

## CHAPTER 462

HOUSING, REDEVELOPMENT, PLANNING,  
ZONING

## ZONING

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## ZONING

### 462.12 RESTRICTED RESIDENCE DISTRICTS.

Any city of the first class may, through its council, upon petition of 50 percent of the owners of the real estate in the district sought to be affected, by resolution, designate and establish by proceedings hereunder restricted residence districts and in and by such resolution and proceedings prohibit the erection, alteration, or repair of any building or structure for any one or more of the purposes hereinafter named, and thereafter no building or other structure shall be erected, altered or repaired for any of the purposes prohibited by such resolution and proceedings, which may prohibit the following: hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, coal yards, ice houses, blacksmith shops, repair shops, paint shops, bakeries, dyeing, cleaning and laundering establishments, billboards and other advertising devices, public garages, public stables, apartment houses, tenement houses, flat buildings, any other building or structure for purposes similar to the foregoing. Public garages and public stables shall include those, and only those, operated for gain.

Nothing herein contained shall be construed to exclude double residences or duplex houses, so-called schools, churches, or signs advertising for rent or sale the property only on which they are placed, and nothing herein contained shall be construed so as to prohibit the council of any such city of the first class from permitting the remodeling or reconstruction of the interior of any structure in any such restricted residence district which possesses a gross ground area delineated by its foundation walls of at least 1,000 square feet, so that the same shall contain separate accommodations for several, not in excess of four, families; provided that the substantial alteration of the exterior of any such structure shall not be authorized in any such case; and provided further, that such city council shall expressly find in each such case that such remodeling or alteration shall be consistent with the public health and safety.

No building or structure erected after the creation of such district shall be used for any purpose for which its erection shall be prohibited hereunder.

The term "council" in sections 462.12 to 462.17 means the chief governing body of the city by whatever name called.

Any district or any portion thereof created under the provisions of sections 462.12 to 462.17 may be vacated and the restrictions thereon removed by the council upon petition of 50 percent of the owners of the real estate in the original

district. A portion of a restricted residence district may be vacated and relieved of the restrictions imposed thereon pursuant to sections 462.12 to 462.17 by the council upon petition of the owners of the portion of the district sought to be relieved if such portion or lot sought to be relieved does not in any part lie between other portions of such restricted district, or if the portion sought to be relieved abuts upon a public street or alley along one border of such district and extends along said public street or alley the entire distance between cross streets, or if the portion or lot sought to be relieved is contiguous to, along one or both sides, or across a public street along its entire front from a parcel of land which shall be duly zoned under a valid municipal zoning ordinance for commercial, multiple dwelling or industrial purposes. The vacation of such district or portion thereof and the removal of the restrictions therefrom shall be accomplished in the same manner herein provided for the creation of any such district, and in the vacation of any such district or any portion thereof and the removal of such restrictions each and all of the provisions of sections 462.12 to 462.17 as to allowance of damages and benefits to property affected and as to the appointment of commissioners to appraise such damages and benefits and the duties of such commissioners, of the city clerk, and of each and all of the other officers upon whom duties are herein imposed shall be complied with, and when such proceedings for the vacation of any such district or portion thereof shall have been completed, the property included within such district or portion thereof so vacated shall be deemed relieved of each and all of the restrictions imposed in the proceeding creating such district. In the allowance of damages and benefits to property affected by any proposed vacation, no evidence shall be received, or consideration given to the existence of any other restriction or any restrictive or zoning ordinance, law, or regulation.

**History:** 1915 c 128 s 1; 1923 c 133 s 1; 1925 c 122 s 1; 1931 c 290 s 1; 1943 c 246 s 1 (1618)

#### **462.13 COUNCIL GIVEN RIGHT OF EMINENT DOMAIN.**

The council shall first, after causing the probable costs of the proceedings, if abandoned, to be deposited or secured by the petitioners, designate the restricted residence district and shall have power to acquire by eminent domain the right to exercise the powers granted by sections 462.12 to 462.17 by proceedings hereinafter defined, and when such proceedings shall have been completed, the right to exercise such powers shall be vested in the city.

**History:** 1915 c 128 s 2; 1931 c 290 s 2 (1619)

#### **462.14 APPRAISAL OF DAMAGE.**

Subdivision 1. **Appraisers.** The council shall appoint five appraisers who shall be disinterested qualified voters of the city, and none of whom shall be a resident of the ward or wards in which any part of the district so designated is situate, to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted.

The appraisers shall be notified as soon as practicable by the city clerk, as the case may be, to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. When a vacancy may occur among the appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the council.

Subd. 2. **Oath of appraisers.** The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the council.

Subd. 3. **Notice of hearing by publication.** The appraisers shall give notice, by publication in the official newspaper of the city, once a week for two consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the council, and give notice that a plat of the same has been filed in the office of the city clerk, and that the appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages which may be occasioned by the establishment of such restricted residence district and by the exercise by the city of the powers herein granted, and to assess benefits in the manner hereinafter specified.

Subd. 4. **Appraisal of damages.** The city clerk shall, after the first publication of such notice, and at least six days (Sunday excluded) prior to the meeting specified in said notice, serve upon each person having an interest as owner or mortgagee in each parcel of land in said district as shown by the records in the office of the county recorder a copy of the notice by depositing the same in the post-office of the city, with first class postage prepaid, in an envelope bearing on its front in type no smaller than ten point the words "Notice of Restricted Residence District Proceedings Affecting Your Property" or "Notice of Proceedings to Vacate Restricted Residence Districts Affecting Your Property," as the case may be, directed to such person at his last known place of residence, if known to the city clerk, but if not known, then to his place of residence as given in the last published city directory of the city, if his name appears therein, or obtained from the records of such owner's address last given on tax receipts in the office of the county treasurer or auditor, or, in the case of mortgagees, to the address, if any, appearing in the mortgage.

After the first publication of the notice, and at least six days (Sunday excluded) prior to the meeting specified in the notice, a copy of the same shall also be served upon the person in possession of each of the tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same manner as provided for the service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk in the manner above specified, immediately after the first publication thereof, to owners and mortgagees in the manner and to the address above provided and to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them.

Subd. 5. **Hearing and assessment.** At the time and place mentioned in the notice, the appraisers shall meet and thence proceed to view the premises, and may hear the evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land of which each piece or parcel of land in the district is a part. They shall also determine the amount of benefits, if any, to each such piece or parcel of land. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the costs of the proceedings, including printers' fees, appraisers' fees, cost of serving notices and other expenses, shall be added to the amount to be assessed. The total assessments for benefits, however, shall not be greater than the aggregate net award of damages, including the costs of the proceedings as above provided; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, if any.

Subd. 6. **Separate assessment.** If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any

estate less than an estate in fee, the injury or damage done to such persons or interests respectively may be awarded to them separately by the appraisers. Neither such award of the appraisers, nor the confirmation thereof by the council shall be deemed to require the payment of such damages to the person or persons named in such award in case it shall transpire that such person or persons are not entitled to receive the same.

**Subd. 7. Report of appraisers.** The appraisers having ascertained and appraised the damages and benefits as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them and also a statement of the costs of the proceedings.

**Subd. 8. Council action.** Upon such report being filed, the city clerk shall give notice that such appraisal has been returned, and that the same will be considered by the council at a meeting thereof to be named in the notice, which notice shall be published in the official newspaper of the city, once a week for two consecutive weeks, and the last publication shall be at least ten days before such meeting. The council upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisal and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that the council shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisal and assessment is annulled, the council may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisal, and upon the coming in of their report, the council shall proceed in a like manner and with the same powers as in the case of the first appraisal.

**Subd. 9. Awards.** If not annulled or set aside, such awards shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The awards shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of the parties entitled thereto, within six months after the confirmation of the appraisal and award. In case any appeal or appeals shall be taken from the order confirming the appraisal and assessment, as hereinafter provided, then the time for payment of the awards shall be extended until and including 60 days after the final determination of all appeals taken in the proceeding, and in case of any change in the awards or assessments upon appeal, the council may, by resolution duly adopted, at any time within 60 days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six percent per annum from the time of the filing of the original appraisers' report and all subsequent awards and awards upon appeal shall be made as of the day and date of filing of such original reports.

**Subd. 10. Deposit of damages.** Upon the conclusion of the proceedings and the payment of the awards, the several tracts of lands shall be deemed to be taken and appropriated for the purpose of sections 462.12 to 462.17, and the right above specified shall vest absolutely in the city in which the lands are situate. In case the council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the council shall, and in any and every case, the council may in its discretion deposit the amount of damages

with the district court of the county in which such lands are situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

**Subd. 11. Objections; appeal to district court.** Any owner of land within the district who deems that there is any irregularity in the proceedings of the council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded, to him or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the council, file with the city clerk, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the council shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the council to the district court of the county where such land is situate, within 20 days after such order. Such appeals shall be made by serving a written notice of appeal upon the city clerk which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, thereupon the city clerk, at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the council and of the order of the council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by the city clerk to be true copies, within ten days after the taking of such appeal. If more than one appeal be taken from any award, it shall not be necessary that the city clerk in appeals subsequent to the first, shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether the appraisers had jurisdiction to take action in the premises.

**Subd. 12. Court proceedings.** The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the proceedings affect the property of the appellant proposed to be included in the district or damaged or assessed, and described in the written objection. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested qualified voters, appraisers to reappraise the damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by the court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in sections 462.12 to 462.17 made for the government of appraisers appointed by the council. They shall, after the hearing and view of the premises, make a report to the court of their award of damages and assessment of benefits in respect to the property of such appellant. The award shall be final unless set aside by the court. The

motion to set aside shall be made within 15 days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers as it shall deem best; the court shall allow to the appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in the proceedings.

Subd. 13. **Bonds.** The city council, for the purpose of realizing the funds for making such improvements and paying such damages and the costs of such proceeding may issue and sell special certificates of indebtedness, or special restricted residence district bonds, as it may decide, which shall entitle the holder thereof to all sums realized upon any such assessment, or if deemed advisable, a series of two or more certificates or bonds against any one assessment, the principal and interest being payable at fixed dates out of the fund collected from such assessments, including interest and penalties, and the whole of such fund is hereby pledged for the pro rata payment of such certificates or bonds and the interest thereon, as they severally become due. Such certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed as hereinafter provided and for the time specified in section 462.15. If the city, because of any such guaranty, shall redeem any certificate or bond, it shall thereupon be subrogated to the holder's rights. For the purpose of such guaranty, penalties collected shall be credited upon deficiencies of principal and interest before the city shall be liable. Such certificates or bonds shall be sold at public sale or by sealed proposals at a meeting of which at least two weeks' published notice shall be given to the purchaser who will pay the par value thereof at the lowest interest rate, and the certificates or bonds shall be drawn accordingly, but the rate of interest shall in no case exceed five percent per annum payable annually or semiannually. The city clerk shall certify to the county auditor the rate of interest to be determined, and interest shall be computed upon the assessments at such annual rate, in accordance with the terms of section 462.15.

**History:** 1915 c 128 s 3; 1919 c 297; 1925 c 122 s 2; 1931 c 290 s 3; 1976 c 181 s 2 (1620)

#### **462.15 MAPS, PLATS, AND LISTS OF DISTRICTS MADE AND FILED; ASSESSMENT OF TAXES ON PROPERTY.**

As soon as such condemnation proceedings have been completed, it shall be the duty of such council to cause maps or plats of such restricted residence district to be made, with a list of the parcels of land within such district, and to file one of such maps and list duly certified by the president of the council and the city clerk, in each of the following offices: the office of the city engineer, the office of the county recorder of the county and the office of the city clerk, and the same shall be prima facie evidence of the full and complete condemnation and establishment of the restricted residence district. As soon as the assessments are confirmed, the city clerk, or the clerk of the district court, as the case may be, shall transmit a copy thereof duly certified, to the auditor of the county in which the lands lie. The county auditor shall include the same in the next general tax list for the collection of state, county, and city taxes against the several tracts or parcels of land and the assessments shall be collected with and as a part of, and subject to the same penalties, costs, and interest, as, the general taxes. Such assessments shall be set down in the tax books in an appropriate column to be headed

"Restricted Residence District Assessments" and when collected a separate account thereof shall be kept by the county auditor and the same transmitted to the treasurer of the city and placed to the credit of the proper fund. The city council may by resolution determine that the amount of such assessments shall be collected in from one to five equal annual instalments and in such case the county auditor shall include one of the equal annual instalments of assessments with and as a part of the taxes upon each parcel of land therein described for each year for the number of years into which the assessment is by the city council divided, together with annual interest as hereinafter provided. With the first instalment the auditor shall include interest upon the entire assessment from the date of the assessment to the time when the tax books including the first instalment are delivered by the county auditor to the county treasurer and thereafter the auditor shall include in the taxes for each year one of such instalments, together with one year's interest upon such instalment and all subsequent instalments at the same rate, each of which, together with such interest, shall be collected with the annual taxes upon such land, together with like penalties and interest in case of default, all of which shall be collected with and enforced as the annual taxes and credited to the proper city fund. Any parcel assessed may be discharged from the assessment at any time after the receipt of the assessment by the county auditor by paying all instalments that have gone into the hands of the county treasurer, as aforesaid, with accrued interest, penalties, and costs, as above provided, and by paying all subsequent instalments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against such assessments as herein provided sufficient in amount to cover all instalments due on such parcel and accrued interest, penalties, and costs, and all instalments yet to accrue, by surrendering such certificates or bonds to the county treasurer for cancellation or having endorsed thereon such instalments, interest, penalties, and costs. The assessment shall be a lien on the land from the time of the making thereof as against the owner and every person in any way interested in the land. The owner of the land and any person interested therein may defend against such assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes, but such assessment shall not be deemed invalid because of any irregularity provided the notices have been published substantially as required, and no defense shall be allowed except upon the ground that the cost of the improvement is substantially less than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost. Assessments made under sections 462.12 to 462.17 shall be called Restricted Residence District Assessments of the city of ..... and numbered consecutively. When an assessment is certified, as aforesaid, by the city clerk to the county auditor a duplicate thereof shall be sent to the city comptroller and all such assessments shall be sufficiently identified by the name and number, as aforesaid.

**History:** 1915 c 128 s 4; 1925 c 122 s 3; 1976 c 181 s 2 (1621)

#### **462.16 POWER TO ENACT ORDINANCES FOR ENFORCEMENT OF RIGHTS GIVEN TO COUNCIL.**

The council shall have the power to enact ordinances for the enforcement of the rights which shall be acquired under sections 462.12 to 462.17, and to fix penalties for their violation, including a fine not exceeding \$100 or confinement in the city workhouse not exceeding 90 days. Violations of the ordinances may be prosecuted in the municipal court of the city. Restricted residence districts created pursuant to sections 462.12 to 462.16 shall be subject to the provisions of section 541.023. In construing the scope and effect of a residence district restriction, equitable principles shall be utilized and the following shall be considered: the historic pattern of enforcement or non-enforcement; changed cir-



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cumstances; the length of time during which current uses have been allowed to exist; the actual impact of current land uses; and detrimental reliance.

**History:** 1915 c 128 s 5; 1981 c 357 s 107 (1622)

## 462.17 BUILDINGS DECLARED A NUISANCE.

Any building or structure erected, altered, repaired, or used in violation of sections 462.12 to 462.17 or any ordinance passed thereunder, shall be deemed a nuisance and may be abated at the suit of the city in a civil action. The city may maintain actions for injunction to prevent violation of sections 462.12 to 462.17 and of the ordinances passed in pursuance thereof. Owners of land and others interested in land within the district may also maintain similar actions of abatement and for injunction.

**History:** 1915 c 128 s 6 (1623)

**462.18** [Repealed, 1965 c 670 s 14]

**462.19** [Repealed, 1965 c 670 s 14]

**462.20** [Repealed, 1965 c 670 s 14]

**462.21** [Repealed, 1965 c 670 s 14]

**462.22** [Repealed, 1965 c 670 s 14]

**462.23** [Repealed, 1965 c 670 s 14]

**462.24-462.35** [Local]

## MUNICIPAL PLANNING

### 462.351 MUNICIPAL PLANNING AND DEVELOPMENT; STATEMENT OF POLICY.

The legislature finds that municipalities are faced with mounting problems in providing means of guiding future development of land so as to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities, to preserve agricultural and other open lands, and to promote the public health, safety, and general welfare. Municipalities can prepare for anticipated changes and by such preparations bring about significant savings in both private and public expenditures. Municipal planning, by providing public guides to future municipal action, enables other public and private agencies to plan their activities in harmony with the municipality's plans. Municipal planning will assist in developing lands more wisely to serve citizens more effectively, will make the provision of public services less costly, and will achieve a more secure tax base. It is the purpose of sections 462.351 to 462.364 to provide municipalities, in a single body of law, with the necessary powers and a uniform procedure for adequately conducting and implementing municipal planning.

**History:** 1965 c 670 s 1; 1980 c 566 s 18

### 462.352 DEFINITIONS.

Subdivision 1. For the purposes of sections 462.351 to 462.364 the terms defined in this section have the meanings given them.

Subd. 2. "Municipality" means any city, including a city operating under a home rule charter, and any town.

Subd. 3. "Planning agency" means the planning commission or the planning department of a municipality.

Subd. 4. [Repealed, 1980 c 566 s 35]

Subd. 5. "Comprehensive municipal plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

Subd. 6. "Land use plan" means a compilation of policy statements, goals, standards, and maps, and action programs for guiding the future development of private and public property. The term includes a plan designating types of uses for the entire municipality as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semi-public uses or any combination of such uses.

Subd. 7. "Transportation plan" means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the various modes of transportation of the municipality and its environs such as streets and highways, mass transit, railroads, air transportation, trucking and water transportation, and includes a major thoroughfare plan.

Subd. 8. "Community facilities plan" means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the public or semi-public facilities of the municipality such as recreational, educational and cultural facilities.

Subd. 9. "Capital improvement program" means an itemized program setting forth the schedule and details of specific contemplated public improvements by fiscal year, together with their estimated cost, the justification for each improvement, the impact that such improvements will have on the current operating expense of the municipality, and such other information on capital improvements as may be pertinent.

Subd. 10. "Official map" means a map adopted in accordance with section 462.359 which may show existing and proposed future streets, roads, and highways of the municipality and county, the area needed for widening of existing streets, roads, and highways of the municipality and county, and existing and future county state aid highways and state trunk highway rights-of-way. An official map may also show the location of existing and future public land and facilities within the municipality. In counties in the metropolitan area as defined in section 473.121, official maps may for a period of up to five years designate the boundaries of areas reserved for purposes of soil conservation, water supply conservation, flood control and surface water drainage and removal including appropriate regulations protecting such areas against encroachment by buildings, other physical structures or facilities.

Subd. 11. "Governing body" in the case of cities means the council by whatever name known, and in the case of a town, means the town board.

Subd. 12. "Subdivision" means the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

(a) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(b) Creating cemetery lots;

(c) Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

Subd. 13. "Plat" means the drawing or map of a subdivision prepared for filing of record pursuant to chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to section 462.358 and chapter 505.

Subd. 14. "Subdivision regulation" means an ordinance adopted pursuant to section 462.358 regulating the subdivision of land.

Subd. 15. "Official controls" or "controls" means ordinances and regulations which control the physical development of a city, county or town or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

Subd. 16. "Preliminary approval" means official action taken by a municipality on an application to create a subdivision which establishes the rights and obligations set forth in section 462.358 and the applicable subdivision regulation. In accordance with section 462.358, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

**History:** 1965 c 670 s 2; 1973 c 123 art 5 s 7; 1974 c 317 s 2; 1980 c 509 s 153; 1980 c 566 s 19-23; 1982 c 507 s 21; 1982 c 520 s 3

#### **462.353 AUTHORITY TO PLAN.**

Subdivision 1. **General authority.** A municipality may carry on comprehensive municipal planning activities for guiding the future development and improvement of the municipality and may prepare, adopt and amend a comprehensive municipal plan and implement such plan by ordinance and other official actions in accordance with the provisions of sections 462.351 to 462.364.

Subd. 2. **Studies and reports.** In exercising its powers under subdivision 1, a municipality may collect and analyze data, prepare maps, charts, tables, and other illustrations and displays, and conduct necessary studies. A municipality may publicize its purposes, suggestions, and findings on planning matters, may distribute reports thereon, and may advise the public on the planning matters within the scope of its duties and objectives.

Subd. 3. **Appropriation and contracts.** A municipality may appropriate moneys from any fund not dedicated to other purposes in order to finance its planning activities. A municipality may receive and expend grants and gifts for planning purposes and may enter into contracts with the federal and state governments or with other public or private agencies in furtherance of the planning activities authorized by sections 462.351 to 462.364.

Subd. 4. **Fees.** A municipality may prescribe fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control established pursuant to sections 462.351 to 462.364 or an application for a permit or other approval required under an official control established pursuant to those sections. Fees as prescribed shall be by ordinance.

**History:** 1965 c 670 s 3; 1982 c 415 s 1

#### **462.354 ORGANIZATION FOR PLANNING.**

Subdivision 1. **Planning agency.** A municipality may by charter or ordinance create a planning agency. A planning agency created by ordinance may be

abolished by two-thirds vote of all the members of the governing body. The planning agency shall be advisory, except as other powers and duties are imposed on it by sections 462.351 to 462.364, by statute, by charter, or by ordinance consistent with the municipal charter. The planning agency may take the following alternative forms:

(1) It may consist of a planning commission, which may or may not include municipal officials among its members. The planning commission may be provided with staff which may be a division of the administrative structure of the municipal government. The commission shall be advisory directly to the governing body.

(2) It may consist of a planning department with a planning commission advisory to it and shall function as a department advisory to the governing body and the municipal administration. The planning department may be provided with an executive director and other staff as in the case of other municipal departments.

**Subd. 2. Board of adjustments and appeals.** The governing body of any municipality adopting or having in effect a zoning ordinance or an official map shall provide by ordinance for a board of appeals and adjustments. The board shall have the powers set forth in section 462.357, subdivision 6 and section 462.359, subdivision 4. Except as otherwise provided by charter, the governing body may provide alternatively that there be a separate board of appeals and adjustments or that the governing body or the planning commission or a committee of the planning commission serve as the board of appeals and adjustments, and it may provide an appropriate name for the board. The board may be given such other duties as the governing body may direct.

In any municipality where the council does not serve as the board, the governing body may, except as otherwise provided by charter, provide that the decisions of the board on matters within its jurisdiction are final subject to judicial review or are final subject to appeal to the council and the right of later judicial review or are advisory to the council. Hearings by the board of appeals and adjustments shall be held within such time and upon such notice to interested parties as is provided in the ordinance establishing the board. The board shall within a reasonable time make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney. Subject to such limitations as may be imposed by the governing body, the board may adopt rules for the conduct of proceedings before it. Such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The board shall provide for a record of its proceedings which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order. In any municipality in which the planning agency does not act as the board of adjustments and appeals, the board shall make no decision on an appeal or petition until the planning agency, if there is one, or a representative authorized by it has had reasonable opportunity, not to exceed 60 days, to review and report to the board of adjustments and appeals upon the appeal or petition.

**History:** 1965 c 670 s 4; 1967 c 493 s 1

#### **462.355 PREPARATION, ADOPTION, AND AMENDMENT OF COMPREHENSIVE MUNICIPAL PLAN.**

**Subdivision 1. Preparation and review.** The planning agency shall prepare the comprehensive municipal plan. In discharging this duty the planning agency shall consult with and coordinate the planning activities of other departments and agencies of the municipality to insure conformity with and to assist in the development of the comprehensive municipal plan. In its planning activities the

planning agency shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies. The planning agency shall periodically review the plan and recommend amendments whenever necessary.

**Subd. 2. Procedure for plan adoption and amendment.** The planning agency may, unless otherwise provided by charter or ordinance consistent with the municipal charter, adopt and amend from time to time a comprehensive municipal plan as its recommendation to the governing body. The plan may be prepared and adopted in sections, each of which relates to a major subject of the plan or to a major geographical section of the municipality. The governing body may propose amendments to the comprehensive municipal plan by resolution submitted to the planning agency. Before adopting the comprehensive municipal plan or any section or amendment of the plan, the planning agency shall hold at least one public hearing thereon. A notice of the time, place and purpose of the hearing shall be published once in the official newspaper of the municipality at least ten days before the day of the hearing. The proposed plan, section of the plan, or amendment shall be transmitted to the governing body prior to the publication of the notice of hearing. Adoption and amendment of the comprehensive municipal plan or of any section thereof shall be by resolution adopted by a majority of all the members of the planning commission. A copy of the plan or of any section or amendment thereof adopted by the planning agency shall be certified to the governing body of the municipality.

**Subd. 3. Adoption by governing body.** Unless otherwise provided by charter, the governing body may by resolution of a majority of its members adopt and amend the comprehensive plan or portion thereof so recommended as the official municipal plan upon such notice and hearing as may be prescribed by ordinance. Until so adopted by the governing body, the plan shall constitute only the recommendation of the planning agency.

**Subd. 4. Interim ordinance.** If a municipality is conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of a comprehensive plan or official controls as defined in section 462.352, subdivision 16, or if new territory for which plans or controls have not been adopted is annexed to a municipality, the governing body of the municipality may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety and welfare of its citizens. The interim ordinance may regulate, restrict or prohibit any use, development, or subdivision within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective, and may be extended for such additional periods as the municipality may deem appropriate, not exceeding a total additional period of 18 months. No interim ordinance may halt, delay, or impede a subdivision which has been given preliminary approval prior to the effective date of the interim ordinance.

**History:** 1965 c 670 s 5; 1976 c 127 s 21; 1977 c 347 s 68; 1980 c 566 s 24

#### **462.356 PROCEDURE FOR PLAN EFFECTUATION; GENERALLY.**

**Subdivision 1. Recommendations for plan execution.** Upon the recommendation by the planning agency of the comprehensive municipal plan or sections thereof, the planning agency shall study and propose to the governing body reasonable and practicable means for putting the plan or section of the plan into effect. Subject to the limitations of the following sections, such means include, but are not limited to, zoning regulations, regulations for the subdivision of land, an official map, a program for coordination of the normal public improvements and services of the municipality, urban renewal and a capital improvements program.

