959 c 559 s 14]

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.

[1959 c 559 s 15]

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 nonconforming uses and occupancies.

[1959 c 559 s 16]

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 394.35, no conveyance of land to which the regulations are ap-

plicable 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 and 150 feet in width on June 4, 1971 or is a single parcel of land of not less than five acres and having a width of not less than 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.

Subd. 2. It is declared unlawful for any person to violate any of the terms and provisions of sections 394.21 to 394.37 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 394.21 to 394.37 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 394.21 to 394.37 or by any ordinance adopted thereunder.

[1959 c 559 s 17; 1971 c 664 s 1]