Subd. 2. **Compliance with plan.** After a comprehensive municipal plan or section thereof has been recommended by the planning agency and a copy filed with the governing body, no publicly owned interest in real property within the municipality shall be acquired or disposed of, nor shall any capital improvement be authorized by the municipality or special district or agency thereof or any other political subdivision having jurisdiction within the municipality until after the planning agency has reviewed the proposed acquisition, disposal, or capital improvement and reported in writing to the governing body or other special district or agency or political subdivision concerned, its findings as to compliance of the proposed acquisition, disposal or improvement with the comprehensive municipal plan. Failure of the planning agency to report on the proposal within 45 days after such a reference, or such other period as may be designated by the governing body shall be deemed to have satisfied the requirements of this subdivision. The governing body may, by resolution adopted by two-thirds vote dispense with the requirements of this subdivision when in its judgment it finds that the proposed acquisition or disposal of real property or capital improvement has no relationship to the comprehensive municipal plan.

**History:** 1965 c 670 s 6

#### **462.357 PROCEDURE FOR PLAN EFFECTUATION; ZONING.**

Subdivision 1. **Authority for zoning.** For the purpose of promoting the public health, safety, morals and general welfare, a municipality may by ordinance regulate the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands, as defined in section 105.485, access to direct sunlight for solar energy systems as defined in section 116J.06, flood control or other purposes, and may establish standards and procedures regulating such uses. No regulation may prohibit earth sheltered construction as defined in section 116J.06, subdivision 2, or manufactured homes built in conformance with sections 327.31 to 327.35 that comply with all other zoning ordinances promulgated pursuant to this section. The regulations may divide the municipality into districts or zones of suitable numbers, shape and area. The regulations shall be uniform for each class or kind of buildings, structures or land and for each class or kind of use throughout such district, but the regulations in one district may differ from those in other districts. The ordinance embodying these regulations shall be known as the zoning ordinance and shall consist of text and maps. A city may by ordinance extend the application of its zoning regulations to unincorporated territory located within two miles of its limits in any direction, but not in a county or town which has adopted zoning regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the zoning of land on its side of a line equidistant between the two noncontiguous municipalities unless a town or county in the affected area has adopted zoning regulations. Any city may thereafter enforce such regulations in the area to the same extent as if such property were situated within its corporate limits, until the county or town board adopts a comprehensive zoning regulation which includes the area.

Subd. 2. **General requirements.** At any time after the adoption of a land use plan for the municipality, the planning agency, for the purpose of carrying out the policies and goals of the land use plan, may prepare a proposed zoning ordinance and submit it to the governing body with its recommendations for

adoption. Subject to the requirements of subdivisions 3, 4 and 5, the governing body may adopt and amend a zoning ordinance by a two-thirds vote of all its members.

**Subd. 3. Public hearings.** No zoning ordinance or amendment thereto shall be adopted until a public hearing has been held thereon by the planning agency or by the governing body. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

**Subd. 4. Amendments.** An amendment to a zoning ordinance may be initiated by the governing body, the planning agency, or by petition of affected property owners as defined in the zoning ordinance. An amendment not initiated by the planning agency shall be referred to the planning agency, if there is one, for study and report and may not be acted upon by the governing body until it has received the recommendation of the planning agency on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the planning agency.

**Subd. 5. Amendment; certain cities of the first class.** The provisions of this subdivision apply to cities of the first class. In such cities amendments to a zoning ordinance shall be made in conformance with this section but only after there shall have been filed in the office of the city clerk a written consent of the owners of two-thirds of the several descriptions of real estate situate within 100 feet of the total contiguous descriptions of real estate held by the same owner or any party purchasing any such contiguous property within one year preceding the request, and after the affirmative vote in favor thereof by a majority of the members of the governing body of any such city. The governing body of such city may, by a two-thirds vote of its members, after hearing, adopt a new zoning ordinance without such written consent whenever the planning commission or planning board of such city shall have made a survey of the whole area of the city or of an area of not less than 40 acres, within which the new ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of descriptions of real estate affected by such changes and alterations renders the obtaining of such written consent impractical, and such planning commission or planning board shall report in writing as to whether in its opinion the proposals of the governing body in any case are reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall have conducted a public hearing on such proposed ordinance, changes or alterations, of which hearing published notice shall have been given in a daily newspaper of general circulation at least once each week for three successive weeks prior to such hearing, which notice shall state the time, place and purpose of such hearing, and shall have reported to the governing body of the city its findings and recommendations in writing.

**Subd. 6. Appeals and adjustments.** Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any

reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. "Undue 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 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 an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 116J.06, subdivision 2, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances to insure compliance and to protect adjacent properties.

**Subd. 7. Permitted single family use.** In order to implement the policy of this state that mentally retarded and physically handicapped persons should not be excluded by municipal zoning ordinances from the benefits of normal residential surroundings, a state licensed group home or foster home serving six or fewer mentally retarded or physically handicapped persons shall be considered a permitted single family residential use of property for the purposes of zoning.

**Subd. 8. Permitted multi-family use.** Unless otherwise provided in any town, municipal or county zoning regulation as authorized by this subdivision, a state licensed residential facility serving from 7 through 16 mentally retarded or physically handicapped persons shall be considered a permitted multi-family residential use of property for purposes of zoning. A township, municipal or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of a facility, provided that no conditions shall be imposed on the homes which are more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the residents of the residential facility for the mentally retarded or the physically handicapped. Nothing herein shall be construed to exclude or prohibit residential homes for the mentally retarded or physically handicapped from single family zones if otherwise permitted by a local zoning regulation.

**History:** 1965 c 670 s 7; 1969 c 259 s 1; 1973 c 123 art 5 s 7; 1973 c 379 s 4; 1973 c 539 s 1; 1973 c 559 s 1,2; 1975 c 60 s 2; 1978 c 786 s 14,15; Ex1979 c 2 s 42,43; 1981 c 356 s 248; 1982 c 490 s 2; 1982 c 507 s 22

#### **462.358 PROCEDURE FOR PLAN EFFECTUATION; SUBDIVISION REGULATIONS.**

Subdivision 1. [Repealed, 1980 c 566 s 35]



Subd. 1a. **Authority.** To protect and promote the public health, safety, and general welfare, to provide for the orderly, economic, and safe development of land, to preserve agricultural lands, to promote the availability of housing affordable to persons and families of all income levels, and to facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds, and other public services and facilities, a municipality may by ordinance adopt subdivision regulations establishing standards, requirements, and procedures for the review and approval or disapproval of subdivisions. The regulations may contain varied provisions respecting, and be made applicable only to, certain classes or kinds of subdivisions. The regulations shall be uniform for each class or kind of subdivision.

A municipality may by resolution extend the application of its subdivision regulations to unincorporated territory located within two miles of its limits in any direction but not in a town which has adopted subdivision regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the subdivision of land equal distance from its boundaries within this area.

Subd. 2. [Repealed, 1980 c 566 s 35]

Subd. 2a. **Terms of regulations.** The standards and requirements in the regulations may address without limitation: the size, location, grading, and improvement of lots, structures, public areas, streets, roads, trails, walkways, curbs and gutters, water supply, storm drainage, lighting, sewers, electricity, gas, and other utilities; the planning and design of sites; access to solar energy; and the protection and conservation of flood plains, shore lands, soils, water, vegetation, energy, air quality, and geologic and ecologic features. The regulations shall require that subdivisions be consistent with the municipality's official map if one exists and its zoning ordinance, and may require consistency with other official controls and the comprehensive plan. The regulations may prohibit certain classes or kinds of subdivisions in areas where prohibition is consistent with the comprehensive plan and the purposes of this section, particularly the preservation of agricultural lands. The regulations may prohibit, restrict or control development for the purpose of protecting and assuring access to direct sunlight for solar energy systems. The regulations may prohibit the issuance of building permits for any tracts, lots, or parcels for which required subdivision approval has not been obtained. The regulations may permit the municipality to condition its approval on the construction and installation of sewers, streets, electric, gas, drainage, and water facilities, and similar utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, or bond in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. The regulations may permit the municipality to condition its approval on compliance with other requirements reasonably related to the provisions of the regulations and to execute development contracts embodying the terms and conditions of approval. The municipality may enforce such agreements and conditions by appropriate legal and equitable remedies.

Subd. 2b. **Dedication.** The regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements.

In addition, the regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for public use as parks, playgrounds, trails, or open space; provided that (a) the municipality may

choose to accept an equivalent amount in cash from the applicant for part or all of the portion required to be dedicated to such public uses or purposes based on the fair market value of the land no later than at the time of final approval, (b) any cash payments received shall be placed in a special fund by the municipality used only for the purposes for which the money was obtained, (c) in establishing the reasonable portion to be dedicated, the regulations may consider the open space, park, recreational, or common areas and facilities which the applicant proposes to reserve for the subdivision, and (d) the municipality reasonably determines that it will need to acquire that portion of land for the purposes stated in this paragraph as a result of approval of the subdivision.

Subd. 3. [Repealed, 1980 c 566 s 35]

Subd. 3a. **Platting.** The regulations may require that any subdivision creating parcels, tracts, or lots, shall be platted. The regulations shall require that all subdivisions which create five or more lots or parcels which are 2-1/2 acres or less in size shall be platted. The regulations shall not conflict with the provisions of chapter 505 but may address subjects similar and additional to those in that chapter.

Subd. 3b. **Review procedures.** The regulations shall include provisions regarding the content of applications for proposed subdivisions, the preliminary and final review and approval or disapproval of applications, and the coordination of such reviews with affected political subdivisions and state agencies. The regulations may provide for the consolidation of the preliminary and final review and approval or disapproval of subdivisions. Preliminary or final approval may be granted or denied for parts of subdivision applications. The regulations may delegate the authority to review proposals to the planning commission, but final approval or disapproval shall be the decision of the governing body of the municipality unless otherwise provided by law or charter. The regulations shall require that a public hearing shall be held on all subdivision applications prior to preliminary approval, unless otherwise provided by law or charter. The hearing shall be held following publication of notice of the time and place thereof in the official newspaper at least ten days before the day of the hearing. At the hearing, all persons interested shall be given an opportunity to make presentations. A subdivision application shall be preliminarily approved or disapproved within 120 days following delivery of an application completed in compliance with the municipal ordinance by the applicant to the municipality, unless an extension of the review period has been agreed to by the applicant. When a division or subdivision to which the regulations of the municipality do not apply is presented to the city, the clerk of the municipality shall within ten days certify that the subdivision regulations of the municipality do not apply to the particular division.

If the municipality or the responsible agency of the municipality fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed preliminarily approved, and upon demand the municipality shall execute a certificate to that effect. Following preliminary approval the applicant may request final approval by the municipality, and upon such request the municipality shall certify final approval within 60 days if the applicant has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which the preliminary approval is expressly conditioned either through performance or the execution of appropriate agreements assuring performance. If the municipality fails to certify final approval as so required, and if the applicant has complied with all conditions and requirements, the application shall be deemed finally approved, and upon demand the municipality shall execute a certificate to that effect. After final approval a subdivision may be filed or recorded.

Subd. 3c. **Effect of subdivision approval.** For one year following preliminary approval and for two years following final approval, unless the subdivider and the municipality agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the municipality may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, a municipality may by resolution or agreement grant the rights referred to herein for such periods of time longer than two years which it determines to be reasonable and appropriate.

Subd. 4. [Repealed, 1982 c 415 s 3]

Subd. 4a. **Disclosure by seller; buyer's action for damages.** A person conveying a new parcel of land which, or the plat for which, has not previously been filed or recorded, and which is part of or would constitute a subdivision to which adopted municipal subdivision regulations apply, shall attach to the instrument of conveyance either: (a) recordable certification by the clerk of the municipality that the subdivision regulations do not apply, or that the subdivision has been approved by the governing body, or that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality in this case because compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the regulations; or (b) a statement which names and identifies the location of the appropriate municipal offices and advises the grantee that municipal subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction on it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, nonapplicability, or waiver from the municipality. In any action commenced by a buyer of such a parcel against the seller thereof, the misrepresentation of or the failure to disclose material facts in accordance with this subdivision shall be grounds for damages. If the buyer establishes his right to damages, a district court hearing the matter may in its discretion also award to the buyer an amount sufficient to pay all or any part of the costs incurred in maintaining the action, including reasonable attorney fees, and an amount for punitive damages not exceeding five per centum of the purchase price of the land.

Subd. 4b. **Restrictions on filing and recording conveyances.** In a municipality in which subdivision regulations are in force and have been filed or recorded as provided in this section, 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 April 21, 1961 or to an unapproved plat made after such regulations become effective. The foregoing provision does not apply to a conveyance if the land described:

(1) was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter, or

(2) was the subject of a written agreement to convey entered into prior to such time,

(3) was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on January 1, 1966, or

(4) was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980, or

(5) is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or

(6) is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

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 platting authority 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 municipality a penalty of not less than \$100 for each lot or parcel so conveyed. A municipality may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.

**Subd. 5. Permits.** Except as otherwise provided by this section all electric and gas distribution lines or piping, roadways, curbs, walks and other similar improvements shall be constructed only on a street, alley, or other public way or easement which is designated on an approved plat, or properly indicated on the official map of the municipality, or which has otherwise been approved by the governing body. When a municipality has adopted an official map, no permit for the erection of any building shall be issued unless the building is to be located upon a parcel of land abutting on a street or highway which has been designated upon an approved plat or on the official map or which has been otherwise approved by the governing body, and unless the buildings conform to the established building line. This limitation on issuing permits shall not apply to planned developments approved by the governing body pursuant to its zoning ordinance. No permit shall be issued for the construction of a building on any lot or parcel conveyed in violation of the provisions of this section.

**Subd. 6. Variances.** Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the regulations. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

**Subd. 7. Vacation.** The governing body of a municipality may vacate any publicly owned utility easement or boulevard reserve or any portion thereof, which are not being used for sewer, drainage, electric, telegraph, telephone, gas and steam purposes or for boulevard reserve purposes, in the same manner as vacation proceedings are conducted for streets, alleys and other public ways under a home rule charter or other provisions of law.

A boulevard reserve means an easement established adjacent to a dedicated street for the purpose of establishing open space adjacent to the street and which area is designated on the recorded plat as "boulevard reserve".

**Subd. 8. Plat approval under other laws.** Nothing in this section is to be construed as a limitation on the authority of municipalities which have not adopted subdivision regulations to approve plats under any other provision of law.

**Subd. 9. Unplatted parcels.** Subdivision regulations adopted by municipalities may apply to parcels which are taken from existing parcels of record by metes and bounds descriptions, and the governing body or building authority may deny

the issuance of building permits to any parcels so divided, pending compliance with subdivision regulations.

Subd. 10. **Limitations.** Nothing in this section shall be construed to require a municipality to regulate subdivisions or to regulate all subdivisions which it is authorized to regulate by this section.

**History:** 1965 c 670 s 8; 1971 c 842 s 1; 1973 c 67 s 1; 1973 c 176 s 1; 1975 c 98 s 1; 1976 c 181 s 2; 1978 c 786 s 16,17; 1980 c 560 s 6; 1980 c 566 s 25-33; 1981 c 85 s 7; 1982 c 415 s 2; 1982 c 507 s 23

#### **462.3585 JOINT PLANNING BOARD.**

Upon request of a home rule charter or statutory city council or county or town board by resolution presented to the county auditor of the county of the affected territory a board shall be established to exercise planning and land use control authority in the unincorporated area within two miles of the corporate limits of a city. The board shall have members in a number determined by the city, county, and town. Each governmental unit shall have an equal number of members. The members shall be appointed from the governing bodies of the city, county, and town. Upon request of more than one county or town board with respect to the unincorporated area within two miles of the corporate limits of a single city, the parties may create one board rather than a separate board for each county or town, with equal membership from each affected governmental unit. The board shall serve as the governing body and board of appeals and adjustments for purposes of sections 462.351 to 462.364 within the two-mile area. The board shall have all of the powers contained in sections 462.351 to 462.364 and shall have authority to adopt and enforce the uniform fire code promulgated pursuant to section 299F.011. The city shall provide staff for the preparation and administration of land use controls unless otherwise agreed by the governmental units. If a municipality extends the application of its subdivision regulations to unincorporated territory located within two miles of its limits pursuant to section 462.358, subdivision 1a, before the creation of a joint board, the subdivision regulations which the municipality has extended shall apply until the joint board adopts subdivision regulations.

**History:** 1982 c 507 s 24

#### **462.359 PROCEDURE FOR PLAN EFFECTUATION; OFFICIAL MAPS.**

Subdivision 1. **Statement of purpose.** Land that is needed for future street purposes and as sites for other necessary public facilities and services is frequently diverted to non-public uses which could have been located on other lands without hardship or inconvenience 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. Identification on an official map 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. **Adoption.** After the planning agency has adopted a major thoroughfare plan and a community facilities plan, it may, for the purpose of carrying out the policies of the major thoroughfare plan and community facilities plan, prepare and recommend to the governing body a proposed official map covering the entire municipality or any portion thereof. The governing body may, after holding a public hearing, adopt and amend the official map by ordinance. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the date of the hearing. The official map or maps shall be prepared in sufficient detail to permit

the establishment of the future acquisition lines on the ground. In unplatted 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 attested to by a registered land surveyor. After adoption, a copy of the official map, or sections thereof with a copy of the adopting ordinance attached shall be filed with the county recorder as provided in sections 462.351 to 462.364.

**Subd. 3. Effect.** After an official map has been adopted and filed, the issuance of building permits by the municipality 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 municipality, 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 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 an official map does not give the municipality any right, title, or interest in areas identified for public purposes thereon, but the adoption of the map does authorize the municipality 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.

**Subd. 4. Appeals.** If a permit for a building in such location is denied, the board of appeals and adjustments shall have the power, upon appeal filed with it by the owner of the land, to grant 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 yield a reasonable return to the owner unless such a permit is granted, and (b) that balancing the interest of the municipality in preserving the integrity of the official map and of the comprehensive municipal plan and the interest of the owner of the property in the use of his property and in the benefits of ownership, the grant of such permit is required by considerations of justice and equity. In addition to the notice of hearing required by section 462.354, subdivision 2, a notice shall be published in the official newspaper once at least ten days before the day of the hearing. If the board of appeals and adjustments authorizes the issuance of a permit the governing body or other board or commission having jurisdiction shall have six months from the date of the decision of the board to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the officer responsible for issuing building permits shall issue the permit if the application otherwise conforms to local ordinances. The board shall specify the exact location, ground area, height and other details as to the extent and character of the building for which the permit is granted.

**History:** 1965 c 670 s 9; 1976 c 181 s 2

#### **462.3595 CONDITIONAL USE PERMITS.**

**Subdivision 1. Authority.** The governing body 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 by the governing body or other designated authority by a showing by the applicant that the standards and criteria stated in the ordinance will be satisfied. The 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. Public hearings.** Public hearings on the granting of conditional use permits shall be held in the manner provided in section 462.357, subdivision 3.

Subd. 3. **Duration.** A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section shall prevent the municipality from enacting or amending official controls to change the status of conditional uses.

Subd. 4. **Filing of permit.** A certified copy of any conditional use permit shall be filed with the county recorder or registrar of titles of the county or counties in which the municipality is located for record. The conditional use permit shall include the legal description of the property included.

**History:** 1982 c 507 s 25

#### **462.36 CERTIFIED COPIES FILED WITH COUNTY RECORDER.**

Subdivision 1. **Required documents.** A certified copy of every ordinance, resolution, map, regulation adopted, or variance granted under the provisions of sections 368.01, subdivisions 1 and 1a and 462.357 to 462.359 shall be filed with the county recorder of the county or counties in which the municipality adopting it is located. Ordinances, resolutions, maps or regulations filed with the county recorder pursuant to this subdivision do not constitute encumbrances on real property. The order issued by the governing body or board of appeals and adjustments as the case may be, shall include the legal description of the property involved.

Subd. 2. **Filing with contiguous planning authorities.** A copy of a comprehensive plan adopted by a planning agency under the provisions of sections 462.351 to 462.364 shall be filed with the governing body of each contiguous municipality and with the regional planning agency, if any, established to serve the area in which the municipality is located.

Subd. 3. **Plat approval; filing.** Copies of resolutions approving subdivision plats of land within a municipality, but contiguous to another municipality shall be filed with the governing body of the contiguous municipality. Copies of resolutions approving subdivision plats of land outside a municipality but subject to its subdivision regulations shall be filed with the clerk of the town in which the land is situated.

**History:** 1965 c 670 s 10; 1976 c 181 s 2; 1980 c 509 s 168; 1982 c 507 s 26

#### **462.361 JUDICIAL REVIEW.**

Subdivision 1. **Review of action.** Any person aggrieved by an ordinance, rule, regulation, decision or order of a governing body or board of adjustments and appeals acting pursuant to sections 462.351 to 462.364 may have such ordinance, rule, regulation, decision or order, reviewed by an appropriate remedy in the district court, subject to the provisions of this section.

Subd. 2. **Exhaustion of remedies.** In actions brought under this section, a municipality may raise as a defense the fact that the complaining party has not attempted to remedy his grievance by use of procedures available to him for that purpose under ordinance or charter, or under sections 462.351 to 462.364. If the court finds that such remedies have not been exhausted, it shall require the complaining party to pursue those remedies unless it finds that the use of such remedies would serve no useful purpose under the circumstances of the case.

**History:** 1965 c 670 s 11

#### **462.362 ENFORCEMENT AND PENALTY.**

A municipality may by ordinance provide for the enforcement of ordinances or regulations adopted under sections 462.351 to 462.364 and provide penalties for violation thereof. A municipality may also enforce any provision of sections

462.351 to 462.364 or of any ordinance adopted thereunder by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

**History:** 1965 c 670 s 12

**462.363 PRESENT ORDINANCES CONTINUED.**

Except as otherwise provided in sections 462.351 to 462.364, valid ordinances and regulations now in effect shall continue in effect until amended or repealed.

**History:** 1965 c 670 s 13

**462.364 INCONSISTENT LAWS.**

Inconsistent special laws and general laws of special application are superseded by sections 462.351 to 462.364 to the extent of inconsistency. Nothing in sections 462.351 to 462.364 is to be construed to affect, alter or modify the provisions of Special Laws of 1887, Chapter 108, or Laws 1933, Chapter 93.

**History:** 1965 c 670 s 14; 1976 c 46 s 1; 1977 c 347 s 58

**462.365 EXTENSION OF TIME FOR COMPLIANCE.**

Any municipality which has in effect on or before the effective date of Laws 1980, Chapter 566 an ordinance for subdivision controls may elect not to come into compliance with any change in subdivision regulations as may be required by Laws 1980, Chapter 566 until such time as the ordinance for subdivision controls is next amended.

**History:** 1980 c 566 s 34

**REGIONAL PLANNING**

**462.371 REGIONAL PLANNING ACTIVITIES.**

Any two or more counties, cities or towns may enter into an agreement under section 471.59 for the conduct of regional planning activities.

**History:** 1965 c 694 s 1; 1973 c 123 art 5 s 7

**462.372 REGIONAL PLANNING BOARDS.**

The agreement creating a regional planning agency shall provide for a regional planning board composed of members selected from the governing bodies of the participating governmental units. The number, term of office, method of appointment and removal of members, shall be provided for in the agreement.

**History:** 1965 c 694 s 2

**462.373 REGIONAL PLANNING BOARD; POWERS AND DUTIES.**

Subdivision 1. The regional planning board may employ a planning director and necessary staff, or appoint an advisory planning commission, or both, to assist it in exercising its powers and duties. The regional planning board may hire experts and consultants and contract with other planning agencies for necessary services.

Subd. 2. The regional planning board may prepare and from time to time revise, amend, extend, or add to a plan or plans for the development of the region, which plan or plans collectively shall be known as the regional development plan. No portion of a regional development plan shall be adopted by the regional planning board until it has been referred to the governing bodies of participating units for their review and their recommendation within such time as is prescribed in the agreement.



Subd. 3. The regional planning board may accept funds, grants, and services from the government of the United States or its agencies, from the state of Minnesota or its departments, agencies or instrumentalities, or from any governmental unit whether participating in the regional agency or not, and from private and civic sources.

**History:** 1965 c 694 s 3

**462.374 ADOPTION OF PLAN BY LOCAL UNITS.**

Any local governmental unit within the region may adopt all or any portion of the regional development plan. No comprehensive plan shall be adopted in any participating unit until such plan has been referred to the regional planning board for its review and recommendation within such time as is prescribed in the agreement.

**History:** 1965 c 694 s 4

**462.375 REGIONAL DEVELOPMENT PLAN; FILING AND DISTRIBUTION.**

The regional planning agency shall transmit the regional development plan and any revisions thereto, to the commissioner of energy, planning and development, the governing bodies of cooperating governmental units, and to planning agencies in contiguous areas. The agency may prepare additional copies of the plan for general distribution or sale.

**History:** 1965 c 694 s 5; 1967 c 299 s 9; 1981 c 356 s 223

**REGIONAL DEVELOPMENT ACT OF 1969**

**462.381 TITLE.**

Sections 462.381 to 462.396 may be cited as the "Regional Development Act of 1969."

**History:** 1969 c 1122 s 1

**462.382 APPLICATION.**

The provisions of sections 462.381 to 462.396 have no application to the metropolitan council created by or the region defined by Laws 1967, Chapter 896.

**History:** 1969 c 1122 s 2

**462.383 PURPOSE.**

Subdivision 1. The legislature finds that problems of growth and development in urban and rural regions of the state so transcend the boundary lines of local government units that no single unit can plan for their solution without affecting other units in the region; that various multi-county planning activities conducted under various laws of the United States are presently being conducted in an uncoordinated manner; that intergovernmental cooperation on a regional basis is an effective means of pooling the resources of local government to approach common problems; and that the assistance of the state is needed to make the most effective use of local, state, federal, and private programs in serving the citizens of such urban and rural regions.

Subd. 2. It is the purpose of sections 462.381 to 462.396 to facilitate intergovernmental cooperation and to insure the orderly and harmonious coordination of state, federal, and local comprehensive planning and development programs for the solution of economic, social, physical, and governmental problems of the state and its citizens by providing for the creation of regional development commissions.

**History:** 1969 c 1122 s 3

**462.384 DEFINITIONS.**

Subdivision 1. For the purposes of sections 462.381 to 462.396 the terms defined in this section have the meanings given them.

Subd. 2. "Governmental unit" means a county, city, town, school district, or other political subdivision of the state.

Subd. 3. "Municipality" means a city.

Subd. 4. "Commission" means a regional development commission created under sections 462.381 to 462.396.

Subd. 5. "Development region" or "region" means a geographic region composed of a grouping of counties embodied in an executive order of the governor or as otherwise established by sections 462.381 to 462.396.

Subd. 6. "Subregion" or "subdistrict" means any combination of governmental units formed under sections 462.371 to 462.375, 471.59 or under any other statute combining or enabling the combination of governmental units for special purposes.

— Subd. 7. "Commissioner" means the commissioner of energy, planning and development exercising the authority conferred upon him by sections 116J.40 to 116J.45.

**History:** 1969 c 1122 s 4; 1973 c 123 art 5 s 7; 1981 c 356 s 224,248

**462.385 DESIGNATION OF REGIONS.**

Subdivision 1. Development regions for the state shall be those regions so designated by the governor by executive order. The order shall provide for public hearings within each proposed region after which any county may request assignment to a region other than that proposed by the order. If a request for reassignment is unacceptable to the commissioner, the county shall remain in the originally designated region until the next session of the legislature for its review and final assignment.

Subd. 2. The boundaries of any economic development district established under Section 403 of the United States Public Works and Economic Development Act of 1965 shall not be modified without the approval of an affected county and the development district.

Subd. 3. The commissioner shall conduct continuous studies and analysis of the boundaries of regions and shall make recommendations for their modification where necessary. Modification may be initiated by a county, a commission, or by the commissioner and will be accomplished in accordance with this section as in the case of initial designation.

**History:** 1969 c 1122 s 5; 1981 c 356 s 225,226

**NOTE:** The city of Northfield is part of region 10. See Laws 1980, Chapter 378, Section 6.

**462.386 MULTI-COUNTY PLANNING AND DEVELOPMENT; CONFORMANCE WITH REGIONS.**

Subdivision 1. All coordination, planning, and development regions assisted or created by the state of Minnesota or pursuant to federal legislation shall conform to the regions designated by the executive order except where, after review and approval by the commissioner, nonconformance is clearly justified. The commissioner shall develop working agreements with state and federal departments and agencies to insure conformance with this subdivision.

Subd. 2. [Repealed, 1971 c 153 s 13]

**History:** 1969 c 1122 s 6; 1981 c 356 s 227

**462.387 REGIONAL DEVELOPMENT COMMISSIONS; ESTABLISHMENT.**

Subdivision 1. **Petition.** Any combination of counties or municipalities representing a majority of the population of the region for which a commission is proposed may petition the commissioner by formal resolution setting forth its desire to establish, and the need for, the establishment of a regional development commission. For purposes of this section the population of a county does not include the population of a municipality within the county.

Subd. 2. [Repealed, 1971 c 153 s 13]

Subd. 3. **Establishment.** Upon receipt of a petition as provided in subdivision 1 a regional development commission shall be established by the commissioner and the notification of all local government units within the region for which the commission is proposed. The notification shall be made within 60 days of his receipt of a petition under subdivision 1.

Subd. 4. **Selection of membership.** The commissioner shall call together each of the membership classifications except citizen groups, defined in section 462.388, within 60 days of the establishment of a regional development commission for the purpose of selecting the commission membership.

**History:** 1969 c 1122 s 7; 1971 c 153 s 1-3; 1981 c 356 s 228

**462.388 COMMISSION MEMBERSHIP.**

Subdivision 1. A commission shall consist of the following members:

(1) one member from each county board of every county in the development region;

(2) one additional county board member from each county of over 100,000 population;

(3) the town clerk, town treasurer, or one member of a town board of supervisors from each county containing organized towns;

(4) one additional member selected by the county board of any county containing no townships;

(5) one mayor or councilman from a municipality of under 10,000 population from each county, selected by the mayors of all such municipalities in the county;

(6) one mayor or councilman from each municipality of over 10,000 in each county;

(7) two school board members elected by a majority of the chairmen of school boards in the development region;

(8) one member from each council of governments;

(9) citizens representing public interests within the region including members of minority groups to be selected after adoption of the bylaws of the commission; and

(10) the chairman, who shall be selected by the commission.

Subd. 2. The terms of office and method of selection of members other than the chairman shall be provided in the bylaws of the commission which shall not be inconsistent with the provisions of subdivision 1. The commission shall adopt rules setting forth its procedures.

Subd. 3. [Repealed, 1971 c 153 s 13]

Subd. 4. MS 1978 [Expired]

Subd. 5. Members of the regional commission may receive a per diem of not over \$35, the amount to be determined by the commission, and shall be reim-

bursed for their reasonable expenses as determined by the commission. The commission shall provide for the election of a board of directors, who need not be commission members, and provide, at its discretion, for a per diem of not over \$35 a day for meetings of the board and expenses. A member of the board of directors who is a member of the commission shall receive only the per diem payable to board members when meetings of the board of directors and the commission are held on the same day.

**History:** 1969 c 1122 s 8; 1971 c 153 s 4,5; 1971 c 174 s 1; 1975 c 176 s 1; 1977 c 78 s 1

#### **462.389 DEVELOPMENT COMMISSION CHAIRMAN; OFFICERS AND STAFF.**

Subdivision 1. **Chairman.** The chairman of the commission shall have been a resident of the region for at least one year and shall be a person experienced in the field of government affairs. The chairman shall preside at the meetings of the commission and board of directors. He shall appoint all employees thereof, subject to the approval of the commission, and be responsible for carrying out all policy decisions of the commission. His expense allowances shall be fixed by the commission. The term of the first chairman shall be one year, and he shall serve until his successor is selected and qualifies. At the expiration of the term of the first chairman, the chairman shall be elected from the membership of the commission according to procedures established in its bylaws.

Subd. 2. **Officers.** Except as provided in subdivision 1, the commission shall elect such officers as it deems necessary for the conduct of its affairs. Times and places of regular and special meetings shall be fixed by the commission and may be provided in the commission bylaws. In the performance of its duties the commission may adopt bylaws, rules governing its operation, establish committees, divisions, departments, and bureaus, and staff the same as necessary to carry out its duties and when specifically authorized by law make appointments to other governmental agencies and districts. All officers and employees shall serve at the pleasure of the commission and in accordance with this section.

Subd. 3. **Executive director.** Upon the recommendation of the chairman, the commission may appoint an executive director to serve as the chief administrative officer. He may be chosen from among the citizens of the nation at large, and shall be selected on the basis of his training and experience in the field of government affairs.

Subd. 4. **Employees.** The commission may prepare, in consultation with the state commissioner of employee relations, and may adopt a merit system for its officers and employees including terms and conditions for the employment, the fixing of compensation, their classification, benefits, and the filing of performance and fidelity bonds, and such policies of insurance as it may deem advisable, the premiums for which, however, shall be paid for by the commission. Officers and employees are public employees within the meaning of chapter 353. The commission shall make the employer's contributions to pension funds of its employees.

Subd. 5. **Staff services.** To avoid duplication of staffs for various regional bodies assisted by federal government, the commission may provide basic administrative, research, and planning services for all regional planning and development bodies hereafter established in Minnesota. The commission may contract to obtain or perform services with state agencies, nonprofit regional groups, subdistricts organized as the result of federal programs, councils of governments organized under section 471.59, or any other law, and with local governments.

Subd. 6. **Consultants.** The commission may contract for the services of consultants who perform engineering, legal, or other services of a professional

nature for peak workloads, continuing advice on program direction, and for specialized and technical services. Such contracts shall not be subject to the requirements of any law relating to public bidding.

**History:** 1969 c 1122 s 9; 1971 c 153 s 6-8; 1973 c 507 s 45; 1980 c 617 s 47

#### 462.39 POWERS AND DUTIES.

Subdivision 1. **General powers.** The commission shall have and exercise all powers which may be necessary or convenient to enable it to perform and carry out the duties and responsibilities of sections 462.381 to 462.396 or which may hereafter be imposed upon it by law. Such powers include the specific powers enumerated in this section. The commission is an instrumentality of the state for purposes of section 297A.25, subdivision 1, clause (j).

Subd. 2. **Federal programs.** The commission is the authorized agency to receive state and federal grants for regional purposes from the following programs:

(1) Section 403 of the Public Works and Economic Development Act of 1965 (economic development districts);

(2) Section 701 of the Housing Act of 1954, as amended (multi-county comprehensive planning);

(3) Omnibus Crime Control Act of 1968;

and for the following to the extent feasible as determined by the governor:

(a) Economic Opportunity Act of 1964;

(b) Comprehensive Health Planning Act of 1965;

(c) Federal regional manpower planning programs;

(d) Resource, conservation, and development districts; or

(e) Any state and federal programs providing funds for multi-county planning, coordination, and development purposes. The commissioner shall, where consistent with state and federal statutes and regulations, review applications for all state and federal regional planning and development grants to a commission.

Subd. 3. **Planning.** The commission shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development plan for the region. The plan shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for an orderly and economic development, public and private, of the region. The comprehensive development plan shall recognize and encompass physical, social, or economic needs of the region, and those future developments which will have an impact on the entire region including but not limited to such matters as land use, parks and open space land needs, access to direct sunlight for solar energy systems, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, public and private, housing, and other public buildings. In preparing the development plan the commission shall use to the maximum extent feasible the resources studies and data available from other planning agencies within the region, including counties, municipalities, special districts, and subregional planning agencies, and it shall utilize the resources of the commissioner to the same purpose. No development plan or portion thereof for the region shall be adopted by the commission until it has been submitted to the commissioner for review and comment and a period of 60 days has elapsed after such submission. When a development plan has been adopted, the commission shall distribute it to all local government units within the region.

Subd. 4. **Comprehensive planning.** The creation of a regional development commission does not affect the right of counties or municipalities to conduct subregional or district planning under sections 462.371 to 462.375 or 471.59. It is the purpose of sections 462.381 to 462.396 to encourage local and subdistrict

planning capability and the regional commission shall as far as practical use the data, resources, and input of the local planning agencies.

**History:** 1969 c 1122 s 10; 1973 c 589 s 1; 1978 c 786 s 18; 1981 c 356 s 229.230

#### **462.391 SPECIFIC POWERS AND DUTIES.**

**Subdivision 1. Planning review of local government units.** Each city, town, county, watershed district, and soil conservation district, all or part of which lies within the region, shall submit to the commission, for comment and recommendation thereon, its long term comprehensive plans or any matter which in the judgment of the commission has a substantial effect on regional development, including but not limited to plans for land use. The commission shall maintain such plans in its files available for inspection by members of the public. No action shall be taken to place any such plan or part thereof into effect until 60 days have elapsed after its submission. Promptly after submission, the commission shall notify each city, town, county, or special district which may be affected by the plans submitted, of the general nature of the plan, the date of submission and the identity of the submitting unit. Political subdivisions contiguous to the submitting unit shall be notified in all cases. Within ten days after receipt of such notice any governmental unit so notified may request the commission to conduct a hearing at which the submitting unit and any other governmental unit or subdivision may present its views. The commission may attempt to mediate and resolve differences of opinion which exist among the participants in the hearing with respect to the plans submitted.

**Subd. 2. Review of independent agencies.** The commission shall review all long term comprehensive plans of each independent commission, board, or agency prepared for its operation and development within the region but only if the plan is determined by the commission to have a regional effect, a multi-community effect, or to have a substantial effect on regional development. Each plan shall be submitted to the commission before any action is taken to place the plan or any part thereof, into effect. No action shall be taken to place any plan or any part thereof into effect until 60 days have elapsed after the date of its submission to the commission or until the commission finds and notifies the submitting commission, board, or agency that the plan is consistent with its development plan for the region and the orderly and economic development of the region, whichever first occurs. If, within 60 days after the date of submission, the commission finds that a plan, or any part thereof, is inconsistent with its comprehensive plan for the region or detrimental to the orderly and economic development of the region, or any part thereof, the plan shall be indefinitely suspended. An affected independent commission, board, or agency may appeal the decision of the commission suspending a plan, or part thereof, to the commission, and if the commission and the affected independent commission, board, or agency are unable to agree as to an adjustment of the plan, so that it may receive the commission's approval, then a record of the disagreeing positions shall be made and presented for consideration and disposition by the commissioner.

**Subd. 3. Review of federal and state aid programs.** The commission shall review all applications of governmental units, independent commissions, boards, or agencies operating in the region for a loan or grant from the United States of America or any agency, including state agencies and colleges or universities, for public facilities, studies, or any other purpose if the application clearly is related to the region, whether or not the review is required by the federal government. The review shall advise the granting authority as to relationship of the application to the comprehensive plans and priorities of the region as established by the region. All review actions together with copies of applications shall be submitted on a

regular basis for informational purposes to the commissioner. The requirements of this subdivision do not apply to applications of governmental units or other political subdivisions which have been reviewed by a subregion or subdistrict which has been designated by the United States government as an authorized areawide review agency under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. All review actions, together with copies of applications, shall be submitted by the subregion on a regular basis to the commission for informational purposes.

**Subd. 4. Review procedures.** The commission shall develop, in consultation with the commissioner, formal procedures for the review of plans, applications, and other matters required to be submitted to it by sections 462.381 to 462.396. The procedures shall be embodied in a formal resolution adopted after public hearing. After adoption the resolution shall be transmitted to each governmental unit and independent agency, board, or commission within the region.

**Subd. 5. Urban and rural research.** Where studies have not been otherwise authorized by law the commission may study the feasibility of programs relating but not limited to water, land use, economic development, minority problems, governmental problems, human and natural resources, communication, transportation, and other subjects of concern to the citizens of the region, may institute demonstration projects in connection therewith, and may accept gifts for such purposes as otherwise authorized in sections 462.381 to 462.396.

**Subd. 6. Civil defense and flood plain management.** The commission may coordinate civil defense, community shelter planning, and flood plain management programs within the region, accept gifts for such purposes as otherwise authorized in sections 462.381 to 462.396, and contract with local governmental agencies and consultants in connection therewith.

**Subd. 7. Local government boundaries.** The commission may participate as a party in any proceedings originating before the Minnesota municipal board under chapter 414, if the proceedings involve the change in a boundary of a governmental unit in the region.

**Subd. 8. Special districts.** The commission may appoint from its membership a member to serve on any subregional planning board, any council of government within the region, and any multi-region or federal agency created by federal funds within the jurisdiction of the regional commission as authorized by law. Each member so appointed on each of such commissions shall serve without a vote.

**Subd. 9. Data and information.** The commission in consultation with appropriate departments and agencies of the state may develop, in cooperation with the public and private colleges and universities and local governmental units, a center for data collection and storage to be used by it and other governmental and private users, and may accept gifts as otherwise authorized in sections 462.381 to 462.396 for the purposes of furnishing information on such subjects as population, land use, governmental finances, and the like. The commission may enter into agreement with any state or federal agency to provide information to the local units of government, and others, regarding federal and state programs and data sources.

**Subd. 10. Service to local government.** The commission may contract with local units of government to provide them with services and technical assistance in the conduct of local planning and development activities.

**History:** 1969 c 1122 s 11; 1971 c 153 s 9; 1973 c 123 art 5 s 7; 1975 c 271 s 6; 1981 c 356 s 231-233

**462.392 SPECIAL STUDIES AND REPORTS.**

The commission may engage in a continuous program of research and study concerning the matters enumerated in this section but not limited thereto.

(1) The acquisition and financing of suitable major parks and open spaces within the region;

(2) The control and prevention of water and air pollution in conformity with applicable federal and state laws;

(3) The examination of the tax structure in the region and consideration of ways to equalize the tax resources and fiscal disparities therein;

(4) Flood plain management programs;

(5) The possibility of consolidation of common services of local governmental units and the kind of consolidation most suitable in the public interest;

(6) A long range capital improvement program for the region;

(7) Identification of human, economic, social, physical, governmental problems, and opportunities;

(8) Assignment of priorities for the development of human, economic, and natural resources of the region;

(9) Identification of housing problems and planning work programs for housing;

(10) Low income and minority group problems and opportunities; and

(11) Identification of all facets and elements of law enforcement activity, including police, court, and correctional programs and systems.

**History:** 1969 c 1122 s 12

**462.393 REPORTS.**

Subdivision 1. On or before August 1 of each year, the commission shall prepare a report for the governmental units, the public within the region, the legislature and the governor. The report shall include:

(1) A statement of the commission's receipts and expenditures by category since the preceding report;

(2) A detailed budget for the year in which the report is filed and a tentative budget for the following year including an outline of its program for such period;

(3) A description of any comprehensive plan adopted in whole or in part for the region;

(4) Summaries of any studies and the recommendations resulting therefrom made for the region;

(5) A listing of all applications for federal grants or loans made by governmental units within the region together with the action taken by the commission in relation thereto;

(6) A listing of plans of local governmental units submitted to the region, and actions taken in relationship thereto;

(7) Recommendations of the commission regarding federal and state programs, cooperation, funding, and legislative needs; and

(8) A summary of any report made during the previous year by the state auditor relative to the commission.

Subd. 2. In 1981 and every five years thereafter the commission shall review its activities and issue a report assessing its performance in fulfilling the purposes of the regional development act of 1969. The report shall state whether the existence of the commission is in the public welfare and interest. The report shall be included in the report required by subdivision 1.

**History:** 1969 c 1122 s 13; 1971 c 153 s 10; 1980 c 557 s 1



**462.394 CITIZEN PARTICIPATION AND ADVISORY COMMITTEES.**

The commission may appoint advisory committees of interested and affected citizens to assist in the review of plans, programs, and other matters referred for review by the commission. Whenever a special advisory committee is required by any federal or state regional program the commission chairman shall, as far as practical, appoint such committees as advisory groups to the commission. Members of the advisory committees shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the commission.

**History:** 1969 c 1122 s 14

**462.395 DUTIES OF STATE AGENCIES.**

All state departments and agencies shall cooperate with regional development commissions established under sections 462.381 to 462.396 and shall make available to them studies, reports, data, and other informational and technical assistance within financial and personnel limitations. The commissioner shall coordinate the state's assistance programs to regional planning and development commissions.

**History:** 1969 c 1122 s 15; 1981 c 356 s 234

**462.396 FINANCIAL; STATE ASSISTANCE.**

Subdivision 1. The commissioner shall determine the amount of and make grants to any commission created under sections 462.381 to 462.396 from appropriations made available for those purposes, provided a work program is submitted acceptable to the commissioner. Any regional commission may levy a tax on all taxable property in the region to provide money for the purposes of sections 462.381 to 462.396.

Subd. 2. On or before August 20, 1971, and each year thereafter, the commission shall submit its proposed budget for the ensuing calendar year showing anticipated receipts, disbursements and ad valorem tax levy with a written notice of the time and place of the public hearing on the proposed budget to each county auditor and municipal clerk within the region and those town clerks who in advance have requested a copy of the budget and notice of public hearing. On or before October 1, 1971, and each year thereafter, the commission shall adopt, after a public hearing held not later than September 20, a budget covering its anticipated receipts and disbursements for the ensuing year and shall decide upon the total amount necessary to be raised from ad valorem tax levies to meet its budget. After adoption of the budget and no later than October 1, the secretary of the commission shall certify to the auditor of each county within the region the county share of such tax, which shall be an amount bearing the same proportion to the total levy agreed on by the commission as the assessed valuation of the county bears to the assessed valuation of the region. The maximum amount of any levy made for the purposes of sections 462.381 to 462.396 shall not exceed one-sixth of one mill on each dollar of assessed valuation of all taxable property in the region. The auditor of each county in the region shall add the amount of any levy made by the commission within the limits imposed by this subdivision to other tax levies of the county for collection by the county treasurer with other taxes. When collected the county treasurer shall make settlement of such taxes with the commission in the same manner as other taxes are distributed to political subdivisions. The levy authorized by this section shall be in addition to any other county taxes authorized by law.

Subd. 3. The commission may accept gifts, apply for and use grants or loans of money or other property from the United States, the state, or any person, local or governmental body for any commission purpose and may enter into agreements required in connection therewith and may hold, use, and dispose of such moneys

or property in accordance with the terms of the gift, grant, loan, agreement, or contract relating thereto.

Subd. 4. The commission shall keep an accurate account of its receipts and disbursement. Disbursements of funds of the commission shall be made by check signed by the chairman or vice-chairman or secretary of the commission and countersigned by the executive director or his authorized deputy thereof after such auditing and approval of the expenditure as may be provided by rules of the commission. The state auditor shall audit the books and accounts of the commission once each year, or as often as funds and personnel of the state auditor permit. The commission shall pay to the state the total cost and expenses of such examination, including the salaries paid to the auditors while actually engaged in making such examination. The revolving fund of the state auditor shall be credited with all collections made for any such examination.

Subd. 5. Every contract of the commission for the purchase of merchandise, materials, or supplies shall be let in accordance with the provisions of section 471.345.

Subd. 6. The commission shall from time to time designate one or more national or state banks, or trust companies authorized to do a banking business, as official depositories for money of the commission, and thereupon shall require the treasurer to deposit all or part of such money in such bank or banks. Such designation shall be in writing and set forth all the terms and conditions upon which the deposits are made, and shall be signed by the chairman and secretary, and made a part of the minutes of the commission. Any bank or trust company so designated shall qualify as a depository by furnishing a corporate surety bond or collateral as required by chapter 118, and shall thereafter, as long as money of the commission is on deposit therein, maintain such bond or collateral and shall be required to secure any deposit, insofar as it is insured under federal law, as provided in section 118.10.

**History:** 1969 c 1122 s 16; 1971 c 153 s 11,12; 1973 c 492 s 7; 1973 c 589 s 2; 1973 c 773 s 1; 1981 c 356 s 235

#### **462.397 BORROWING MONEY; CERTIFICATES OF INDEBTEDNESS.**

Subdivision 1. At any time after a tax has been levied by the commission and certified to the county auditors to be spread on the next tax roll for collection, the commission may borrow money and in evidence thereof issue and sell its certificates of indebtedness in anticipation of the collection of such levy.

Subd. 2. The aggregate principal amount of such certificates then remaining outstanding, issued in anticipation of any levies whatsoever, plus the then unpaid accrued interest and interest to accrue to maturity on all such certificates, shall not exceed 50 percent of all taxes certified to the county auditors to be spread and collected which are not delinquent, less the amount thereof received by the commission before the latest certificates were issued.

Subd. 3. All certificates shall mature not later than April 1 following the close of the year of collection of the taxes in anticipation of which they were issued, and may be made subject to redemption before maturity.

Subd. 4. The commission shall, by the resolution authorizing each issue of certificates, fix the amount, date, maturity or maturities, prepayment provisions, form, denominations, interest rate or rates, and other details of the certificates, and also pledge the full faith and credit of the commission for the payment thereof. In and by such resolution, the commission shall also irrevocably appropriate to a special fund such amount, stated in dollars, of the levy anticipated as will be required to pay the principal of and interest on the certificates when due.

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Subd. 5. If, due to delinquencies in collection thereof, the levy is not received at the times and in the amounts sufficient to meet principal of and interest on certificates payable therefrom, the commission may levy and cause to be extended, assessed and collected upon all taxable property within the region, such ad valorem taxes as may be required to pay such principal and interest and to restore to other funds advances made for that purpose.

Subd. 6. All such certificates may be negotiated and sold in such manner as may be determined by the commission.

**History:** 1973 c 589 s 3

## 462.398 TERMINATION OF COMMISSION.

Subdivision 1. Any combination of counties or municipalities representing a majority of the population of the region for which a commission exists may petition the commissioner by formal resolution stating that the existence of the commission is no longer in the public welfare and interest and is not needed to accomplish the purposes of the regional development act of 1969. For purposes of this section the population of a county does not include the population of a municipality within the county. Any formal resolution adopted by the governing body of a county or municipality for the termination of a commission shall be effective for a period of one year for the purpose of determining the requisite population of the region needed to petition the commissioner.

Subd. 2. Within 35 days of the receipt of the petition, the commissioner shall fix a time and place within the region for a hearing. The commissioner shall give notice of the hearing by publication once each week for two successive weeks before the date of the hearing in a legal newspaper in each of the counties which the commission represents. The hearing shall be conducted by members of the commission. If the commission determines that the existence of the commission is no longer in the public welfare and interest and that it is not needed to accomplish the purposes of the regional development act of 1969, the commission shall recommend to the commissioner that the commissioner terminate the commission. Within 60 days after receipt of the recommendation, the commissioner shall terminate the commission by giving notice of the termination to all government units within the region for which the commission was established. Unless otherwise provided by this subdivision, the hearing shall be in accordance with sections 14.01 to 14.70.

Subd. 3. The commissioner shall not accept a petition for termination more than once in 30 months for each regional development commission.

**History:** 1980 c 557 s 2; 1981 c 356 s 236; 1982 c 424 s 130

**462.41** [Repealed, 1947 c 487 s 61]

## HOUSING, REDEVELOPMENT

### 462.411 CITATION, MUNICIPAL HOUSING AND REDEVELOPMENT ACT.

Laws 1947, Chapter 487, may be cited as the municipal housing and redevelopment act.

**History:** 1947 c 487 s 1

### 462.415 PURPOSE; PUBLIC INTEREST; DECLARATION OF POLICY.

Subdivision 1. It is hereby declared that there is not in this state a sufficient supply of adequate, safe, and sanitary dwelling accommodations and that in certain urban and rural areas thereof there exist substandard conditions, unsafe

and unsanitary housing and buildings and structures used or intended to be used for living, commercial, industrial or other purposes or any combination of such uses which, by reason of sociological and technological changes, dilapidation, obsolescence, overcrowding, and faulty arrangement or design of building and improvements, lack of public facilities, ventilation, light and sanitary facilities, excessive land coverage, or deleterious land use, or obsolete layout, or any combination of these and other factors, are injurious to the health, safety, morals and welfare of the citizens of this state, cause an increase and spread of crime, juvenile delinquency, and disease, inflict blight upon the economic value of large areas, and, by impairing the value of private investments, threaten the source of public revenues while decentralizing communities to areas improperly planned and not related to public facilities, and require many persons of low income to occupy unsafe, unsanitary, and overcrowded dwellings.

Subd. 2. It is found that the public interest requires the clearance, replanning, reconstruction, and neighborhood rehabilitation of such substandard and unsanitary areas, and the provision of decent, safe, and sanitary housing for persons of low income and their families; that such redevelopment and the provision of such housing for persons of low income and their families are essential to protect the sources of public revenues; that, in order to protect the financial stability of communities, it is necessary to redevelop substandard and blighted areas according to a comprehensive community plan for development and by encouraging the production of housing properly planned and related to public facilities; that these conditions cannot be remedied by the ordinary operations of private enterprise or by regulation alone; that provision must be made to encourage private enterprise to engage in redevelopment or to provide housing facilities in substandard areas, to be constructed in accordance with such comprehensive plan; that provision must also be made to encourage investment of funds in, and for the acquisition by private enterprise at fair prices of, real property required for such purposes in substandard areas, and for public assistance thereto, and to encourage immediate development by the granting of partial tax exemptions where justified as hereinafter determined; that local public bodies must be created and authorized to undertake redevelopment and to provide decent, safe, and sanitary low-rent housing for persons of low income and their families where a supply of low-rent housing for families of low income and adequate redevelopment of substandard areas cannot be accomplished at a cost which would warrant private initiative to provide such housing or to undertake such redevelopment, subject to the policy of this state that before public participation is authorized or undertaken it shall be locally determined as hereinafter provided that the fulfillment of these needs cannot be met through reliance solely upon private initiative.

Subd. 3. It is hereby declared to be the policy to protect and promote the welfare of the citizens of this state by employing all means necessary and appropriate to satisfy the foregoing needs; that the cooperation of the state and its subdivisions is necessary to accomplish such purposes; that (1) the clearance, replanning, and reconstruction, rehabilitation, and modernization of substandard areas and the provision of decent, safe, and sanitary housing for persons of low income and their families by local public bodies and (2) the participation in such redevelopment projects and the provision of adequate housing properly planned and related to public facilities in such substandard areas, according to a redevelopment plan as herein provided, by private enterprise, with or without partial tax exemptions, are public uses and purposes for which private property may be acquired and public money may be spent; that these conditions require the creation of the authorities, instrumentalities, and corporations hereafter prescribed to expedite the provision of adequate housing and for the purpose of attaining the ends herein recited, and the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

Subd. 4. It is hereby declared that certain slum or deteriorated areas, or portions thereof, require acquisition and clearance, as provided in sections 462.411 to 462.705, since the prevailing condition of decay may make impracticable reclamation of the area by conservation or rehabilitation, but other areas or portions thereof are, through the means provided in sections 462.411 to 462.705 susceptible of conservation or rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented; salvable slum or deteriorated areas should be conserved and rehabilitated to the extent feasible through voluntary action and the regulatory process; and all powers conferred by sections 462.411 to 462.705, are for public uses and purposes for which public money may be expended and such other powers exercised; and the necessity in the public interest for the provisions of sections 462.411 to 462.705 is hereby declared as a matter of legislative determination. The municipality, to the greatest extent it determines to be feasible in carrying out the provisions of sections 462.411 to 462.705, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of areas by private enterprise.

Subd. 5. It is hereby found and declared that there is in this state a serious shortage of decent, safe and sanitary housing for persons of low and moderate income and their families. Private enterprise is unable to alleviate such shortage and to provide a substantial supply of decent, safe and sanitary housing without government subsidy at prices or rents within the financial means of persons and families of such incomes. This shortage is inimical to the safety, health, morals and welfare of the residents of this state and to the sound growth and development of its communities. In order to alleviate this shortage there is a need to grant to municipal housing and redevelopment authorities the powers hereinafter provided.

Subd. 6. Within cities of the first class, in any area determined by the respective local governing body to qualify for treatment under sections 462.415 to 462.705, in utilizing such provisions, the legislature finds that the public interest required therein for the clearance, replanning, reconstruction, and neighborhood rehabilitation of substandard and unsanitary areas, and the provision of decent, safe and sanitary housing for persons of low income and their families shall also apply to housing for persons of all incomes.

Subd. 7. It is hereby found and declared that municipalities and other units of state and local government have become the owners of certain real properties that are either vacant, open, and undeveloped lands or are lands containing vacant substandard buildings or improvements as that term is defined in section 462.445, subdivision 1, clause (7) through abandonment, tax forfeitures, gifts, acquisition or other legal processes. It is further found that there exists a large number of other real properties within municipalities that are either vacant, open and undeveloped lands or contain vacant buildings or improvements which are substandard. It is further found that many of these real properties are either themselves or are located in areas which are blighted, unoccupied, dilapidated, and/or economically unproductive and have resulted in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety and welfare. It is further found that private development of such real property is economically unfeasible and that much of this governmentally owned real property constitutes a high percentage of the total land area which cannot be readily used or sold by municipalities and other units of state and local government. It is further found that the abandonment and forfeiture of said real properties and these real properties themselves are creating a severe problem for municipalities in creating blighted, unsightly, slum and ghetto areas, and thus are injurious to the health, safety, morals, and welfare of the citizens of this state. It is further found that many of these real properties that are vacant, open and undeveloped land or

lands containing vacant substandard buildings or improvements are susceptible of construction upon, or conservation, rehabilitation, and improvement so as to provide decent, safe, and sanitary housing for persons of low and moderate income thus alleviating the serious shortage of decent, safe and sanitary housing for persons or families of low and moderate income and further eliminating, remedying, or preventing conditions and evils enumerated in this section. It is further found and declared that many of these real properties are susceptible of providing persons and families of low and moderate income with homeownership opportunities, with appropriate governmental subsidies and assistance that such persons or families would otherwise be unable to afford. In order to alleviate this housing shortage; in order to foster development and use of said stagnant and unproductive real property; in order to bring substandard buildings and improvements into compliance with public standards for decent, safe, and sanitary housing; in order to alleviate the conditions and evils enumerated in this subdivision; in order to provide low and moderate income families with homeownership opportunities; in order to dispose of excess land, for residential housing development purposes; and in order to insure the sound growth, development and financial stability of communities there is a need to grant housing and redevelopment authorities the powers hereinafter granted and that said powers are public uses and purposes for which private property may be acquired, public money spent, and such other powers exercised.

**History:** 1947 c 487 s 2; 1955 c 565 s 1; 1957 c 810 s 1; 1971 c 745 s 1; 1973 c 319 s 1; 1974 c 228 s 1; 1974 c 443 s 1; 1982 c 424 s 67,68

**462.42** [Repealed, 1947 c 487 s 61]

#### **462.421 DEFINITIONS.**

Subdivision 1. Unless the context clearly indicates otherwise, the following terms, for the purposes of sections 462.415 to 462.705 shall have the meanings, respectively, ascribed to them in this section.

Subd. 2. "Authority" means a housing and redevelopment authority created or authorized to be created by sections 462.415 to 462.705.

Subd. 3. "Municipality" means a city however organized.

Subd. 4. "State public body" means any municipality, county, commission, district, authority, or other political subdivision or instrumentality of this state.

Subd. 5. "Governing body" means the council, board of trustees, or other body charged with governing any municipality or other state public body.

Subd. 6. "Mayor" means the mayor of a city, or the mayor or president of a statutory city.

Subd. 7. "Clerk" means the clerk of a city or the officer of any other state public body charged with the duties customarily imposed on the clerk of a municipality.

Subd. 8. "Area of operation" means, in the case of an authority created in and for a city, the area within the territorial boundaries of that municipality.

Subd. 9. "Federal government" includes the United States of America, the federal public housing authority, or any other department, agency, or instrumentality, corporate or otherwise, of the United States of America.

Subd. 10. "Federal legislation" includes the "United States Housing Act of 1937," Public Act No. 412 of the 75th Congress of the United States, any act in amendment thereof or in addition thereto, and any other legislation of the Congress of the United States relating to federal assistance for clearance of substandard or decadent areas, land assembly, redevelopment projects, or housing.

Subd. 11. "Deteriorated area" means any area, including slum areas, with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light, and sanitary facilities, excessive land coverage or deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

Subd. 12. "Housing project" means any work or undertaking:

(1) To demolish, clear, or remove buildings from any blighted area acquired by the authority; or

(2) To provide decent, safe, and sanitary urban dwellings, apartments, or other living accommodations for persons of low income, or for veterans and servicemen, and their families; or

(3) To accomplish a combination of the foregoing.

Such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, utilities, site preparation, landscaping, administrative, community, health, recreational, welfare, or other purposes.

The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements and all other work in connection therewith.

Subd. 13. "Redevelopment project" shall mean any work or undertaking:

(1) to acquire blighted areas and other real property for the purpose of removing, preventing, or reducing blight, blighting factors, or the causes of blight; (2) to acquire open or undeveloped land which is determined to be blighted by virtue of conditions of unusual and difficult physical characteristics of the ground; or the existence of faulty planning characterized by the subdivision or sale of lots laid out in disregard of the contours or of irregular form and shape or of inadequate size; or a combination of these or other conditions which have prevented normal development of the land by private enterprise and have resulted in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety and welfare, provided that a redevelopment plan has been adopted which provides for the elimination of these conditions thereby making the land useful and valuable for contributing to the public health, safety and welfare and provided that the acquisition of the land is necessary to carry out the redevelopment plan. This particular subsection (2) shall also apply to redevelopment projects previously initiated and which have been approved by the governing body of the municipality.

(3) To acquire land or space which is vacant, unused, underused or inappropriately used, including infrequently used rail yards and rail storage facilities, and excessive or vacated railroad rights-of-way; air rights over streets, expressways, railroads, waterways, and similar locations; land which is occupied by functionally obsolete nonresidential buildings or is used for low utility purposes or is covered by shallow water or is subject to periodic flooding or consists of unused or underused slips or dock areas or other waterfront property; which land or space the authority determines may be developed at a cost reasonably related to the public purpose to be served without major residential clearance activities, and with full consideration of the preservation of beneficial aspects of the urban and natural environment, for such uses as are consistent with emphasis on housing for low and moderate income families including the provision of schools, hospitals, parks and other essential public facilities and where appropriate all uses associated with new community development programs as defined in the United States urban growth and new community development act of 1970 as the same may be amended or supplemented from time to time or similar large scale undertakings related to inner city needs, including concentrated sources of employment.

(4) To clear any areas acquired and install, construct or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with the redevelopment plan;

(5) To sell or lease land so acquired for uses in accordance with the redevelopment plan; or

(6) To accomplish a combination of the foregoing to carry out a redevelopment plan.

The term "redevelopment project" shall also mean a redevelopment project heretofore initiated as then provided by law and approved by the governing body of the municipality prior to July 1, 1951, as prescribed by Minnesota Statutes 1949, Section 462.521.

The term "redevelopment project" also may be applied to the preparation of a redevelopment plan and to the initiation, planning, survey and other administrative costs of a redevelopment project and also to the preparation of technical and financial plans and arrangements for buildings, structures, and improvements and all other work in connection therewith.

The term "redevelopment" and the term "redevelopment project" shall also include "urban renewal" and "urban renewal project". The term "urban renewal project" may include undertakings and activities for the elimination (and for the prevention of the development or spread) of slums or blighted, deteriorated, or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. For this purpose, "rehabilitation or conservation work" may include (1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, to promote historic and architectural preservation, or to provide land for needed public facilities; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project; and (4) the disposition, for uses in accordance with the objectives of the urban renewal project, of any property or part thereof acquired in the area of such project; provided that such disposition shall be in the manner prescribed in this act for the disposition of property in a redevelopment project area; (5) relocation within or outside the project area of structures which will be restored and maintained for architectural or historic purposes; (6) restoration of acquired properties of historic or architectural value; and (7) construction of foundations and platforms necessary for the provision of air rights sites.

Subd. 14. "Project" means a housing project, a housing development project or a redevelopment project, or any combination of such projects. The term "project" also may be applied to all real and personal property, assets, cash, or other funds, held or used in connection with the development or operation of the housing project, housing development project or redevelopment project, as the case may be. The term "project" also includes an interest reduction program authorized by section 462.445, subdivision 10.

Subd. 15. "Redevelopment plan" means a plan approved by the governing body (or agency designated by it for that purpose or authorized by law so to act) of each municipality in which any of the area to be covered by a redevelopment project is situated, which plan provides an outline for the development or redevelopment of such area and is sufficiently complete (1) to indicate its relationship to definite local objectives as to appropriate land uses; and (2) to



indicate general land uses and general standards of development or redevelopment.

Subd. 16. "Persons of low income" means persons or families who lack the amount of income which is necessary (as determined by the authority undertaking a project in accordance with the provisions of this act) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding.

Subd. 17. "Bonds" means any bonds (including refunding bonds), notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this act.

Subd. 18. "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years.

Subd. 19. "Obligee of the authority" or "obligee" includes any bondholder, and the federal government when it is a party to any contract with the authority.

Subd. 20. "Redevelopment company" means (1) a limited dividend corporation created pursuant to sections 462.591 to 462.705 or (2) a limited partnership formed pursuant to sections 322.01 to 322.31 provided that the certificate required by section 322.02 and any amendments thereto shall not be filed for record by the county recorder of the county where the principal place of business is located unless the same is accompanied by a certificate of the consent of the commissioner of energy, planning and development stating that the certificate required by section 322.02 or the amendment thereto is consistent with the purposes of and in compliance with the limitations and restrictions imposed on redevelopment companies by sections 462.591 to 462.705; except that the provision of clause 2 shall apply only in cities of the first class.

Subd. 21. "The commission" means the commissioner of energy, planning and development.

Subd. 22. "Veterans" means persons falling within the definition of "veteran" in section 197.447, provided, however, an authority is authorized to include in any contract with the federal government provision for veterans' preferences, servicemen's preferences and other preferences with respect to veterans and servicemen as may be required by any federal law or regulation as a condition of federal financial assistance for a project.

Subd. 23. "Servicemen" means persons in military or naval forces of the United States who served therein during World War II, or who have had active service therein on and after June 27, 1950, and prior to the final cessation of hostilities as proclaimed by proper federal authority; provided, however, an authority is authorized to include in any contract with the federal government provision for veterans' preferences, servicemen's preferences and other preferences with respect to veterans and servicemen, as may be required by any federal law or regulation as a condition of federal financial assistance for a project.

Subd. 24. "General plan for the development of the locality as a whole" means such plan as may have been adopted by a local planning agency or approved by the governing body of the municipality establishing general objectives for the future use of land in a locality, or in the event no such plan has been adopted or approved, such general land use proposals for the development of the locality as may have been established from time to time by the local planning agency or by the governing body of the municipality.

Subd. 25. "Housing development project" means any work or undertaking to provide housing for persons of moderate income and their families. Such work or undertaking may include the planning of building and improvements, the

acquisition of real property which may be needed immediately or in the future for housing purposes, the construction, reconstruction, alteration and repair of new or existing buildings and the provisions of all equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, utilities, site preparation, landscaping, administrative, community health, recreation or welfare or other purposes.

**History:** 1947 c 487 s 3; 1949 c 505 s 1,2; 1951 c 32 s 1; 1951 c 568 s 1; 1953 c 699 s 16,17; 1955 c 565 s 2; 1957 c 810 s 2; 1959 c 545 s 1,2; 1969 c 676 s 1; 1971 c 745 s 2-5; 1971 c 901 s 5; 1973 c 123 art 5 s 7; 1974 c 403 s 1; 1974 c 443 s 2; 1976 c 181 s 2; 1981 c 356 s 237,248; 1982 c 424 s 69-71; 1982 c 590 s 5

#### **462.425 MUNICIPAL HOUSING AND REDEVELOPMENT AUTHORITY.**

**Subdivision 1. Preliminary municipal findings and declaration.** There is hereby created in each municipality in this state a public body corporate and politic, to be known as the housing and redevelopment authority in and for that municipality; provided, however, that no such authority shall transact any business or exercise any powers until the governing body of the municipality shall, by proper resolution, find that in such municipality (1) substandard, slum, or deteriorated areas exist which cannot be redeveloped without government assistance, (2) adequate housing accommodations are not available to veterans and servicemen and their families, or (3) there is a shortage of decent, safe, and sanitary dwelling accommodations available to persons of low income and their families at rentals they can afford, and shall declare that there is need for a housing and redevelopment authority to function in that municipality. In determining whether dwelling accommodations are unsafe or unsanitary, or whether substandard, slum, or deteriorated areas exist, the governing body may take into consideration the degree of deterioration, obsolescence, or overcrowding, the percentage of land coverage, the light, air, space, and access available to inhabitants of such dwelling accommodations, the size and arrangement of rooms, the sanitary facilities, the extent to which conditions exist in such buildings which endanger life or property by fire or other causes, and the original land planning, lot layout, and conditions of title in the area.

**Subd. 2. Public hearing; notice; publication; resolution.** The governing body of a municipality shall consider such a resolution only after a public hearing thereon after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of the hearing. Opportunity to be heard shall be granted to all residents of the municipality and its environs and to all other interested persons. The resolution shall be published in the same manner in which ordinances are published in the municipality.

**Subd. 3. Sufficiency and conclusiveness of resolution.** When the resolution becomes finally effective, it shall be deemed sufficient and conclusive for all purposes, including the policy requirements of section 462.415, if it declares that there is need locally for an authority and finds in substantially the terms provided in subdivision 1 that the conditions therein described exist.

**Subd. 4. Certified copy filed with commissioner of energy, planning and development.** When the resolution becomes finally effective, the clerk of the municipality shall file a certified copy thereof with the commissioner of energy, planning and development. In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of an authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon the filing of that certified copy of the resolution with the commissioner of energy, planning and development, and proof of the resolution and of that filing may be made in any such suit, action, or

proceeding by a certificate of the director of housing under the seal of the commissioner of energy, planning and development.

Subd. 5. **Commissioners.** An authority shall consist of five commissioners, who shall be residents of the area of operation of the authority, who shall be appointed after the resolution provided for in this section becomes finally effective.

Subd. 6. **Appointment; approval; term; vacancy.** The commissioners constituting an authority shall be appointed by the mayor, with the approval of the governing body. Those initially appointed shall be appointed for terms of one, two, three, four, and five years, respectively. Thereafter all commissioners shall be appointed for five-year terms. Each vacancy in an unexpired term shall be filled in the same manner in which the original appointment was made. Any member of the governing body of a municipality may be appointed and may serve as a commissioner of the authority in and for the municipality. The council of any municipality which appoints members of the city council as commissioners may set the terms of office of the commissioner to coincide with his term of office as a council member.

Subd. 7. **Certificate of appointment; filing.** Commissioners shall hold office until their successors have been appointed and qualified. A certificate of appointment of each commissioner shall be filed with the clerk and a certified copy thereof shall be transmitted to the commissioner of energy, planning and development. Whenever the membership of an authority is changed by reason of a new appointment, a certificate of that appointment and a certified copy thereof shall be promptly so filed. A certificate so filed shall be conclusive evidence of appointment or change in membership. Commissioners are likewise referred to in sections 462.411 to 462.705 as "members" of an authority.

**History:** 1947 c 487 s 4; 1959 c 545 s 3; 1969 c 273 s 1; 1974 c 443 s 3; 1974 c 444 s 1; 1976 c 109 s 1; 1979 c 180 s 1; 1981 c 356 s 248; 1982 c 424 s 72

#### **462.426 COUNTY AND MULTI-COUNTY HOUSING AND REDEVELOPMENT AUTHORITIES.**

Subdivision 1. **Preliminary county findings and declaration.** There is hereby created in each county in this state other than the metropolitan counties of Hennepin, Ramsey, Scott, Carver, Anoka, Washington and Dakota and other than those counties in which a county housing authority has been heretofore created by special act, a public body corporate and politic, to be known as the housing and redevelopment authority in and for that county, hereinafter referred to as "county authority"; provided, however, that no such county authority shall transact any business or exercise any powers until the governing body of the county, by proper resolution, finds that there is need for a county authority to function in such county. The governing body shall give consideration as to the need for a county authority to function (1) on the governing body's own motion (2) or upon the filing of a petition signed by 25 qualified voters of the county asserting that there is need for a county authority to function in such county and requesting that the governing body so declare. The governing body shall adopt a resolution declaring that there is need for a county authority to function in the county if it shall find (a) that substandard, slum, or deteriorated areas exist in such county which cannot be redeveloped without government assistance, or (b) that there is a shortage of decent, safe and sanitary dwelling accommodations available to persons of low income at rentals or prices they can afford.

If the governing body of each of two or more municipalities or counties, or combinations of municipalities and counties, by resolution declares that there is a need for one housing and redevelopment authority to be created for all of such municipalities or counties, or combinations thereof, hereinafter referred to as

“political subdivisions”, to exercise in such political subdivisions powers and other functions prescribed for a multi-county housing and redevelopment authority, a public body corporate and politic to be known as a multi-county housing and redevelopment authority, hereinafter called “multi-county authority”, shall thereupon exist for all of such political subdivisions and shall exercise its powers and other functions in such political subdivisions in lieu of the authority for each such political subdivision. The governing body of each of two or more political subdivisions shall by resolution declare that there is a need for one multi-county authority to be created for all of such political subdivisions to exercise in such political subdivision powers and other functions prescribed for a multi-county authority, if such governing body finds (a) that substandard, slum, or deteriorated areas exist in such political subdivision which cannot be redeveloped without government assistance, or there is a shortage of decent, safe and sanitary dwelling accommodations available to persons of low income at rentals or prices they can afford, and (b) that a multi-county authority would be a more effective, efficient or economical administrative unit than the housing and redevelopment authority of such political subdivision to carry out the purposes of sections 462.415 to 462.705, in such political subdivision.

In determining whether dwelling accommodations are unsafe or unsanitary a governing body may take into consideration the same factors as are elsewhere provided in sections 462.415 to 462.705, with respect to such determinations by governing bodies in connection with the function of housing and redevelopment authorities for municipalities.

**Subd. 2. Sufficiency and conclusiveness of resolution.** When the resolution (or resolutions, as the case may be) becomes finally effective, it shall be deemed sufficient and conclusive for all purposes, including the policy requirements of section 462.415, if it declares that there is need for a county or multi-county authority, as the case may be, and finds in substantially the terms provided in subdivision 1 that the conditions therein described exist.

**Subd. 3. Function of authority.** Once established, a county or multi-county housing authority will serve, program, develop and manage all housing programs under its jurisdiction. In order not to foster the development and proliferation of minor political subdivision housing and redevelopment authorities, a county or multi-county authority once established shall preclude the formation of additional municipal housing and redevelopment authorities within the area of operation of said county or multi-county authority without the explicit concurrence of the county or multi-county housing and redevelopment authority and the commissioner of energy, planning and development. Municipal housing and redevelopment authorities must petition the county or multi-county authority for authorization to establish a local housing authority and this petition must be approved by the commissioner of energy, planning and development. Where a county or multi-county authority has not initiated or have in progress an active program or applied for a public housing or redevelopment program from the federal government for a period of 12 months after its establishment, the provisions of this subdivision shall be of no force or effect.

**Subd. 4. Certified copy filed with commissioner of energy, planning and development.** When the resolution or resolutions, as the case may be, becomes finally effective, the clerk of the political subdivision shall file a certified copy thereof with the commissioner of energy, planning and development. In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of an authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon the filing of the certified copy of said resolution (or resolutions, as the case may be) with the commissioner of energy, planning and development, and proof of

the adoption of said resolution and of the filing thereof may be made in any such suit, action, or proceeding by a certificate of the commissioner of energy, planning and development.

**History:** 1971 c 901 s 1; 1974 c 443 s 4; 1981 c 356 s 248; 1982 c 424 s 73

#### **462.427 AREA OF OPERATION.**

**Subdivision 1. County and multi-county authorities.** The area of operation of a county authority shall include all of the county for which it is created, and in case of a multi-county authority, it shall include all of the political subdivisions for which such multi-county authority is created; provided, that a county authority shall not undertake any project or projects within the boundaries of any municipality, and a multi-county authority shall not undertake any project or projects within the boundaries of any municipality which has not empowered such authority to function therein as provided in section 462.426 unless a resolution shall have been adopted by the governing body of such municipality, and by any authority which shall have been theretofore established and authorized to exercise its powers in such municipality, declaring that there is a need for the county or multi-county authority to exercise its powers in such municipality.

**Subd. 2. Multi-county authorities.** The area of operation of a multi-county authority shall be increased from time to time to include one or more additional political subdivisions not already within a multi-county authority if the governing body of such additional political subdivision or subdivisions makes the findings required by section 462.426 and if the political subdivisions then included in the area of operation of such multi-county authority and the commissioners of the multi-county authority adopt a resolution declaring that the multi-county authority would be a more effective, efficient or economical administrative unit to carry out the purposes of sections 462.415 to 462.705 in case the area of operation of the multi-county authority were increased to include such additional political subdivisions or subdivisions.

The area of operation of a multi-county authority may be decreased from time to time to exclude one or more political subdivisions from such area if the governing body of each of the political subdivisions in such area and the commissioners of the multi-county authority each adopt a resolution declaring that there is a need for excluding such political subdivision or subdivisions from such area; provided that no such action may be taken if the multi-county authority has outstanding any bonds, notes or other evidences of indebtedness involving a housing project in the political subdivision to be excluded unless first, all holders of such evidence of indebtedness consent in writing to such action; and provided further that if such action decreases the area of operation of the multi-county authority to only one political subdivision, such authority shall thereupon constitute and become a housing and redevelopment authority for the county or municipality, as the case may be, in the same manner as though such authority were initially created by and authorized to transact business and exercise its powers in that county or municipality, and the commissioners of such authority shall be thereupon appointed as provided for the appointment of commissioners of a housing and redevelopment authority created for a county or a municipality, as the case may be.

The governing body of each of the political subdivisions in the area of operation of the multi-county authority and the commissioners of the multi-county authority shall adopt a resolution declaring that there is a need for excluding a political subdivision or subdivisions from such area if:

(a) Each such governing body of the political subdivisions to remain in the area of operation of the multi-county authority and the commissioners of the multi-county authority find that, because of facts arising or determined subsequent

to the time when such area first included the political subdivision or subdivisions to be excluded, the multi-county authority would be a more effective, efficient or economical administrative unit to carry out the purposes of sections 462.415 to 462.705 if such political subdivision or subdivisions were excluded from such area; and

(b) The governing body of such political subdivision or subdivisions to be excluded and the commissioners of the multi-county authority each also find that, because of the aforesaid changed facts, the purposes of sections 462.415 to 462.705 could be carried out more efficiently or economically in such political subdivision or subdivisions if the area of operation of the multi-county authority did not include such political subdivision or subdivisions.

**Subd. 3. Public hearing; notice; publication; resolution.** The governing body of a political subdivision shall not adopt any resolution authorized by this and section 462.426 unless a public hearing has first been held. The clerk of such political subdivision shall give notice of the time, place, and purpose of the public hearing not less than ten days nor more than 30 days prior to the day on which the hearing is to be held, in a newspaper published in such political subdivision, or if there is no newspaper published in such political subdivision, then in a newspaper published in the state and having a general circulation in such political subdivision. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such political subdivision and to all other interested persons. The resolution shall be published in a newspaper of general circulation in the political subdivision.

**Subd. 4. Continuation of active municipal authorities.** Active municipal authorities established on or before June 30, 1971, will continue to function and operate under the provisions of section 462.411. An active authority is herein defined as (1) being legally formulated and filed with the commissioner of energy, planning and development and (2) shall have an active program or proof of an application for a public housing or redevelopment program received by the federal government on or before June 30, 1971.

Any authority established under provisions of section 462.411 that does not have an active application for housing or renewal assistance on July 1, 1971, is hereby terminated as of that date, provided, however, that a new authority may be established at any time thereafter pursuant to section 462.426.

**History:** 1971 c 901 s 2; 1981 c 356 s 248; 1982 c 424 s 74

#### **462.428 APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS.**

**Subdivision 1. County commissioners.** When the governing body of a county adopts a resolution authorizing a county authority to function as aforesaid, said governing body shall appoint five persons as commissioners of the county authority. The membership of the commission will reflect an areawide distribution on a representative basis. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years respectively, from the date of their appointment. Thereafter commissioners shall be appointed as aforesaid for a term of office of five years except that all vacancies shall be filled for the unexpired term, such appointments to be made by the governing body of said county.

**Subd. 2. Multi-county commissioners.** The governing body in the case of a county, and the mayor with the approval of the governing body in the case of a municipality, of each political subdivision included in a multi-county authority shall appoint one person as a commissioner of such authority. Each such commissioner to be first appointed may be appointed at or after the time of the

adoption of the resolution declaring the need for such multi-county authority or declaring the need for the inclusion of such political subdivision in the area of operation of such multi-county authority. In the case of a multi-county authority comprising only two political subdivisions, the commissioners appointed by the appointing authorities of the two participating political subdivisions shall appoint one additional commissioner, and his successors, whose term of office shall be as herein provided for a commissioner of a multi-county authority. If the area of operation of such multi-county authority is increased due to the subsequent addition to the multi-county authority of one or more political subdivisions, the appointment made by the commissioners under the foregoing provisions shall be vacated. When the area of operation of a multi-county authority is increased to include an additional political subdivision or subdivisions as provided above, the appointing authority of each such additional political subdivision shall thereupon appoint one additional person as a commissioner of the multi-county authority. The appointing authority of each political subdivision shall appoint the successors of the commissioner appointed by it. The commissioners of a multi-county authority shall be appointed for terms of five years except that all vacancies shall be filled for the unexpired terms.

**Subd. 3. Certificates of appointment; removal of commissioners; quorum; meetings; eligible appointees; chairman and secretary of authority.** A certified copy of the certificate of appointment of each commissioner shall be filed with the commissioner of energy, planning and development.

A commissioner of a county or multi-county authority may be removed by the body or officer which appointed him for the same causes and in the same manner as is provided herein with respect to the removal of commissioners of an authority for a municipality.

The powers of a county or multi-county authority shall be vested in the commissioners in office from time to time. A majority of the commissioners of such authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. Meetings of the commissioners of the authority may be held anywhere within the perimeter boundaries of the area of operation of the authority or within any additional area where the authority is authorized to undertake a project. Appointments may be made of any persons as commissioners of such authority who reside within such boundaries or area, and who are otherwise eligible for such appointments under sections 462.415 to 462.705.

The commissioners of a county or multi-county authority shall elect a chairman and a secretary from among the commissioners.

**History:** 1971 c 901 s 3; 1981 c 356 s 248; 1982 c 424 s 75

#### **462.429 POWERS OF COUNTY AND MULTI-COUNTY AUTHORITIES.**

A county or multi-county authority and the commissioners thereof shall, within the area of operation of such authority, have the same functions, rights, powers, duties, privileges, immunities and limitations as are provided for housing and redevelopment authorities created for municipalities, and for the commissioners of such authorities; and all the provisions of law applicable to housing and redevelopment authorities created for municipalities and the commissioners thereof shall be applicable to county and multi-county authorities and the commissioners thereof, except as clearly indicated otherwise from the context.

**History:** 1971 c 901 s 4

**462.4291 EFFECT UPON MUNICIPAL HOUSING AND REDEVELOPMENT AUTHORITIES.**

Nothing in Laws 1971, Chapter 901 contained shall be construed to alter or impair the powers and obligations of municipal housing and redevelopment authorities created under Minnesota Statutes, Chapter 462, prior to June 8, 1971, nor shall the area of operation of such municipal authority be included within the area of operation of a county or multi-county authority created pursuant to Laws 1971, Chapter 901. With consent of the board of commissioners of such municipal authority and the governing body of the municipality a municipal authority may become a part of a county or multi-county authority upon assumption by such authority of the obligations of the municipal authority.

**History:** 1971 c 901 s 6

**462.43** [Repealed, 1947 c 487 s 61]

**462.431** [Repealed, 1981 c 79 s 2]

**462.432 CONFLICT OF INTEREST; PENALTIES FOR FAILURE TO DISCLOSE.**

Subdivision 1. **Disclosure.** Before taking an action or making a decision which could substantially affect his financial interests or those of an organization with which he is associated, a commissioner or employee of an authority shall: (a) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest; and (b) submit the statement to the board of commissioners of the authority, whereupon the disclosure shall be entered upon the minutes of the authority at its next meeting. The disclosure statement shall be submitted no later than one week after the employee or commissioner becomes aware of the potential conflict of interest. However, no disclosure statement shall be required if the effect on the commissioner or employee of the relevant decision or act will be no greater than on other members of his business, profession or occupation or if the effect on the organization with which he is affiliated is indirect, remote and insubstantial. A potential conflict of interest is present if the commissioner or employee knows or has reason to know that the organization with which the commissioner or employee is affiliated is or is reasonably likely to become a participant in a project or development which will be affected by the relevant action or decision. Any individual who knowingly fails to submit a statement required by this subdivision or submits a statement which he knows contains false information or which he knows omits required information is guilty of a gross misdemeanor.

Subd. 2. **Effect of disclosure.** If an employee has a potential conflict of interest, his superior shall immediately assign the matter to another employee who does not have a potential conflict of interest. A commissioner who has a potential conflict of interest shall not attempt to influence an employee in any matter related to the action or decision in question, shall not take part in the action or decision, and shall not be counted toward a quorum during the portion of any meeting of the authority in which the action or decision is to be considered. Any individual who knowingly violates this subdivision is guilty of a gross misdemeanor.

Subd. 3. **Conflicts forbidden.** A commissioner or employee of an authority who knowingly takes part in any manner in making any sale, lease, or contract in his official capacity in which he has a personal financial interest is guilty of a gross misdemeanor.

Subd. 4. **Agent or attorney.** For a period of one year after termination of his position as a commissioner or employee of an authority no former commissioner or former employee of an authority shall appear personally before any court or



governmental department or agency as agent or attorney for anyone other than the authority in connection with any proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the authority is substantially interested, and with respect to which he took any action or made any decision as a commissioner or employee of the authority at any time within a period of one year prior to the termination of such employment.

**Subd. 5. Limitations.** With respect to each program established by the authority to provide financial assistance or financing with respect to real property other than rental assistance programs, an employee or commissioner may receive such financial assistance or financing not more than once.

**Subd. 6. Injunction.** The county attorney may seek an injunction in the district court to enforce the provisions of this section.

**History:** 1981 c 79 s 1; 1982 c 471 s 1,2

#### **462.435 REMOVAL; HEARING; NOTICE.**

For inefficiency or neglect of duty, or misconduct in office, a commissioner of an authority may be removed by the governing body of the municipality, but a commissioner shall be removed only after a hearing and after he shall have been given a copy of the charges at least ten days prior to the hearing and had an opportunity to be heard in person or by counsel. When charges in writing have been preferred against a commissioner, pending final action thereon the governing body may temporarily suspend him, but, if it is found that those charges have not been substantiated, he shall immediately be reinstated in his office. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

**History:** 1947 c 487 s 6

**462.44** [Repealed, 1947 c 487 s 61]

#### **462.441 POWERS; QUORUM; OFFICERS; MEETING; COMPENSATION; EXPENSES.**

The powers of each authority shall be vested in the commissioners thereof in office at any time; a majority of whom shall constitute a quorum for all purposes. Each authority shall select a chairman and a secretary from among its commissioners and shall adopt such bylaws and other rules for the conduct of its affairs as it deems appropriate. The regular meetings of an authority shall be held in a fixed place and shall be open to the public. Each commissioner shall be entitled to receive necessary expenses, including traveling expenses, incurred in the performance of his duties. Each commissioner may be paid for attending meetings of the authority, regular and special \$25 per meeting, the aggregate of all payments to each such commissioner for any one year not to exceed, however, \$1,500.

**History:** 1947 c 487 s 7; 1949 c 505 s 3; 1969 c 676 s 2; 1971 c 745 s 6

#### **462.445 POWERS, DUTIES.**

**Subdivision 1. Schedule of powers.** An authority shall be a public body corporate and politic and shall have all the powers necessary or convenient to carry out the purposes of sections 462.415 to 462.705 (but not the power to levy and collect taxes or special assessments except as provided in sections 462.515 to 462.545 with respect to redevelopment projects only) including the following powers in addition to others granted in these sections:

(1) To sue and be sued; to have a seal, which shall be judicially noticed, and to alter the same at pleasure; to have perpetual succession; and to make, and

from time to time to amend and repeal, rules and regulations not inconsistent with these sections;

(2) To employ an executive director, technical experts, and such officers, agents, and employees, permanent and temporary, as it may require, and determine their qualifications, duties, and compensation; for such legal services as it may require, to call upon the chief law officer of the municipality or to employ its own counsel and legal staff; so far as practicable, to use the services of local public bodies, in its area of operation, such local public bodies, if requested, to make such services available;

(3) To delegate to one or more of its agents or employees such powers or duties as it may deem proper;

(4) Within its area of operation to undertake, prepare, carry out, and operate projects and to provide for the construction, reconstruction, improvement, extension, alteration, or repair of any project or part thereof;

(5) Subject to the provisions of section 462.511, to give, sell, transfer, convey, or otherwise dispose of real or personal property or any interest therein and to execute such leases, deeds, conveyances, negotiable instruments, purchase agreements, and other contracts or instruments, and take such action, as may be necessary or convenient to carry out the purposes of these sections;

(6) Within its area of operation to acquire real or personal property or any interest therein by gifts, grant, purchase, exchange, lease, transfer, bequest, devise, or otherwise, and by the exercise of the power of eminent domain, in the manner provided by Minnesota Statutes 1945, Chapter 117, and any amendments thereof or supplements thereto, to acquire real property which it may deem necessary for its purposes under these sections, after the adoption by it of a resolution declaring that the acquisition of the real property is necessary to eliminate one or more of the conditions found to exist in the resolution adopted pursuant to section 462.425 or found to exist by section 462.415, subdivision 5, or is necessary to carry out a redevelopment project as defined in section 462.421, subdivision 13;

(7) Within its area of operation, and without the adoption of an urban renewal plan, to acquire, by all means as set forth in clause (6) of this subdivision, including by the exercise of the power of eminent domain, in the manner provided by chapter 117, and without the adoption of a resolution provided for in subdivision 1, clause (6), real property, and to demolish, remove, rehabilitate or reconstruct the buildings and improvements or construct new buildings and improvements thereon, or to so provide through other means as set forth in Laws 1974, Chapter 228, or to grade, fill and construct foundations or otherwise prepare the site for improvements, and to dispose of said property pursuant to section 462.525, provided that the provisions of section 462.525 requiring conformance to an urban renewal plan shall not apply, and to finance such activities by means of the redevelopment project fund or by means of tax increments or tax increment bonds or by the methods of financing provided for in section 462.545 or by means of contributions from the municipality provided for in section 462.581, clause (9), or by any combination of such means; provided that, real property with buildings or improvements thereon shall only be acquired when the buildings or improvements are substandard; and provided further that the exercise of the power of eminent domain under this clause shall be limited to real property which contains buildings and improvements which are vacated and substandard. For the purpose of this subparagraph, substandard buildings or improvements mean buildings or improvements that are dilapidated or obsolescent, faultily designed, lack adequate ventilation, light, or sanitary facilities, or any combination of these or other factors that are detrimental to the safety or health of the community.

(8) Within its area of operation to determine the level of income constituting low or moderate family income. Such income level shall be that level below which

there is not available within the area of operation a substantial supply of decent, safe and sanitary housing provided by private enterprise without subsidy at prices or rents within the financial means of persons and families of such incomes. The authority may establish various income levels for various family sizes. In making its determination the authority may consider income levels which may be established by the federal housing administration or a similar or successor federal agency for the purpose of federal loan guarantees or subsidies for persons of low or moderate income. The authority may use such determination as a basis for the maximum amount of income for admissions to housing development projects owned or operated by it;

(9) To provide in federally assisted projects such relocation payments and assistance as may be necessary to comply with the requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and any amendments or supplements thereto.

Subd. 2. [Repealed, 1971 c 595 s 29]

Subd. 3. **Superior public use.** Real property in an area, needed or convenient for a project, which is to be acquired by condemnation pursuant to this section, may be acquired by the authority for the project, including any property devoted to a public use, whether or not held in trust, notwithstanding that such property may have been previously acquired by condemnation or is owned by a public utility corporation, it being hereby expressly determined that the public use in conformity with the provisions of this act shall be deemed a superior public use; provided, however, that property devoted to a public use may be so acquired only if the governing body of the municipality has approved its acquisition by the authority. An award of compensation shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance or reconstruction, or proposed assembly, clearance or reconstruction for the purposes of this act of the real property in an area.

Subd. 4. **Additional powers.** An authority shall further have power:

(1) To make, or agree to make, such payments in lieu of taxes to the city or the county, the state or any political subdivision thereof, as it finds consistent with the purposes of sections 462.415 to 462.705;

(2) To cooperate with or act as agent for the federal government, the state or any state public body, or any agency or instrumentality of the foregoing, in carrying out any of the provisions of sections 462.415 to 462.705 or of any other related federal, state or local legislation; and upon the consent of the governing body of the municipality purchase, lease, manage, or otherwise take over any housing project already owned and operated by the government of the United States or any agency thereof;

(3) To make (i) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, and (ii) plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements. The authority is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight;

(4) To borrow money or other property and accept contributions, grants, gifts, services, or other assistance from the federal government, the state government, state public bodies, or from any other public or private sources;

(5) To include in any contract for financial assistance with the federal government any conditions which the federal government may attach to its

financial aid of a project, not inconsistent with purposes of sections 462.415 to 462.705, including obligating itself (which obligation shall be specifically enforceable and not constitute a mortgage, notwithstanding any other laws) to convey to the federal government the project to which such contract relates upon the occurrence of a substantial default with respect to the covenants or conditions to which such authority is subject; to provide in such contract that, in case of such conveyance, the federal government may complete, operate, manage, lease, convey or otherwise deal with the project until such defaults are cured if the federal government agrees in such contract to re-convey to the authority the project as then constituted when such defaults have been cured;

(6) To issue bonds, notes, or other evidences of indebtedness, as hereinafter provided, for any of its corporate purposes and to secure the same by mortgages upon property held or to be held by it or by pledge of its revenues, including grants or contributions;

(7) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control;

(8) Within its area of operation to determine where substandard, slum, or deteriorated areas exist or where there is unsafe, unsanitary, or overcrowded housing;

(9) To establish and revise from time to time the maximum amount of income of tenants entitled to admission to housing projects of an authority, subject to the qualifications in sections 462.415 to 462.705 contained;

(10) To undertake and carry out studies and analyses of the housing and redevelopment needs within its area of operation and of the meeting of those needs (including data with respect to population and family groups and the distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, desirable patterns for land use and community growth, and other factors affecting the local housing and redevelopment needs and the meeting thereof) and to make the results of those studies and analyses available to the public and building, housing and supply industries; and to engage in research and disseminate information on housing and redevelopment;

(11) When a local public body does not have a planning agency or when a comprehensive or general community development plan or plans is or are not already available by the planning agency, to make or cause to be made such plans as a guide in the more detailed planning of housing and redevelopment areas;

(12) To lease or rent any dwellings, accommodations, lands, buildings, structures, or facilities embraced in any project and (subject to the limitations contained in sections 462.415 to 462.705 with respect to the rental of dwellings in housing projects) to establish and revise the rents or charges therefor;

(13) To own, hold, and improve real or personal property and to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein;

(14) To insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards;

(15) To procure or agree to the procurement of government insurance or guarantees of the payment of any bonds or parts thereof issued by an authority, including the powers to pay premiums on such insurance;

(16) To make such expenditures as may be necessary to carry out the purposes of sections 462.415 to 462.705;

(17) To enter into an agreement or agreements with any state public body to provide informational service and relocation assistance to families, individuals,

business concerns and nonprofit organizations displaced or to be displaced by the activities of any state public body or bodies.

(18) To compile and maintain a catalog of all vacant, open and undeveloped land or land which contains substandard buildings and improvements as that term is defined in subdivision 1, clause (7) owned or controlled by the authority or by the governing body or bodies within its area of operation and to compile and maintain a catalog of all authority owned real property that is in excess of the foreseeable needs of said authority, in order to determine and recommend if such real property compiled in either catalog is appropriate for disposal pursuant to the provisions of section 462.525, subdivisions 9 and 10.

(19) To recommend to the municipality concerning the enforcement of the applicable health, housing, building, fire prevention and housing maintenance code requirements as relates to residential dwelling structures which are being rehabilitated by low or moderate income persons pursuant to section 462.525, subdivision 9 for the period of time necessary to complete such rehabilitation, as determined by the authority.

(20) To recommend to the municipality the initiation of municipal powers, against certain real properties, relating to repair, closing, condemnation, or demolition of unsafe, unsanitary, hazardous, and unfit buildings, as provided in section 462.581, clause (5).

**Subd. 5. Exercise of powers.** An authority may exercise all or any part or combination of the powers granted by sections 462.415 to 462.705 within its area of operation. Any two or more authorities may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds, notes, or other obligations and giving security therefor, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects located within the area of operation of any one or more of said authorities. For such purpose an authority may by resolution prescribe and authorize any other housing authority or authorities, so joining or cooperating with it, to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the authority or authorities so joining or cooperating or in its own name.

A county or municipality may join or cooperate with any authority to permit the authority, on behalf of the county or municipality, to plan, undertake, administer, and carry out a leased existing housing assistance payments program, pursuant to Section 8 of the United States Housing Act of 1937 as amended, 42 United States Code Section 1437 f. A municipality may so join or cooperate with an authority unless there is an authority in the municipality which has been authorized by resolution under section 462.425 to transact business or exercise powers. A county may so join or cooperate with an authority unless (a) there is a county authority which has been authorized by resolution under section 462.426 to transact business or exercise powers, or the county is a member of a multicounty authority, and (b) the authority has initiated or has in progress an active program or has applied for federal assistance in a public housing or redevelopment program within 12 months after its establishment.

**Subd. 6. Subject to laws of locality.** All projects of an authority shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated.

**Subd. 7. Veterans' and servicemen's preferences.** An authority is authorized to include in any contract with the federal government provision for veterans' preferences, servicemen's preferences and other preferences with respect to veterans and servicemen as may be required by any federal law or regulation as a condition of federal financial assistance for a project.

Subd. 8. **Certain papers sent to commission.** Each authority shall transmit to the commission certified copies of (1) any application to the federal government for financial assistance; (2) any proposed contract with the federal government; (3) the urban redevelopment plan and the urban redevelopment project documents specified in sections 462.515, 462.521 and 462.525, and the annual urban redevelopment budget; (4) the low-rent public housing development program and the plans and layout, specifications and drawings therefor including estimated cost, proposed method of financing, and detailed estimates of expenses and revenues thereof; (5) the low-rent public housing management program and the annual or periodical management budget therefor, and amendments of said documents, together with such supporting data as may be requested by the commission.

Upon examination of the documents the commission may make suggestions to the authority upon the matters to which the documents relate, and the commission may make public such suggestions. The commission shall act in an advisory capacity and nothing done by the commission under the provisions of this subdivision shall affect the validity of any action of the authority.

Subd. 9. **Rehabilitation loans and grants.** An authority may develop and administer a housing rehabilitation loan and grant program with respect to property located anywhere within its boundaries, which property is owned by persons of low and moderate income, on such terms and conditions as it determines.

Subd. 10. **Interest reduction program.** An authority may develop and administer an interest reduction program to assist the financing of the construction, rehabilitation, and purchase of housing units which are primarily for occupancy by individuals of low or moderate income and related and subordinate facilities. An authority may:

(a) pay in periodic payments or in a lump sum payment any or all of the interest on loans made pursuant to chapter 462C or subdivision 9;

(b) pay any or all of the interest on bonds issued pursuant to chapter 462C, or pursuant to this chapter for the purpose of making loans authorized by subdivision 9;

(c) pay in periodic payments or in a lump sum payment any or all of the interest on loans made by private lenders to purchasers of housing units;

(d) pay any or all of the interest due on loans made by private lenders to a developer for the construction or rehabilitation of housing units;

(e) pay in periodic payments or in a lump sum payment any or all of the interest on loans made by any person to a developer for the construction, rehabilitation, and purchase of commercial facilities which are related and subordinate to the construction, rehabilitation, or purchase of housing units which receive interest reduction assistance provided that the entire development is composed primarily of housing units;

(f) pay any or all of the interest on bonds issued pursuant to chapter 474, when the bonds are issued for a project which is related and subordinate to the construction, rehabilitation, or purchase of housing units which receive interest reduction assistance provided that the entire development is composed primarily of housing units;

(g) pay in periodic payments or in a lump sum payment any or all of the interest on loans made pursuant to Laws 1982, Chapter 590, Sections 1 to 5 for the rehabilitation or preservation of small and medium sized commercial buildings; and

(h) pay any or all of the interest on bonds issued pursuant to section 459.33.

Subd. 11. **Interest reduction program; limitations.** In developing the interest reduction program authorized by subdivision 10 the authority shall consider:

- (a) the availability and affordability of other governmental programs;
- (b) the availability and affordability of private market financing; and
- (c) the need for additional affordable mortgage credit to encourage the construction and enable the purchase of housing units within the jurisdiction of the authority.

The authority shall promulgate regulations for the interest reduction program. Interest reduction assistance shall not be provided when the authority determines that financing for the purchase of a housing unit or for the construction or rehabilitation of housing units is otherwise available from private lenders upon terms and conditions which are affordable by the applicant, as provided by the authority in its regulations.

For the purposes of this subdivision an "assisted housing unit" is a housing unit which is rented or to be rented and which is a part of a rental housing development where the financing for the rental housing development is assisted with interest reduction assistance provided by the authority during the calendar year. If interest reduction assistance is provided for construction period interest for a rental housing development, the housing units in the housing development shall be considered assisted housing units for a period after occupancy of the housing units which is equal to the period which interest reduction assistance is provided to assist the construction financing of the rental housing development. In any calendar year when an authority provides interest reduction assistance for assisted housing units (1) at least 20 percent of the total assisted housing units within the jurisdiction of the authority shall be held available for rental to families or individuals with an adjusted gross income which is equal to or less than 80 percent of the median family income, and (2) at least an additional 55 percent of the total assisted housing units within the jurisdiction of the authority shall be held available for rental to individuals or families with an annual adjusted gross income which is equal to or less than 66 times 120 percent of the monthly fair market rent for the unit established by the United States department of housing and urban development. At least 80 percent of the aggregate dollar amount of funds appropriated by an authority within any calendar year to provide interest reduction assistance for financing of construction, rehabilitation or purchase of single family housing, as that term is defined in section 462C.02, subdivision 4, shall be appropriated for housing units which are to be sold or occupied by families or individuals with an adjusted gross income which is equal to or less than 110 percent of median family income. For the purposes of this subdivision, "median family income" means the median family income established by the United States department of housing and urban development for the nonmetropolitan county or the standard metropolitan statistical area, as the case may be. The adjusted gross income may be adjusted by the authority for family size. An authority which establishes a program pursuant to this subdivision shall on or before January 2 of each year report to the commissioner of the Minnesota department of energy, planning and development, a description of the program established and a description of the recipients of interest reduction assistance.

**Subd. 11a. Interest reduction program, limitations.** An authority may provide interest reduction assistance for a rental housing development which is located in a targeted area as defined in section 462C.02 without regard to the limitations imposed upon assisted housing units by subdivision 11.

**Subd. 12. Interest reduction program; required agreements.** (a) Under any interest reduction program authorized by subdivision 10, which provides interest reduction assistance pursuant to clauses (a) to (f), the authority shall obtain an agreement from the developer or other benefited owner of the property. The agreement shall provide that upon the benefited owner's sale or transfer of the property the authority shall be paid in an amount determined under clause (b) and

that this obligation is secured by an interest in the property. The interest in the property shall consist of either a right of co-ownership or a lien or mortgage against the property and may be subordinate to other interests in the property. For purposes of this subdivision, "property" means property the construction, acquisition or improvement of which is financed in whole or part with the proceeds of a loan upon which the interest payments are reduced under an interest reduction program.

(b)(i) Upon transfer or sale of the property the amount required to be paid to the authority under clause (a) shall equal at least

(A) the sale price of the property, less

(B) the downpayment, any payments of principal, other payments made to construct, acquire or improve the property and any outstanding liens or mortgages securing loans, advances, or goods and services provided for the construction, acquisition or improvement of the property, less

(C) the amount, if any, which the authority determines should be allowed for the developer or other benefited property owner as a return on the developer's or other benefited property owner's investment in the property, multiplied by

(D) a fraction, the numerator of which is the interest reduction payments made by the authority and the denominator of which is the total of the downpayment, all principal and interest payments including any portion paid by the authority, and other payments made to construct, acquire or improve the property. In the case of a transfer, other than an arms-length sale, an appraisal shall be substituted for the sale price.

(ii) If the interest reduction payments are made for a bond issue, or other obligation, the proceeds of which are lent to five or more purchasers of separate housing units, the fraction under clause (b)(i)(D) may be determined on the basis of an estimate of the aggregate factors for all the borrowers of the proceeds, of the bonds or other obligations participating in the interest reduction program.

The provisions of this subdivision shall not apply to interest reduction assistance provided for construction period interest for housing units which are to be sold upon completion to purchasers who intend at the time of purchase to occupy the housing units as their principal place of residence.

**Subd. 13. Interest reduction program.** The authority to authorize payment of interest reduction assistance pursuant to subdivisions 10, 11 and 12 shall expire on January 1, 1986. Interest reduction assistance payments authorized prior to January 1, 1986 may be paid after January 1, 1986.

**Subd. 14. Authorities created pursuant to special law.** Except as expressly limited by the special law establishing the authority, an authority created pursuant to special law shall have as powers granted by any statute to any authority created pursuant to this chapter.

**History:** 1947 c 487 s 8; 1949 c 505 s 4; 1951 c 32 s 2; 1951 c 568 s 2; 1955 c 565 s 3; 1957 c 810 s 3; 1959 c 545 s 4; 1969 c 676 s 3,4; 1971 c 618 s 1; 1971 c 745 s 8; 1973 c 364 s 1; 1974 c 228 s 2,3; 1974 c 443 s 5; 1979 c 51 s 1; 1979 c 180 s 2; 1982 c 424 s 76-78; 1982 c 471 s 3; 1982 c 577 s 6; 1982 c 590 s 6-9

**462.45** [Repealed, 1947 c 487 s 61]

#### **462.451 ACCOUNTING.**

**Subdivision 1. Annual reports, duties of state auditor.** Each authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall annually in the month of January as to accounts kept on a calendar year basis and within 30 days of the end of its fiscal year as to accounts kept on a fiscal year basis, make a report thereof to the commissioner of energy, planning and



development, to the state auditor, and to the governing body of the municipality, such reports to be in a form prescribed by the commissioner of energy, planning and development. All powers conferred and duties imposed upon the state auditor with respect to state and county officers, institutions, property and improvements, are hereby extended to authorities, except the authority to prescribe the form of reports or accounts provided in this act. The state auditor shall make such audits of the low rent public housing funds of the authorities as he shall deem in the public interest, and he shall file a written report covering his audits with the authority, the city clerk of the municipality, and the commissioner of energy, planning and development. The first report of the state auditor shall include all expenditures and activities of the local authority from the creation of the authority. Each authority shall be liable to the state and shall pay all costs and expenses of such examination, solely from funds lawfully available for such purposes.

**Subd. 2. Commissioner of energy, planning and development; powers, duties.** The commissioner of energy, planning and development may investigate the affairs of authorities and their dealings, transactions, and relationships. He shall have the power to examine into the properties and records of authorities and to prescribe methods of accounting and the rendering of periodical reports in relation to projects undertaken by authorities, but in prescribing the form of accounts the commissioner of energy, planning and development shall take into consideration any requirements of the federal government under any contract with an authority. The commissioner of energy, planning and development may from time to time make, amend, and repeal rules and regulations prescribing standards and stating principles governing the planning, construction, maintenance, and operation of projects by authorities. Compliance with sections 462.415 to 462.705 and the rules and regulations adopted by the commissioner of energy, planning and development may be enforced by the commissioner of energy, planning and development by a proceeding in equity.

**History:** 1947 c 487 s 9; 1951 c 568 s 3; 1957 c 98 s 1; 1969 c 676 s 5; 1973 c 492 s 7; 1981 c 356 s 248; 1982 c 424 s 79

#### **462.455 LIABLE IN CONTRACT OR TORT.**

An authority shall be liable in contract or in tort in the same manner as a private corporation. The members of an authority shall not be personally liable as such on its contracts, or for torts not committed or directly authorized by them. The property or funds of an authority shall not be subject to attachment, or to levy and sale on execution, but, if an authority refuses to pay a judgment entered against it in any court of competent jurisdiction, the district court for the county in which the authority is situated may, by writ of mandamus, direct the treasurer of the authority to pay the judgment.

**History:** 1947 c 487 s 10

**462.46** [Repealed, 1947 c 487 s 61]

#### **462.461 LETTING OF CONTRACTS; BONDS.**

**Subdivision 1.** All construction work, and work of demolition or clearing, and every purchase of equipment, supplies, or materials, necessary in carrying out the purposes of sections 462.415 to 462.705, that shall involve the expenditure of \$5,000 or more shall be awarded by contract as hereinafter provided. Before receiving bids under the provisions of these sections the authority shall publish, once a week for two consecutive weeks in an official newspaper of general circulation in the community a notice that bids will be received for that construction work, or that purchase of equipment, supplies, or materials, stating the nature of the work and the terms and conditions upon which the contract is to be let,

naming therein a time and place where bids will be received, opened and read publicly, which time shall be not less than seven days after the date of the last publication. After the bids have been duly received, opened and read publicly and recorded, the authority shall award the contract to the lowest responsible bidder, the authority reserving the right, however, to reject any or all bids, each such contract to be duly executed in writing, and the person to whom the contract is awarded shall give sufficient bond to the authority for its faithful performance. If no satisfactory bid is received, the authority may readvertise. The authority shall have the right to set up reasonable qualifications to determine the fitness and responsibility of bidders and to require bidders to meet such qualifications before bids are accepted.

Subd. 2. If the authority by an affirmative vote of four-fifths of its members shall declare that an emergency exists requiring the immediate purchase of any equipment or material or supplies at a cost in excess of \$5,000, but not exceeding \$10,000 in amount, or making of emergency repairs, it shall not be necessary to advertise for bids, but the material, equipment, or supplies may be purchased in the open market at the lowest price obtainable, or the emergency repairs may be contracted for or performed without securing formal competitive bids. An emergency, as considered in sections 462.415 to 462.705, shall be understood to be unforeseen circumstances or conditions which result in the placing in jeopardy of human life or property.

Subd. 3. Bonds shall be required from contractors for any works of construction as provided in and subject to all the provisions of Minnesota Statutes 1945, Sections 574.26 to 574.31.

Subd. 4. An authority need not require either competitive bidding or bonds in the case of a contract for the acquisition of a low rent housing project for which financial assistance is provided by the federal government or any agency or instrumentality thereof, and which does not require any direct loan or grant of money from the municipality as a condition of such federal financial assistance, and where such contract provides for the construction of such a project upon land not owned by the authority at the time of such contract, or owned by the authority for redevelopment purposes, and provides for the conveyance or lease to the authority of such project or improvements upon completion of construction.

**History:** 1947 c 487 s 11; 1969 c 676 s 6-8; 1982 c 424 s 80,81

#### **462.465 LOW RENT HOUSING.**

Subdivision 1. **Preliminary research; approval by municipality.** An authority shall not initiate any low rent housing project, and shall not enter into any contract with respect thereto, until it has made findings, after an analysis of the local housing market, (1) that there is need for such low rent housing which cannot be met by private enterprise and (2) that a gap of at least 20 percent has been left between the upper shelter rental limits for admission to the proposed low rent housing and the lowest shelter rents at which private enterprise is providing (through new construction and existing structures) a substantial supply of decent, safe and sanitary housing; and unless the governing body of the municipality has by resolution affirmed those findings of the authority and approved the provision of that low rent housing project; provided however that this subdivision shall not be applicable to any public low rent housing projects for which financial assistance is provided by the federal government or any agency or instrumentality thereof, and which does not require any direct loan or grant of money from the municipality as a condition of a federal financial assistance. An authority shall not make any contract with the federal government or any agency thereof for a low rent housing project unless the governing body of the municipality has by resolution approved the provision of that low rent housing project.

Subd. 2. [Repealed, 1971 c 745 s 16]

Subd. 3. [Repealed, 1971 c 745 s 16]

**History:** 1947 c 487 s 12; 1949 c 505 s 5; 1951 c 568 s 4; 1971 c 745 s 9

#### **462.466 HOUSING DEVELOPMENT PROJECTS.**

Before carrying out a housing development project an authority must find that the project is necessary to alleviate a shortage of decent, safe and sanitary housing for persons of low or moderate income and their families as such income is determined by the authority pursuant to section 462.445, subdivision 1. No housing development project involving the use of the power of eminent domain shall be carried out by an authority without the prior approval of the governing body of the municipality in which the project is located. A housing development project or any interest therein may be sold or leased to private developers by sale or lease before, during or after the completion of construction of improvements thereon. Such sale or lease shall be in accordance with the provisions of section 462.525, subdivisions 2, 5 and 7, except that the provisions thereof requiring conformance to a redevelopment plan shall not be applicable. Such sale or lease may be made for other than housing purposes if the authority finds that changed circumstances arising subsequent to the acquisition of the project make a sale or lease for housing purposes inappropriate. Nothing in this section shall be construed to limit the power of the authority to acquire or dispose of real property pursuant to sections 462.445, subdivision 1, clause (7) and 462.525, subdivisions 9 and 10, except that any exercise of the power of eminent domain pursuant to section 462.445, subdivision 1, clause (7) shall not be carried out by an authority without the prior approval of the governing body of the municipality in which the housing development project is located. The authority shall have the power to transfer such real property in accordance with the provisions of sections 462.445, subdivision 1, clause (7) and 462.525, subdivisions 9 and 10 before, during or after the completion of construction, rehabilitation, or improvements thereon, except that such transfer shall be in accordance with the provisions of section 462.525, subdivisions 2, 5 and 7 except as elsewhere provided in Laws 1974, Chapter 228.

**History:** 1971 c 745 s 10; 1974 c 228 s 4

**462.47** [Repealed, 1947 c 487 s 61]

#### **462.471 RENTALS.**

Subdivision 1. **Basis of charge.** Each authority shall manage and operate its housing projects in an efficient manner to enable it to fix the rentals or payments for dwelling accommodations at rates consistent with its providing decent, safe, and sanitary dwelling accommodations for persons of low income, and no authority shall construct or operate any housing project for profit, or as a source of revenue to the municipality. To this end an authority shall fix the rentals or payments for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income, and receipts of the authority from whatever sources derived) will be sufficient (1) to pay, as the same become due, the principal and interest on the bonds of the authority; (2) to create and maintain such reserves as may be required to assure the payment of principal and interest as they become due on its bonds; (3) to meet the cost of, and to provide for, maintaining and operating the projects (including necessary reserves therefor and the cost of any insurance) and the administrative expenses of the authority; and (4) to make such payments in lieu of taxes as it determines are consistent with the maintenance of the low rent character of projects.

Subd. 2. **Realtors.** With respect to the management and operation of a housing project the authority may, in its discretion, employ reliable real estate operators or firms or brokers or the municipality to perform those services for it, but no such real estate operators or firms or brokers or the municipality shall have any authority in the matter of tenant selection or the fixing of rentals. Each authority employing any such real estate operators or firms or brokers or the municipality shall require the execution of a contract of employment stating the terms and conditions under which the services are to be performed, which shall be subject to the approval of the commissioner of energy, planning and development.

**History:** 1947 c 487 s 13; 1951 c 568 s 5; 1981 c 356 s 248

#### 462.475 RENTALS, TENANT ADMISSIONS.

Subdivision 1. **Authority, powers, duties.** In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant admissions.

(1) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons of low income;

(2) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; and

(3) An authority in its operations within a municipality shall not approve a family as tenant in a housing project if the family has an aggregate annual net income at the time of admission from all sources which is in excess of five times the annual rental for the accommodations to be provided the family. As used in this section, aggregate annual net income shall not include:

(a) the income of a family member, other than the head of the household or his spouse, who is under 18 years of age or who is a full time student;

(b) the first \$300 of the income of a secondary wage earner who is the spouse of the head of the household;

(c) \$300 for each member of the family residing in the household, other than the head of the household or his spouse, who is under 18 years of age or who is 18 years of age or older and is disabled, handicapped or a full time student;

(d) nonrecurring income as defined by the authority;

(e) five percent of the family's gross income from all sources or, in the case of an elderly family, ten percent of the family's gross income;

(f) extraordinary medical expenses or other expenses resulting from unusual circumstances as determined by the authority; and

(g) an amount equal to the moneys received by the head of the household or his spouse from or under the direction of any public or private nonprofit child placing agency for the care and maintenance of one or more persons who are under 18 years of age and were placed in the family by that agency.

(4) In computing the rental for the purpose of this section, there shall be included in the rental the average annual cost (as determined by the authority) to occupants of heat, water, electricity, gas, cooking fuel, and other necessary services or facilities, whether or not the charge for such services and facilities is included in the rental, provided, that an authority may adopt as its maximum net income for admission of families any maximum which is less than either: (a) the maximum net family income computed under this subdivision; or (b) the maximum net family income determined pursuant to section 462.491; or (c) the maximum net

family income determined pursuant to the housing and community development act of 1974.

Subd. 2. [Repealed, 1957 c 810 s 8]

**History:** 1947 c 487 s 14; 1951 c 568 s 6; 1959 c 545 s 5; 1969 c 676 s 9; 1971 c 745 s 14; 1976 c 109 s 3

**462.48** [Repealed, 1947 c 487 s 61]

**462.481 DISCRIMINATION PROHIBITED, DISPLACED FAMILIES.**

There shall be no discrimination in the selection of tenants because of race or religious, political, or other affiliations, but, if the number of qualified applicants for dwelling accommodations exceeds the dwelling units available, preference shall be given to inhabitants of the municipality in which the project is located, and to the families who occupied the dwellings eliminated by demolition, condemnation, and effective closing as part of the project, as far as is reasonably practicable without discrimination against families living in other substandard areas within the same municipality.

**History:** 1947 c 487 s 15; 1955 c 565 s 10

**462.485 VETERANS PREFERENCE.**

As between applicants equally in need and eligible for occupancy of a dwelling and at the rent involved, preference shall be given to families of servicemen (including families of servicemen who died in service) and to families of veterans. In admitting families of low income to dwelling accommodations in any housing project an authority shall, as far as is reasonably practicable, give due consideration to families making application for dwelling accommodations to which families aid for dependent children is payable, and to resident families making such application to whom public relief or supplemental security income for the aged, blind and disabled shall be payable, when such families are otherwise eligible under the terms of sections 462.411 to 462.705.

**History:** 1947 c 487 s 16; 1973 c 717 s 29; 1982 c 424 s 82

**462.49** [Repealed, 1947 c 487 s 61]

**462.491 AVAILABILITY, LOW INCOME FAMILIES.**

The dwellings in public low-rent housing shall be available solely for families of low income whose net family income does not exceed the maximum net family income falling within the lowest 20 percent by number of all family incomes in the area of operation as such maximum net family income shall have been determined, or from time to time redetermined, by the authority; provided that at the end of one year after the effective date of Laws 1947, Chapter 487, and each year thereafter, this restriction shall be re-examined by the commissioner of energy, planning and development, and a public hearing shall be held by the commissioner of energy, planning and development to determine whether administrative or interpretive difficulties or unsatisfactory progress in the provision of low-rent housing or redevelopment require a modification thereof. Upon the conclusion of that hearing, the commissioner of energy, planning and development is authorized to and shall forthwith modify the restriction first set out in this section to the extent, if any, that may be required to make satisfactory progress in the provision of low-rent housing or redevelopment.

**History:** 1947 c 487 s 17; 1955 c 565 s 4; 1981 c 356 s 248

**462.495 PERIODIC INVESTIGATION OF TENANT; VETERANS PREFERENCE.**

An authority shall make periodic investigations of each family admitted to a low-rent housing project and, on the basis of said investigations, shall determine whether that family at the time of its admission (1) lived in an unsafe, unsanitary, or overcrowded dwelling or had been displaced by a project or by off-site elimination in compliance with the equivalent elimination requirement hereof, or actually was without housing, or was about to be without housing as a result of a court order of eviction, due to causes other than the fault of the tenant, and (2) had a net family income not exceeding the income limits theretofore fixed by the authority for admission of families of low income to such housing; provided that the requirement in (1) shall not be applicable in the case of the family of any serviceman or the family of any veteran who has been discharged (other than dishonorably) from, or the family of any serviceman who died in, the armed forces of the United States, where application for admission to the project is made within any time limit specified by federal law applicable to federal financial assistance for the project. If it is found upon any such investigation that the net income of any families have increased beyond the maximum income limits fixed pursuant to this act for continued occupancy in such housing, those families shall be required to move from the project.

**History:** 1947 c 487 s 18; 1949 c 505 s 6

**462.50** [Repealed, 1947 c 487 s 61]

**462.501 POWER OF AUTHORITY.**

Subdivision 1. [Repealed, 1976 c 109 s 4]

Subd. 2. **Power of authority not limited.** Nothing contained in sections 462.465 to 462.501 shall be construed as limiting the power of an authority (1) with respect to a housing project to vest in an obligee the right, in the event of a default by the authority, to take possession thereof or cause the appointment of a receiver thereof, free from all the restrictions imposed by this or the preceding section; or (2) with respect to a redevelopment project, in the event of a default by a purchaser or lessee of land, to acquire property and operate it free from such restrictions.

**History:** 1947 c 487 s 19; 1955 c 565 s 5

**462.505 DEMOLITION OF UNSAFE OR UNSANITARY BUILDINGS.**

No project for low-rent housing or the clearance of a blighted area involving the construction of new dwellings shall be undertaken by a housing authority unless, subsequent to the initiation of the project, there has been or will be elimination by demolition, condemnation and effective closing, or compulsory repair, of unsafe or unsanitary buildings situated in the area of operation substantially equal in number to the number of dwelling units provided by the project; provided that such elimination may, upon approval by the commissioner of energy, planning and development by resolution, be deferred for such period as the commissioner of energy, planning and development may determine, if the shortage of decent, safe, or sanitary housing available to families of low income is so acute as to force dangerous overcrowding of such families.

**History:** 1947 c 487 s 20; 1949 c 505 s 7; 1981 c 356 s 248

**462.51** [Repealed, 1947 c 487 s 61]

**462.511 EXISTING BUILDINGS; ACQUISITION, REPAIR.**

In order to conserve the existing housing supply, an authority is authorized to purchase or lease or otherwise acquire existing buildings for low-rent housing whenever this is feasible, in lieu of new construction. All the provisions of sections 462.415 to 462.705 relating to other low-rent housing projects shall be applicable to such projects. Before proceeding with such project, an authority shall make an analysis demonstrating:

(1) The buildings to be acquired or leased shall be in such condition that it is feasible to remodel, repair, or reconstruct them and that the buildings, when rehabilitated will provide decent, safe, and sanitary housing;

(2) The rehabilitation of the buildings comprising the project will prevent or arrest the spread of blight so as to protect the neighborhood in which the buildings are located;

(3) The rehabilitated buildings will provide low-rent housing and will otherwise accomplish the purposes of sections 462.415 to 462.705.

Nothing in this section contained shall be a limitation upon the powers of an authority with respect to a redevelopment project.

**History:** 1947 c 487 s 21; 1955 c 565 s 6; 1982 c 424 s 83

**462.515 REDEVELOPMENT PLAN.**

Any redevelopment company, or any other person, may submit a redevelopment plan to an authority, or an authority may consider a redevelopment plan on its own initiative. An authority shall immediately transmit the plan to the planning agency, of the municipality in which the area to be redeveloped is situated, for its study, if such a planning agency is in existence, or, if no such planning agency is in existence, to such agency as the governing body of the municipality shall indicate. An authority shall request the written opinion of the planning or other agency on all redevelopment plans submitted to it prior to approving those redevelopment plans, and the planning or other agency shall submit its written opinion within 30 days.

**History:** 1947 c 487 s 22; 1951 c 568 s 7

**462.52** [Repealed, 1947 c 487 s 61]

**462.521 MUNICIPAL GOVERNING BODY.**

**Subdivision 1. Findings, notice, determination.** Whenever an authority determines that a redevelopment project should be undertaken, it shall apply to the governing body of the municipality in which the project is located for approval thereof. The application shall be accompanied by a redevelopment plan, a statement of the method proposed for financing the project, and the written opinion of the planning agency, if there is one. Before approving any redevelopment plan, the governing body shall hold a public hearing thereon after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of hearing.

**Subd. 2. Findings, notice, determination; governing body.** The authority shall not proceed with the project unless the governing body finds by resolution that (1) the land in the project area would not be made available for redevelopment without the financial aid to be sought; (2) the redevelopment plans for the redevelopment areas in the locality will afford maximum opportunity, consistent with the sound needs of the locality as a whole, for the redevelopment of such areas by private enterprise; and (3) the redevelopment plan conforms to a general plan for the development of the locality as a whole. The governing body shall within 30 days after submission of the application, or resubmission as hereinafter

provided, give written notice to the authority of its decision with respect to the project. When an authority has determined the location of a proposed redevelopment project, it may, without awaiting the approval of the governing body, proceed, by option or otherwise, to obtain control of the real property within the area, but it shall not, without the prior approval by the governing body of the redevelopment plan, unconditionally obligate itself to purchase any such property. A plan which has not been approved by the governing body when submitted to it may be again submitted to it with such modifications as are necessary to meet its objections. Once approved, the determination of the authority to undertake such project and the resolution of the governing body shall be conclusive, in any condemnation proceeding, of the public need for such project.

**Subd. 3. Early acquisition.** When an authority has determined the location of a proposed redevelopment project, but prior to the approval of the redevelopment plan and project as provided in subdivision 2, the authority may acquire individual tracts of real property with the approval of the governing body as to each separate tract. Before approving such early acquisition, the governing body shall hold a public hearing on the proposed acquisition activities after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of hearing.

The authority shall not proceed with such acquisition unless the governing body finds by resolution that (1) the proposed acquisition is necessary to carry out public improvements in the area, or that such acquisition will contribute to the elimination of blight or deterioration within the area or that such acquisition is necessary to relieve hardship; and that (2) there is a feasible method for the relocation of families and individuals to be displaced by the proposed acquisition.

The governing body may, in approving such early acquisition, agree to assume the responsibility for any loss that may arise as a result of such acquisition of land and related activities, including any costs of demolition, removal and relocation, in the event that the property so acquired is not used for urban renewal purposes because the urban renewal plan is not approved, or is amended to omit the acquired property or is abandoned for any reason. Nothing in this subdivision shall be construed to waive the requirement for public hearing upon the redevelopment plan for such redevelopment project.

**History:** 1947 c 487 s 23; 1951 c 568 s 8; 1959 c 545 s 6; 1969 c 676 s 10

#### **462.525 DISPOSAL OF PROPERTY.**

**Subdivision 1. Sale, lease, or development.** In accordance with a redevelopment plan, an authority may make any of its land in a redevelopment project available for use by private individuals, firms, corporations, partnerships, insurance companies, or other private interests, or by public agencies, by sale, lease, or otherwise, or the authority itself may retain property for redevelopment by it. Such land shall be made available at a price which shall, except as provided for in subdivisions 9 and 10, take into consideration the estimated fair market or rental value of the cleared land as determined pursuant to section 462.541, for proposed uses in accordance with the redevelopment plan.

**Subd. 2. Notice; public hearing; determination; terms and conditions.** Any such lease or sale may be made without public bidding but only after a public hearing, after published notice, by the authority at least once not less than ten days nor more than 30 days prior to the date of the hearing upon the proposed lease or sale and the provisions thereof. The terms of any such lease shall be fixed by the authority, and the instrument of lease may provide for renewals upon reappraisals and with rentals and other provisions adjusted to such reappraisals. Every such lease or sale shall provide that the lessee or purchaser shall carry out or cause to be carried out the approved project area redevelopment plan or approved



modifications thereof and that no use shall be made of any land or real property included in the lease or sale nor any building or structure erected thereon which does not conform to such approved plan or approved modifications thereof. In the instrument, or instruments, of lease or sale the authority may include such other terms, conditions, and provisions as in its judgment will provide reasonable assurance of the priority of the obligations of the lease or sale and of conformance to the plan over any other obligations of the lessee or purchaser, and also assurance of the financial and legal ability of the lessee or purchaser to carry out and conform to the plan and the terms and conditions of the lease or sale, to begin the building of any improvements within a period of time which the authority fixes as reasonable; also, such terms, conditions and specifications concerning buildings, improvements, sub-leases, or tenancies, maintenance and management, and any other related matters as the authority may reasonably impose or approve, including provisions whereby the obligations to carry out and conform to the project area plan shall run with the land. In the event that maximum rentals to be charged to tenants of housing be specified, provision may be made for periodic reconsideration of such rental bases, with a view to proposing modification of the project area plan with respect to such rentals.

**Subd. 3. Property devoted to public uses; transfer.** After the property in a project area shall have been assembled by an authority, the authority shall have the power to transfer by deed to local public bodies those pieces of property which, in accordance with the redevelopment plan, are to be devoted to public uses, other than public housing or redevelopment purposes. Except for such property as may be transferred by dedication, gift, or exchange, the transferee body shall pay to the authority such sum as may be agreed upon, and, in the absence of agreement, as may be determined by arbitration. The authority shall reimburse the redevelopment project fund the fair use value of any property in a redevelopment project transferred to a public low-rent housing project.

**Subd. 4. Disposition in parts.** In lieu of the lease or sale of a project area as an entirety, the authority may lease or sell parts of that area separately to redevelopment companies, or other persons. Any such sale or lease of a part or parts of a project area shall be fully subject to the provisions of this section, excluding property required for public low-rent housing projects.

**Subd. 5. Limitation upon disposal by purchaser.** Until the authority certifies that all building constructions and other physical improvements specified to be done and made by the purchaser of the area have been completed, the purchaser shall have no power to convey the area, or any part thereof, without the consent of the authority, and no such consent shall be given unless the grantee or mortgagee of the purchaser obligates itself or himself by written instrument to the authority to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property, and also that the grantee, his or its heirs, representatives, successors, and assigns, shall have no right or power to convey, lease, or let the conveyed property or any part thereof, or erect or use any building or structure erected thereon, free from the obligation and requirement to conform to the approved project area redevelopment plan or approved modifications thereof.

**Subd. 6. Modification of plan.** A redevelopment plan may be modified at any time before or after the lease or sale of the project area or parts thereof, provided the modification shall be adopted by the authority and the governing body of the political subdivision in which the project is located, upon such notice and after such public hearing as is required for the original adoption of the redevelopment plan: Provided, however, that where the authority determines the necessity of changes in an approved redevelopment plan or approved modification thereof, which changes do not alter or affect the exterior boundaries, or do not

substantially alter or affect the general land uses established in such plan, such changes shall not constitute a modification of the redevelopment plan nor require approval by the governing body of the political subdivision in which the project is located.

Subd. 7. **Purchaser or lessee to furnish performance bond.** As security for its fulfillment of the agreement with the authority, a purchaser or lessee shall furnish a performance bond, with such surety and in such form and amount as the authority may approve, or make such other guaranty as the authority may deem necessary in the public interest. If the authority finds that the redevelopment is not being carried out or maintained in accordance with the contract terms and conditions, or there is a failure to prosecute the work with such diligence, or to assume its completion on time, it shall notify the purchaser or lessee and the surety in writing of the noncompliance. Unless the purchaser or lessee complies with the terms of agreement within 20 days from the date of such notice, the authority may take over the work and may cause such work to be done, and the cost of the work shall be paid by the surety. The authority may take possession of and utilize in completion of the work such materials, appliances, and plant as may be on the site of the work and necessary therefor.

Subd. 8. **Discrimination forbidden.** There shall be no discrimination in the use of any land in a redevelopment project because of race or religious, political, or other affiliations.

Subd. 9. **Sale, grant or development.** With or without accordance to a redevelopment plan an authority may make any of its lands in a project which are vacant, open and undeveloped or lands which contain vacated residential dwelling structures which are substandard as that term is defined in section 462.445, subdivision 1, clause (7) available for use by sale, lease, grant, transfer, conveyance, or otherwise to persons or families of low and moderate income, at a price which may take into consideration the estimated fair market value of the real estate, as determined pursuant to section 462.541, if such low or moderate income persons or families have the financial ability and/or building trade skills, as determined by the authority to build on such vacant, open and undeveloped land or to repair, improve or rehabilitate such residential dwelling structures, so as to conform with the applicable state, county, or city, health, housing, building, fire prevention and housing maintenance codes within a reasonable period of time as determined by the authority. Provided further that the authority may require an agreement from such persons or families of low or moderate income to build on such lands or to repair, improve, or rehabilitate such residential dwelling structures within a reasonable period of time so as to conform to such codes as a condition to final legal title to such lands and such residential dwelling units. Nothing in Laws 1974, Chapter 228 shall prohibit an authority from making rehabilitation loans and grants, pursuant to section 462.445, subdivision 1, clause (9), or procuring other authorized financial assistance for persons or families of low and moderate income who acquire real property pursuant to this section, in furtherance of the objectives of this section.

Subd. 10. **Excess land.** On or before December 31 of each year, each authority shall make a survey of all lands held, owned or controlled by it to determine what land, including air rights, is in excess of its foreseeable needs. A description of each parcel found to be so in excess of foreseeable needs shall be made a matter of public record. Any low or moderate income citizen, redevelopment corporation, or nonprofit housing corporation shall upon request be provided with a list of said parcels without charge. With or without accordance to a redevelopment plan an authority thereafter may make any such excess lands available for use as a housing or housing development project by a redevelopment or nonprofit housing corporation by sale, lease, grant, transfer, conveyance or

otherwise, at a price which may take into consideration the estimated fair market or rental value of the real property, as determined pursuant to section 462.541 and upon such terms and conditions, notwithstanding any other provisions of law to the contrary as the authority may deem to be best suited to the development of the parcel for housing available to persons and families of low and moderate income.

**History:** 1947 c 487 s 24; 1949 c 505 s 8; 1955 c 565 s 11; 1957 c 810 s 4; 1959 c 545 s 7-9; 1974 c 228 s 5-7

**462.53** [Repealed, 1947 c 487 s 61]

#### **462.531 TEMPORARY RELOCATION OF DISPLACED FAMILIES.**

Prior to approval by the authority of any redevelopment plan, it shall be satisfied that there is a feasible method for the temporary relocation of families to be displaced from the project area, and that there are available or will be provided, in the project area or in other areas not less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families displaced from the project area, decent, safe, and sanitary dwellings equal in number to the number of such displaced families.

**History:** 1947 c 487 s 25

#### **462.535 PROVISIONAL ACCEPTANCE BY AUTHORITY OF FUND OR PROPERTY.**

As an aid in the acquisition of the real property of a project area, the authority may accept a fund, or, at an agreed value, any parcel or property within such area, from any redevelopment company or partnership or individual, subject to a provision that, in the event the supplier of any such fund or the conveyor of such property shall become the purchaser of the project area or any part thereof, such fund or the agreed value of such property shall be credited on the purchase price of such area or part thereof, and, if there be an excess above the cost of acquisition of the area, such excess shall be returned, and that, in the event that such supplier or conveyor does not become the purchaser of such area or any part thereof, the amount of the fund or the agreed value of such property, as the case may be, shall be paid to such supplier or conveyor.

**History:** 1947 c 487 s 26

**462.54** [Repealed, 1947 c 487 s 61]

#### **462.541 USE VALUE.**

Subdivision 1. **Determination.** The authority prior to lease or sale of land in a project area, shall, as an aid to it in determining the rentals and other terms upon which it will lease or the price at which it will sell the area or parts thereof, place an estimated fair market or rental value upon each piece or tract of land within the area which, in accordance with the plan, is to be used for private uses or for low-rent housing, such value to be based on the planned use; and, for the purpose of this valuation, it may in its discretion cause a fair market appraisal to be made by two or more land value experts employed by it for the purpose, or it may use the land appraisal services of the municipality; but nothing contained in this section shall be construed as requiring the authority to base its rentals or selling prices upon any such appraisal. The authority may from time to time redetermine its estimated values both prior to and after receipt by it of any proposal or proposals to purchase or lease property.

Subd. 2. **Use value.** The aggregate use value placed for purposes of lease or sale upon all land within a particular project area leased or sold by an authority

pursuant to sections 462.415 to 462.705 shall exclude the cost of old buildings destroyed and the demolition and clearance thereof.

**History:** 1947 c 487 s 27; 1949 c 505 s 9; 1959 c 545 s 10; 1982 c 424 s 84

#### **462.545 PUBLIC REDEVELOPMENT COST; PROCEEDS; FINANCING.**

**Subdivision 1. Financing plans authorized.** The entire cost of a project as defined in section 462.421, subdivision 14, including administrative expense of the authority allocable to the project and debt charges and all other costs authorized to be incurred by the authority in sections 462.415 to 462.705, shall be known as the public redevelopment cost. The proceeds from the sale or lease of property in a project shall be known as the capital proceeds. Since it is the purpose of this act that authorities will sell or lease or retain the land in the project area, in whole or in part, for a variety of purposes, depending upon the type of project, including private housing for upper or middle-income groups, or low income groups, public housing for low-income groups, commercial and other purposes, at its fair use value, except as provided in section 462.525, subdivisions 9 and 10, which may be less than the public redevelopment cost, the capital proceeds from land sold may pay back only a portion of the public redevelopment cost. For the purpose of carrying out the provisions of sections 462.515 to 462.545, including the defrayment of the public redevelopment cost minus the capital proceeds if any, which includes the difference between any annual debt service and the annual administrative expenses of the authority allocable to the project and any annual capital proceeds, an authority may, in its discretion, finance such projects in any one, by any combination of, the following methods, which are also dealt with in sections 462.415 to 462.705.

**Subd. 2. Federal grants.** The authority may accept grants or other financial assistance from the federal government as provided in sections 462.415 to 462.705. Before resorting to other financial methods authorized by this section the authority shall make full utilization of all such federal funds for which the project qualifies.

**Subd. 3. Bond issue.** An authority may issue its bonds or other obligations as provided in sections 462.415 to 462.705.

**Subd. 4. Revenue pool; use.** The authority may in its discretion provide that all revenues received from its redevelopment areas be placed in a pool for the payment of interest and principal on all bonds issued for any redevelopment project, and the revenue from all such areas shall be paid into the pool until all outstanding bonds have been fully paid.

**Subd. 5. Special benefit tax fund.** In the event the authority shall issue bonds or other obligations to finance a redevelopment project, the authority may, in its discretion, with the consent of the governing body obtained at the time of the approval of the redevelopment plan as required in section 462.521, notify the county treasurer to set aside in a special fund, for the retirement of such bonds and interest thereon, all or part of the real estate tax revenues derived from the real property in the redevelopment area which is in excess of the tax revenue derived therefrom in the tax year immediately preceding the acquisition of such property by the authority, and it shall be the duty of the county treasurer so to do. Such setting aside of funds shall continue until the bonds or other obligations have been retired. The provisions of this subdivision shall not apply with respect to any property which the governing body has not by resolution designated for inclusion in a project prior to August 1, 1979.

**Subd. 6. Operation area as taxing district, special tax.** All of the territory included within the area of operation of any authority shall constitute a taxing district for the purpose of levying and collecting special benefit taxes as provided in this subdivision. All of the taxable property, both real and personal, within that

taxing district shall be deemed to be benefited by projects to the extent of the special taxes levied under the provisions hereof. Subject to the consent by resolution, of the governing body of the municipality in and for which it was created, an authority is authorized to levy in each year a special tax upon all property, both real and personal, within that taxing district. The authority shall cause the tax so levied each year to be certified to the auditor of the county in which the taxing district is located on or before October 10 in each year. Such tax so levied and certified shall be extended, spread, and included with and as a part of the general taxes for state, county, and municipal purposes, by the county auditor, to be collected and enforced therewith, together with the penalty, interest, and costs, and as such tax (including any penalties, interest, and costs) is collected by the county treasurer it shall be accumulated and kept in a separate fund to be known as the "Housing and Redevelopment Project Fund" and shall be turned over to the authority at the same time and in the same manner that the tax collections for the municipality are turned over to the municipality, and shall be expended and applied for the purposes of sections 462.411 to 462.705, and for no other purpose whatsoever. It shall be paid out upon vouchers signed by the chairman of the authority or his duly authorized representative. The amount of such special tax levy shall be an amount approved by the governing body of the municipality, but shall not exceed ten cents on each \$100 of taxable valuation in the area of operation, except in cities of the first class having a population of less than 200,000, the special tax levy shall not exceed five cents on each \$100 of taxable valuation in the area of operation. The authority is authorized to levy in the manner specified in this subdivision an additional levy, not to exceed one cent on each \$100 of taxable valuation in the area of operation, said levy to be used to defray costs of providing informational service and relocation assistance as set forth in section 462.445, subdivision 4. The authority shall each year formulate and file a budget in accordance with the budget procedure of the municipality in the same manner as required of executive departments of the municipality or, if no budgets are required to be filed, on or before August first, and the amount of the tax levy for the following year shall be based on that budget and shall be approved by the governing body.

**Subd. 7. Inactive authorities; transfer of funds; dissolution.** The authority is hereby authorized to transfer to the municipality in and for which it was created all property, assets, cash or other funds held or used by the authority which were derived from the special benefit tax for redevelopment levied pursuant to subdivision 6 and levied prior to March 6, 1953, whenever collected, provided, however, that upon any such transfer an authority shall not thereafter levy said tax or exercise the redevelopment powers of this subdivision. All cash or other funds transferred to the municipality shall be used exclusively for permanent improvements in the municipality or the retirement of debts or bonds incurred for permanent improvements in the municipality. An authority heretofore established which transfers its property, assets, cash or other funds derived from said special benefit tax for redevelopment and which has not entered into a contract with the federal government or any agency or instrumentality thereof with respect to any low rent public housing project prior to March 6, 1953, shall be dissolved as herein provided. After a public hearing after ten days published notice thereof in a newspaper of general circulation in the municipality, the governing body of a municipality in and for which an authority has been created may dissolve the authority if the authority has not entered into any contract with the federal government or any agency or instrumentality thereof for a loan or a grant with respect to any urban redevelopment or low rent public housing project. The resolution or ordinance dissolving the authority shall be published in the same manner in which ordinances are published in the municipality and the authority shall be dissolved when the resolution or ordinance becomes finally effective. The

clerk of the governing body of the municipality shall furnish to the commissioner of energy, planning and development a certified copy of the resolution or ordinance of the governing body dissolving the authority. All property, records, assets, cash or other funds held or used by an authority shall be transferred to and become the property of the municipality and cash or other funds shall be used as herein provided. Upon dissolution of an authority all rights of an authority against any person, firm or corporation shall accrue to and be enforced by the municipality.

**History:** 1947 c 487 s 28; 1949 c 505 s 10; 1953 c 96 s 1; 1955 c 565 s 7; 1957 c 810 s 5,6; 1959 c 545 s 11; 1971 c 745 s 11-13; 1974 c 228 s 8; 1979 c 322 s 12; 1981 c 356 s 248; 1982 c 424 s 85-88; 1982 c 590 s 10

**462.55** [Repealed, 1947 c 487 s 61]

#### **462.551 BOND ISSUE FOR CORPORATE PURPOSES.**

An authority shall have power to issue bonds for any of its corporate purposes. Such bonds may be such type as it determines, including, but not limited to, bonds on which the principal and interest are payable exclusively from the income and revenues of the project financed with the proceeds of such bonds, or exclusively from the income and revenues of certain designated projects, whether or not they are financed in whole or in part with the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, from the project for which the proceeds of the bonds are to be used, or a mortgage of any project, projects, or other property of the authority. No proceeds of bonds issued for or revenue authorized for or derived from any redevelopment project or area shall be used to pay the bonds or costs of, or make contributions or loans to, any public housing project. Further, the proceeds of bonds issued for or revenues authorized for or derived from any one public housing project shall not be used to pay the bonds or costs of, or make contributions or loans to any other public housing project until the bonds and costs of the public housing project for which those bonds were issued or from which those revenues were derived or for which they were authorized shall be fully paid. Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the municipality, the state or any political subdivision thereof, and neither the municipality nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes. The provisions of this act exempting from taxation authorities, their properties and their bonds and interest thereon and income therefrom, shall be considered additional security for the repayment of bonds and shall constitute, by virtue of this act and without the necessity of the same being restated in said bonds, a contract between the bondholders and each and every one thereof, including all transferees of said bonds from time to time on the one hand and the respective authorities issuing said bonds and the state on the other. An authority may by covenant confer upon the holder of such bonds such rights and remedies as it deems necessary or advisable, including but not limited to the right in the event of default to have a receiver appointed to take possession of and operate the project; provided,

however, that when the obligations issued by an authority to assist in financing the development of a project have been retired and federal contributions have been discontinued, then the exemptions from taxes and special assessments for that project shall terminate.

**History:** 1947 c 487 s 29

#### **462.555 MANNER OF BOND ISSUANCE; SALE.**

Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding seven percent per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms of redemption (with or without premium) as the resolution, its trust indenture or mortgage may provide. The bonds may be sold at public or private sale at not less than par. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to sections 462.415 to 462.705 shall be fully negotiable. In any suit, action, or proceedings involving the validity or enforceability of any bonds of an authority or the security therefor, any bond reciting in substance that it has been issued by the authority to aid in financing a project, as herein defined, shall be conclusively deemed to have been issued for that purpose, and the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of sections 462.415 to 462.705. Notwithstanding any other provision of this section, an authority is authorized to execute a note secured by a first mortgage at a rate of interest in excess of seven percent per annum with the Minnesota housing finance agency, pursuant to chapter 462A, to finance a housing project which is subsidized in whole or in part with money provided by the federal government.

In cities of the first class, the governing body of the city must approve all notes executed with the Minnesota housing finance agency pursuant to this section, when the interest rate on the note exceeds seven percent.

**History:** 1947 c 487 s 30; 1969 c 93 s 3; 1977 c 401 s 1; 1982 c 424 s 89

**462.56** [Repealed, 1947 c 487 s 61]

#### **462.561 ENFORCEMENT BY OBLIGEE OF PROVISIONS AND COVENANTS IN CONTRACTS.**

An obligee of an authority shall have the right, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee; (1) by mandamus, suit, action, or proceeding at law or in equity to compel said authority and the commissioners, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of said authority with or for the benefit of such obligee and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by sections 462.415 to 462.705; and (2) by suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful or the violation of any of the rights of such obligee of said authority.

**History:** 1947 c 487 s 31; 1965 c 51 s 78; 1982 c 424 s 90

**462.565 BONDS, A LEGAL INVESTMENT.**

When bonds issued by an authority or bonds issued by any public housing authority or agency in the United States are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, all banks, bankers, trust companies, savings banks and institutions, investment companies, savings, building and loan associations, insurance companies, insurance associations, and other persons carrying on a banking or insurance business may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in such bonds, and such bonds shall be authorized security for all public deposits.

**History:** 1947 c 487 s 32

**462.57** [Repealed, 1947 c 487 s 61]

**462.571 EXEMPTION FROM PROCESS.**

All real property of an authority shall be exempt from levy and sale under execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against an authority be a charge or lien against its real property, but judgments may be enforced as provided in section 462.455. The provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, or revenues, or the right of the federal government to pursue any remedies conferred upon it pursuant to the provisions of sections 462.415 to 462.705.

**History:** 1947 c 487 s 33; 1982 c 424 s 91

**462.575 TAX STATUS.**

Subdivision 1. **Declaration, essential public and governmental purposes.** The property of an authority is declared to be public property used for essential public and governmental purposes, and such property and the authority shall be exempt from all taxes and special assessments of the city, the county, the state or any political subdivision thereof. "Taxes" does not include charges for utilities and special services, such as heat, water, electricity, gas, sewage disposal, or garbage removal, provided, however, that, when the obligations issued by an authority to assist in financing the development of a project have been retired and federal contributions have been discontinued, then the exemptions from taxes and special assessments for that project shall terminate.

Subd. 2. **Leased property, exception.** Notwithstanding the provisions of subdivision 1, any property which the authority leases to private individuals or corporations for development in connection with a redevelopment project shall have the same tax status as if such leased property were owned by such private individuals or corporations.

Subd. 3. **Statement filed with assessor; percentage tax on rentals.** Further, notwithstanding the provisions of subdivision 1, with respect to any housing project of the authority carried on pursuant to the provisions of sections 462.465 to 462.511, the authority shall, after that project has become occupied, either in whole or in part, file with the proper assessor, on or before May 1 of each year, a statement of the aggregate shelter rentals of that project collected during the preceding calendar year; and, unless a greater amount has been agreed upon between the authority and the municipality in and for which the authority was created, five percent of such aggregate shelter rentals shall be charged to the authority and collected from it as a service charge for the services and facilities to



be furnished with respect to that project, in the manner provided by law for the assessment and collection of taxes, and the amount so collected shall be distributed to the several taxing bodies in such proportions that each will receive therefrom the same proportion as the tax rate of each bears to the total tax rate of those taxing bodies that would be levied against the project if it were not exempt from taxation. A municipality in and for which an authority has been created may agree with the authority, with respect to any housing projects, either separately or jointly or one or more of them, for the payment of a service charge in an amount greater than five percent of the aggregate annual shelter rentals of any project, upon the basis of shelter rentals or upon such other basis as may be agreed upon, but not exceeding the amount which would be payable in taxes thereon were the property not exempt, and, if such an agreement is made the amount so agreed upon shall be collected and distributed in the manner above provided. If such project or projects have become occupied, or if the land upon which such project or projects are to be constructed has been acquired, the agreement shall specify definitely the location of the project or projects for which the agreement is made. Shelter rental means the total rentals of a housing project exclusive of any charge for utilities and special services such as heat, water, electricity, gas, sewage disposal, or garbage removal. The records of each housing project shall be open to inspection by the proper assessing officer.

**History:** 1947 c 487 s 34; 1951 c 568 s 9; 1965 c 51 s 79

**NOTE:** See section 272.68.

**462.58** [Repealed, 1947 c 487 s 61]

#### **462.581 MUNICIPALITY, POWERS AS TO PROJECTS.**

For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of projects of authorities located within the area in which an authority is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey, or lease any of its interests in any property, or grant easements, licenses, or any other rights or privileges therein to an authority. Except in cities of the first class having a population of less than 200,000, the public body may pay the bonds of or make loans or contributions for redevelopment projects, and the receipt or expenditure of any moneys expended hereunder by such state public body shall not be included within the definition of any limitation imposed on per capita taxing or spending in the charter of such state public body; provided that no state public body may use any revenues or money of that state public body to pay the bonds of or make any loans or contributions to any public housing project; except that,

(i) This proviso shall not be applicable to any public low-rent housing project for which financial assistance is provided by the federal government or any agency or instrumentality thereof which requires a municipality or other local public body to use its revenues or money for a direct loan or grant to such project as a condition for federal financial assistance where such local financial assistance for such project is authorized by resolution of the governing body of the municipality.

(2) Cause parks, playgrounds, recreational, community, education, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with such projects;

(3) Approve (through its governing body or through an agency designated by it for the purpose) redevelopment plans, plan or replan, zone or rezone its parks; in the case of a city or town, make changes in its map; the governing body of any municipality may waive any building code requirements in connection with the development of projects;

(4) Cause services to be furnished to the authority of the character which it is otherwise empowered to furnish;

(5) Enter into agreements with respect to the exercise by it of its powers relating to the repair, closing, or demolition of unsafe, unsanitary or unfit buildings;

(6) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of such projects;

(7) Incur the entire expense of any public improvements made by it in exercising the powers granted in sections 462.415 to 462.705;

(8) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with an authority respecting action to be taken by the state public body pursuant to any of the powers granted by sections 462.415 to 462.705; and

(9) Furnish funds available to it from any source, including the proceeds of bonds, to an authority to pay all or any part of the cost to the authority of the activities authorized by section 462.445, subdivision 1, clause (7).

**History:** 1947 c 487 s 35; 1949 c 505 s 11; 1955 c 565 s 8; 1957 c 810 s 7; 1971 c 618 s 2; 1971 c 745 s 15; 1973 c 364 s 2; 1973 c 494 s 12; 1979 c 180 s 3; 1982 c 424 s 92

#### **462.585 AGREEMENTS RESPECTING TAX INCREMENTS AND EQUIVALENTS; PLEDGE FOR BONDS.**

Subdivision 1. **General.** In connection with any project of an authority located wholly or partly within the corporate limits of any municipality or other state public body, such body may agree with the authority with respect to the payment by the authority of such sums in lieu of taxes for any year or period of years in accordance with the provisions of section 462.575, but for no longer period than the period of tax exemption provided for under that section. In any case where property owned by the authority in a redevelopment project area is leased or otherwise made available by the authority to a private individual, firm, or corporation which previously owned the same or other property within the area, not for development in connection with the project but for temporary use pending relocation of such former owner's residence or business, the authority may agree to payment of sums in lieu of taxes for any year or period of such temporary use, not exceeding the amount of the annual rentals or other payments it receives for such use, but during such use the property and the authority shall be exempt from all taxes and special assessments as provided in section 462.575, and the provisions of section 272.01, subdivision 2 and of section 273.19 shall not apply to such property or to such use thereof. In connection with any redevelopment project, an authority may make further agreements respecting taxes as provided below.

Subd. 2. **Original taxable value.** Upon or after approval of a redevelopment project of any housing and redevelopment authority under section 462.521, the auditor of the county in which it is situated shall upon request of the authority certify the assessed valuation of all taxable real property within the project area as then most recently determined, which is referred to in this section as the "original taxable value", and shall certify to the authority in each year thereafter the amount by which the original taxable value has increased or decreased, and the proportion which any such increase bears to the total assessed valuation of the real property for that year or the proportion which any such decrease bears to the original taxable value. The provisions of this subdivision shall not apply with respect to any redevelopment project, certification of which is requested subsequent to August 1, 1979.

Subd. 3. **Tax increments.** In each subsequent year the county auditor shall include no more than the original taxable value of such real property in the assessed valuation upon which he computes the mill rates of all taxes levied by the state, the county, the municipality or town, the school district and every other taxing district in which the project area is situated; but he shall extend all mill rates so determined against the entire assessed valuation of such real property for that year. In each year for which the assessed valuation exceeds the original taxable value, the county treasurer shall remit to the authority, instead of the taxing districts, that proportion of all taxes paid that year on the real property in the project area which such excess valuation bears to the total assessed valuation. The amount so remitted each year is referred to in this section as the "tax increment" for that year. Tax increments received with respect to any redevelopment project shall be segregated by the authority receiving them in a special account on its official books and records until the public redevelopment cost of the project, including interest on all money borrowed therefor, has been fully paid, and the municipality or other public body in which the project is situated has been fully reimbursed from the tax increments or revenues of the project for any principal and interest on general obligation bonds which it has issued for the project and has paid from taxes levied on other property within its corporate limits. Such payment shall be reported to the county auditor, who shall thereafter include the entire assessed valuation of the project area in the assessed valuations upon which tax mill rates are computed and extended and taxes are remitted to all taxing districts. The provisions of this subdivision shall not apply with respect to any redevelopment project, certification of which is requested subsequent to August 1, 1979.

Subd. 4. **Tax increment financing.** The authority may pledge and appropriate any part or all of the tax increments received for any redevelopment project, and any part or all of the revenues received from lands in the project area while owned by the authority, for the payment of the principal of and interest on bonds issued in aid of the project pursuant to sections 462.551, 462.581, or chapter 474, by the authority or by the governing body of the municipality or other state public body within whose corporate limits the project area is situated. Any such pledge for the payment of bonds issued by the governing body shall be made by written agreement executed on behalf of the authority and the governing body and filed with the county auditor. The estimated collections of the tax increments and any other revenues so pledged may be deducted from the taxes otherwise required to be levied before the issuance of the bonds under section 475.61, subdivision 1, or the collections thereof may be certified annually to reduce or cancel the initial tax levies in accordance with section 475.61, subdivision 3. When such an agreement is made and filed, the bonds may be issued by the governing body in the same manner and subject only to the same conditions as those provided in chapter 475 for bonds financing improvement costs reimbursable from special assessments. Bonds shall not be issued nor tax increments or other revenues pledged pursuant to this subdivision subsequent to August 1, 1979.

**History:** 1947 c 487 s 36; 1969 c 1074 s 1; 1979 c 322 s 13-15

**462.59** [Repealed, 1947 c 487 s 61]

#### **462.591 REDEVELOPMENT COMPANY.**

Subdivision 1. **Creation; contents of certificate; filing.** A redevelopment company may be created by three or more persons signing, acknowledging, and filing in the office of the secretary of state a certificate which shall contain:

- (1) The name of the proposed redevelopment company;

(2) The purposes for which it is to be formed, which shall be as follows: to acquire one or more areas under a plan or plans and to construct, own, maintain, operate, sell, and convey projects, pursuant to the terms and provisions of sections 462.415 to 462.705;

(3) The amount of the capital stock and, if any be preferred stock, the preference thereof;

(4) The number of shares of which the capital shall consist, all of which shall have a par value;

(5) The location of its principal business office;

(6) Its duration, which shall not be less than 20 years;

(7) The number of directors, which shall not be less than three and who need not be stockholders;

(8) The names and post-office addresses of the directors for the first year;

(9) The names and post-office addresses of the subscribers to the certificate and a statement of the number of shares of stock which each agrees to take in the redevelopment company;

(10) A provision that, so long as sections 462.415 to 462.705 shall remain applicable to any project of the redevelopment company, the real property of the redevelopment company shall not be sold, transferred, or assigned except as permitted by the terms and provisions of sections 462.415 to 462.705;

(11) A declaration that all of the subscribers to the certificates are of full age, that at least two-thirds of them are citizens of the United States and that at least one of them is a resident of the state of Minnesota; that at least one of the persons named as a director is a citizen of the United States and a resident of the state of Minnesota;

(12) A declaration that the redevelopment company has been organized to serve a public purpose and that it shall be and remain subject to the supervision and control of the commissioner of energy, planning and development, authorities and governing bodies, as provided in sections 462.415 to 462.705, so long as sections 462.415 to 462.705 remain applicable to any project of the redevelopment company; that all real and personal property acquired by it and all structures erected by it shall be deemed to be acquired or created for the promotion of the purposes of sections 462.415 to 462.705;

(13) A declaration that, after providing for all expenses, taxes, or payments in lieu of taxes, and assessments, there shall be paid annually out of the earnings of the development company from any project for interest paid to the company or to any of its stockholders, amortization, and dividends a sum equal to but not exceeding eight percent of the total actual final cost of that project as defined by section 462.635, clause 2; that the obligation in respect of such payments shall be cumulative, and any deficiency in interest, amortization, and dividends in respect of that project in any year shall be paid from the first available earnings in subsequent years; and that any cash surplus derived from earnings from that project remaining in the treasury of the redevelopment company in excess of the amount necessary to provide such cumulative annual sums shall, upon a conveyance of the project or upon a dissolution of the company, in accordance with the provisions of section 462.695, be paid into the general fund of the city or town in which that project is located;

(14) A declaration that, upon compliance with the provisions of section 462.695, the property may be conveyed in fee as provided in that section;

(15) A declaration that mortgage indebtedness, income debenture certificates, and stock of the redevelopment company may be retired if, as, and when there shall be funds available for amortization purposes in the treasury of the redevelopment company.

Subd. 2. **Voting rights of income debenture certificate holders.** The certificate may provide that, in the event that income debenture certificates are issued by the redevelopment company, the owners thereof may be given the same right to vote as they would have if possessed of certificates of stock of the amount and par value of the income debenture certificates held by them. If provision is made for the issuance of income debenture certificates, interest shall be paid by the redevelopment company on income debenture certificates only out of the net earnings of the redevelopment company that would be applicable to payment of dividends if there were no income debentures.

Subd. 3. **Market rate housing.** A redevelopment company established under this section may file a declaration that, after providing for all expenses, taxes, or payments in lieu of taxes, and assessments, there shall be paid annually out of the earnings of the development company for interest paid to the company or to any of its stockholders, amortization, and dividends a sum equal to but not exceeding eight percent of invested capital or equity from any project located in a city of the first class in an area designated by the local governing body pursuant to section 462.415, subdivision 6; that the obligation in respect of such payments shall be cumulative, and any deficiency in interest, amortization, and dividends in respect of that project in any year shall be paid from the first available earnings in subsequent years; and that any cash surplus derived from earnings from that project remaining in the treasury of the redevelopment company in excess of the amount necessary to provide such cumulative annual sums shall, upon a conveyance of the project or upon a dissolution of the company, in accordance with the provisions of section 462.695, be paid into the general fund of the city in which the project is located. Said declaration may be filed in lieu of the requirement contained in subdivision 1, clause (13).

**History:** 1947 c 487 s 37; 1949 c 505 s 12; 1959 c 545 s 12; 1973 c 123 art 5 s 7; 1973 c 319 s 2; 1981 c 356 s 248; 1982 c 424 s 93

#### **462.595 CERTIFICATE OF CONSENT FILED WITH INCORPORATION PAPERS.**

If any certificate of incorporation of a redevelopment company or a certificate of amendment of such a certificate of incorporation is presented to the secretary of state, he shall not file such certificate unless a certificate of the consent of the commissioner of energy, planning and development accompanies the same.

**History:** 1947 c 487 s 38; 1981 c 356 s 248

**462.60** [Repealed, 1947 c 487 s 61]

#### **462.601 MINNESOTA BUSINESS CORPORATION ACT APPLIES IN PART.**

The provisions of sections 301.01 to 301.61 and chapter 302A shall apply to redevelopment companies, except where those provisions are in conflict with the provisions of sections 462.415 to 462.705. In the event that any action with respect to which the holders of income debentures shall have the right to vote is proposed to be taken, then notice of any meeting at which such action is proposed to be taken shall be given to those holders in the same manner [and] to the same extent as if they were stockholders entitled to notice of and to vote at such meeting, and any certificate filed pursuant to law in the department of state with respect to any such action, whether taken with or without meeting, and any affidavit required by law to be annexed to that certificate, shall contain the same statements or recitals, and the certificate shall be subscribed and acknowledged, and the affidavit shall be made in the same manner as if those holders were stockholders holding shares of an additional class of stock entitled to vote on that action, or with respect to the proceedings provided for in the certificate.

**History:** 1947 c 487 s 39; 1981 c 270 s 140; 1982 c 424 s 94

**462.605 POWERS OF REDEVELOPMENT COMPANY.**

Each redevelopment company shall have and may exercise such of the powers conferred by sections 301.01 to 301.61 and chapter 302A or, in cities of the first class, the Minnesota uniform limited partnership act as shall be necessary in conducting the business of a redevelopment company and consistent with the provisions of sections 462.415 to 462.705.

**History:** 1947 c 487 s 40; 1949 c 507 s 13; 1974 c 403 s 2; 1981 c 270 s 141; 1982 c 424 s 95

**462.61** [Repealed, 1947 c 487 s 61]

**462.611 INTEREST, AMORTIZATION, LIMITED DIVIDENDS.**

Subdivision 1. There shall be paid annually out of the earnings of the redevelopment company from any project, after providing for all expenses, taxes, or payments in lieu of taxes, and assessments, a sum for interest, amortization, and dividends, equal to but not exceeding eight percent of the total actual final cost of that project as defined by section 462.635, clause 2; the obligation in respect of such payments shall be cumulative, and any deficiency in interest, amortization, and dividends in any year in respect of that project shall be paid from the first available earnings in subsequent years; and any cash surplus derived from earnings from that project remaining in the treasury of the redevelopment company in excess of the amount necessary to provide such cumulative annual sums shall, upon a conveyance of the project or upon a dissolution of the company, in accordance with the provisions of section 462.695, be paid into the general fund of the municipality in which that project is located.

Subd. 2. For any project located in a city of the first class in an area designated by the local governing body pursuant to section 462.415, subdivision 6, the commissioner of energy, planning and development shall allow a redevelopment company which so elects to pay annually out of its earnings, after providing for all expenses, taxes, interest, amortization, reserves, and other costs, a sum for interest, amortization and dividends equal to but not exceeding eight percent of invested capital or equity in lieu of the eight percent of the total actual final cost of the project as provided in subdivision 1; the obligation in respect of such payments shall be cumulative, and any deficiency in interest, amortization, and dividends in any year in respect of that project shall be paid from the first available earnings in subsequent years; and any cash surplus derived from earnings from that project remaining in the treasury of the redevelopment company in excess of the amount necessary to provide such cumulative annual sums shall, upon a conveyance of the project or upon a dissolution of the company, in accordance with the provisions of section 462.695, be paid into the general fund of the city in which the project is located.

**History:** 1947 c 487 s 41; 1949 c 505 s 14; 1959 c 545 s 13; 1973 c 319 s 3; 1981 c 356 s 248

**462.615 STOCK, BONDS OR INCOME DEBENTURE CERTIFICATES ISSUED FOR FULL VALUE.**

No redevelopment company shall issue stock, bonds, or income debenture certificates except for money or property or services actually received for the use and lawful purposes of the redevelopment company. No stock, bonds, or income debenture certificates shall be issued for property or services except upon a valuation approved by the commissioner of energy, planning and development, and that valuation shall be used in computing actual or estimated cost.

**History:** 1947 c 487 s 42; 1949 c 505 s 15; 1981 c 356 s 248

**462.62** [Repealed, 1947 c 487 s 61]

**462.621 STOCK, DEBENTURE CERTIFICATES; ISSUANCE.**

Subdivision 1. **Limitation on issuance.** Except as provided in this section, the stock and income debenture certificates issued by a redevelopment company shall in no event be less than the total of 20 percent of the actual cost of any project or projects undertaken pursuant to sections 462.415 to 462.705. The commissioner of energy, planning and development may permit stock or income debenture certificates to be issued for working capital to be used in connection with any project to an amount not exceeding five percent of the estimated cost, or five percent of the total actual final cost, if that should exceed the estimated cost, of the project.

Subd. 2. **Applicability to redevelopment companies.** The provisions of subdivision 1 shall not be applicable to any redevelopment company if the funds made available by the federal government or any instrumentality thereof or any mortgage or mortgage bonds insured by the federal housing administrator or any other instrumentality of the federal government are used in financing the project in whole or in part.

Subd. 3. **Market rate housing project.** The stock and income debenture certificates, limited dividend partnerships, investments and other forms of equity issued or provided by a redevelopment shall in no event be less than ten percent of the actual cost of any project developed in a city of the first class in any area designated pursuant to section 462.415, subdivision 6 and otherwise undertaken pursuant to sections 462.415 to 462.705. Such equity requirement by the development company may be in lieu of the 20 percent requirement contained in subdivision 1.

**History:** 1947 c 487 s 43; 1949 c 505 s 16; 1973 c 319 s 4; 1981 c 356 s 248; 1982 c 424 s 96,97

**462.625 INCOME DEBENTURE CERTIFICATES.**

With the approval of the commissioner of energy, planning and development, the certificate of incorporation, or an amended certificate, may authorize the issuance of income debenture certificates bearing no greater interest than eight percent per annum. Such income debenture certificates and any instrument under which they are issued may contain such other provisions, including provisions for amortization by serial maturities, through the operation of a sinking fund or otherwise, as may be approved by the commissioner of energy, planning and development.

**History:** 1947 c 487 s 44; 1949 c 505 s 17; 1959 c 545 s 14; 1981 c 356 s 248

**462.63** [Repealed, 1947 c 487 s 61]

**462.631 APPROVED MORTGAGES, BOND ISSUE; LIMITATIONS, PROVISIONS.**

Subdivision 1. Any redevelopment company, subject to the approval of the commissioner of energy, planning and development, may borrow funds and secure the repayment thereof by bond and mortgage or by an issue of bonds under a trust indenture. Each mortgage or issue of bonds of a redevelopment company shall relate only to a single specified project and to no other, and those bonds shall be secured by mortgage upon all of the real property of which the project consists. First lien bonds of a redevelopment company, when secured by a mortgage not exceeding 80 percent of the estimated cost prior to the completion of the project, or 80 percent of the appraised value or actual cost, but in no event in excess of 80 percent of the actual cost, after that completion, as certified by the commissioner of energy, planning and development, are hereby declared securities in which all

public officers and bodies of the state and of its municipal subdivisions, including the state board of investment if the bonds meet the requirements of section 11A.24, subdivision 2, all insurance companies and associations, all savings banks and savings institutions, including savings, building and loan associations, executors, administrators, guardians, trustees, and all other fiduciaries in the state may properly and legally invest the funds within their control. The bonds so issued and secured and the mortgage or trust indenture relating thereto may create a first or senior lien and a second or junior lien upon the real property embraced in any project; provided, however, that the total mortgage liens shall not exceed 80 percent of the estimated cost prior to the completion of the project, or 80 percent of the appraised value or actual cost, but in no event in excess of 80 percent of the actual cost after that completion, as certified by the commissioner of energy, planning and development; and provided further that, where there are first and second mortgage liens upon the property embraced in a project, only the first or senior lien thereon shall be deemed a security in which the officers, bodies, corporations, associations, and fiduciaries may invest the funds within their control. The bonds and mortgages may contain other clauses and provisions as shall be approved by the commissioner of energy, planning and development, including the right to assignment of rents and entry into possession in case of default; but the operation of the housing project in the event of such entry by mortgagee or receiver shall be subject to regulations promulgated by the commissioner of energy, planning and development. Provisions for the amortization of the bonded indebtedness of companies formed under sections 462.415 to 462.705 shall be subject to the approval of the commissioner of energy, planning and development. So long as funds made available by the federal government or any instrumentality thereof or any mortgage or mortgage bonds insured by the federal housing administrator or any other instrumentality of the federal government are used in financing, in whole or in part, any project under sections 462.415 to 462.705, the capital structure of a redevelopment company undertaking such project and the proportionate amount of the cost of the lands and improvements to be represented by mortgages or bonds shall be entirely in the discretion of the commissioner of energy, planning and development; and all restrictions as to the amounts to be represented by mortgages, mortgage bonds, income debenture, or stock shall be inapplicable to the projects or to redevelopment companies undertaking the projects, except that the bonds, mortgages, debentures, and stock covering any project shall not exceed the total actual final cost of the project as defined in section 462.635, clause 2.

Interest rates on mortgage indebtedness shall not exceed five percent per annum.

Subd. 2. Notwithstanding any provision of law to the contrary, the commissioner of energy, planning and development may authorize the issuance of income debenture certificates bearing an interest rate as may be approved by the commissioner of energy, planning and development for projects located within cities of the first class in areas designated pursuant to section 462.415, subdivision 6, in lieu of any other interest limitation imposed by law.

Subd. 3. Notwithstanding any provision of law to the contrary, wherever the limitation of 80 percent is contained in subdivision 1, such limitation shall not apply to projects located within cities of the first class in areas designated pursuant to section 462.415, subdivision 6, but in lieu thereof, a limitation of 90 percent shall apply. The actual cost, as provided in subdivision 1, for projects in cities of the first class in areas designated pursuant to section 462.415, subdivision 6, shall exclude any sponsors' or developers' fees, and the interest rates on such projects on mortgage indebtedness shall not be limited to five percent per annum, but shall



be limited to the maximum rate established by the commissioner of energy, planning and development.

**History:** 1947 c 487 s 45; 1973 c 319 s 5; 1980 c 607 art 14 s 43; 1981 c 356 s 248; 1982 c 424 s 98

#### **462.635 LIMITATION ON POWERS OF REDEVELOPMENT COMPANY.**

In addition to limitations prescribed by sections 462.415 to 462.705, a redevelopment company shall not have power to:

(1) Acquire any real property or interest therein for a project or projects until the approval of that acquisition by the governing body as provided in section 462.645, subdivision 3; provided, however, this clause shall not apply to the obtaining of options to purchase;

(2) Issue its stock, debentures, and bonds covering any project undertaken by it in an amount greater in the aggregate than the total actual final cost of that project. The actual cost of that project shall include initiation, planning, survey, general overhead and other administrative expense necessary for the project, the cost of the lands and improvements constituting the project and charges for financing and supervision approved by the commissioner of energy, planning and development, condemnation charges, if any, and interest, and other carrying charges during the period of acquisition and of construction. The total actual final cost shall be deemed to be an amount equal to the actual cost plus an allowance for working capital. Such an allowance for working capital shall not exceed an amount equal to five percent of the estimated cost, or of the total actual final cost of the project if that shall be greater than the estimated cost;

(3) Enter into contracts for the payment of salaries to officers or employees, except subject to the approval of the state housing commission, or for the construction or for the substantial repair, improvement, or operation of a project, except subject to the approval of the authority within the area of operation of which the project is located.

**History:** 1947 c 487 s 46; 1949 c 505 s 18; 1981 c 356 s 248; 1982 c 424 s 99

**462.64** [Repealed, 1947 c 487 s 61]

#### **462.641 REDEVELOPMENT PROJECTS, USE.**

The project or projects of any redevelopment company shall be designed and used primarily for housing purposes, but portions of the project may be planned and used for business, commercial, cultural, or recreational purposes appurtenant thereto as approved in the project. There shall be no discrimination in the use of projects because of race or religious, political, or other affiliation.

**History:** 1947 c 487 s 47; 1955 c 565 s 12

#### **462.645 PROJECT PLANS.**

Subdivision 1. **Statement of area and general description of buildings and surroundings.** Every plan, or plan of a project, proposed by a redevelopment company shall contain a general description of the area to be redeveloped and a statement of the plan of redevelopment, with such detail of information with reference thereto as may be necessary to a general understanding thereof, including:

(1) Height and bulk of structures, density of population and percentage of land coverage by structures as to their conformity with the purposes of this act and with the master plan, if any; and the relationship of the density of population contemplated by the plan, or plan of the project, to the distribution of the population of the municipality in other areas or parts thereof; and

(2) Provision, if any, for business or commercial facilities appurtenant to the plan or project, relationship to existing and planned public facilities, adequacy and planned rearrangement of street facilities and provisions for light, air, cultural and recreational facilities as to their conformity with the purposes of sections 462.415 to 462.705 and their adequacy for accommodation of the density of population contemplated by the plan, or plan of the project.

Subd. 2. **Approval of plans.** Every such plan shall be submitted to the authority in the area of operation of which the proposed project is to be located, and that authority shall then proceed as provided by section 462.515.

Subd. 3. **Contract between authority and company.** Upon approval thereof by the authority, the plan, or plan of a project, with a proposed form of contract between the authority and the company or, when all stock, debentures, and mortgage bonds of the company are owned or are to be owned by one or more insurance companies, between the authority, redevelopment company, and the insurance company or companies, shall be submitted by the authority, with a certificate of its approval, to the local governing body of the municipality in which the project is to be located, for its approval as to conformity with the provisions and purposes of this act, the amount and nature of the property to be acquired for the redevelopment company by the authority, and the terms and conditions of payment therefor by the redevelopment company, the amount of publicly owned land or facilities to be sold to the redevelopment company or exchanged for redevelopment company owned lands, and the availability of other suitable dwelling accommodations for families living in the area or part thereof to be affected by the plan, or plan of the project, and for a determination of the extent of the tax exemption to be granted pursuant to section 462.651, if any. The governing body may not grant its approval unless it makes the findings required by section 462.521, subdivision 2.

Subd. 4. **Dedication for public purposes.** As part of an approved project, the local governing body may require a redevelopment company to dedicate to the municipality, or any agency thereof, in the manner provided by law, specified portions of the land in a project for parks, streets, public recreational and other public purposes.

Subd. 5. **Rent regulations.** The contract shall regulate the rents to be charged for any property in the project during the period of any tax exemption and may contain such other provisions, not inconsistent with sections 462.415 to 462.705, as may be deemed necessary or desirable for the financing, construction, operation, and supervision of the project.

Subd. 6. **Approval of plan; resolution.** In any case where the authority shall have issued a certificate of approval of a plan, or plan of a project, approval thereof by the local governing body may be by resolution adopted by a majority of the whole number of the votes authorized to be cast by all of the members thereof.

Subd. 7. **Completion of contract.** Upon approval by the governing body the authority is authorized to enter into the necessary contract, and the redevelopment company may proceed with the project in accordance with that contract and the provisions of sections 462.591 to 462.705.

**History:** 1947 c 487 s 48; 1965 c 51 s 80; 1973 c 319 s 6; 1982 c 424 s 100-102

**462.65** [Repealed, 1947 c 487 s 61]

#### **462.651 PARTIAL TAX EXEMPTION.**

Subdivision 1. **General taxes.** The governing body of a municipality in which any project of a redevelopment company is located may, by ordinance or

resolution, exempt from all local taxes so much of the value of the property included in that project as represents an increase over the assessed valuation of the property, both land and improvements, acquired for the project at the time of its original acquisition for redevelopment purposes. Should such a governing body grant such a tax exemption, the project shall, to the extent of the municipal exemption and during the period thereof, be exempt from any and all state, county, and school district taxes. The tax exemption specified herein shall not operate for a period of more than 25 years, commencing in each instance from the date on which the benefits of such exemption first become available and effective. There shall be no exemption from payment of special assessments or from the payment of inspection, supervision, and auditing fees of the commissioner of energy, planning and development or the authority.

**Subd. 2. Franchise and special taxes and fees.** A redevelopment company shall be exempt from the payment of any and all franchise, organization, income, mortgage recording, and other taxes to the state and all fees to the state and its officers.

**Subd. 3. Obligations and dividends of redevelopment company exempt from taxation.** Bonds and mortgages and the income debenture certificates of all redevelopment companies are declared to be instrumentalities of the state, issued for public purposes, and shall, together with interest thereon, be exempt from taxation. The dividends on the stock of those companies shall be exempt from taxation by the state.

**Subd. 4. Payment to municipality; termination of tax exemption.** A redevelopment company which has been granted and has received tax exemption pursuant to subdivision 1 may at any time elect to pay to the municipality in which any project is located the total of all accrued taxes referred to in subdivision 1 for which exemption was granted and received, together with interest at the rate of five percent per annum. Upon such payment the tax exemption of the project granted under subdivision 1 shall cease and terminate.

**History:** 1947 c 487 s 49; 1949 c 505 s 19; 1955 c 565 s 9; 1981 c 356 s 248

#### **462.655 CHANGE IN FEATURE OF PROJECT PROHIBITED.**

During the period of any tax exemption granted pursuant to section 462.651, no redevelopment company or any successor in interest to its title to a project or any part thereof may change or modify any feature of a project for which approval of the authority is required, without the approval of such authority and by a majority of the whole number of the votes authorized to be cast by all of the members of the local governing body.

**History:** 1947 c 487 s 50; 1949 c 505 s 20

**462.66** [Repealed, 1947 c 487 s 61]

#### **462.661 SPECIAL AUTHORITY GRANTED TO CERTAIN PERSONS TO TRANSFER REAL PROPERTY TO REDEVELOPMENT COMPANY.**

Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian, or other person holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, municipalities, all other public bodies, all public officers, persons, partnerships, and corporations organized under or subject to the provisions of the insurance law, the superintendent of insurance as conservator, liquidator, or rehabilitator of any such person, partnership, or corporation, owning or holding any real property within an area, may grant, sell,

lease, or otherwise transfer any such real property to a redevelopment company and receive and hold any cash, stock, income debentures, bonds, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment company and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment company in connection with a project or projects.

**History:** 1947 c 487 s 51

#### **462.665 RULES AND REGULATIONS.**

The commissioner of energy, planning and development shall have power to make rules and regulations to carry out his powers and duties pursuant to sections 462.591 to 462.705 and to effectuate the purposes thereof.

**History:** 1947 c 487 s 52; 1949 c 505 s 21; 1981 c 356 s 248; 1982 c 424 s 103

**462.67** [Repealed, 1947 c 487 s 61]

#### **462.671 SCHEDULE OF FEES.**

The commissioner of energy, planning and development may adopt a reasonable schedule of fees to be paid upon the filing of a plan, plan for a project or projects, amendments thereto, and other instruments in connection therewith, submitted under sections 462.591 to 462.705 or under sections 462.515 to 462.545.

**History:** 1947 c 487 s 53; 1949 c 505 s 22; 1981 c 356 s 248; 1982 c 424 s 104

#### **462.675 CONDEMNATION FOR REDEVELOPMENT COMPANY.**

An authority may take real property by condemnation for a redevelopment company, provided the contract or contracts executed pursuant to section 462.645 contain a requirement that the company shall pay to the authority the fair use value of that real property, determined in accordance with the provisions of section 462.541, provision as to the time of payment and manner of securing payment thereof, and provisions requiring that the authority receive, before proceeding with the acquisition of that real property, such assurances as to payment or reimbursement by the redevelopment company, or otherwise, as the authority may deem advisable. Upon compliance by the redevelopment company with the applicable terms and conditions of such contract or contracts the authority shall proceed to acquire title to the real property and when title to the real property shall have vested in the authority, it shall convey the same to the redevelopment company upon final compliance by the redevelopment company with such terms and conditions.

**History:** 1947 c 487 s 54

**462.68** [Repealed, 1947 c 487 s 61]

#### **462.681 DUTIES OF COMMISSIONER OF ENERGY, PLANNING AND DEVELOPMENT.**

**Subdivision 1. Examination of redevelopment company.** The commissioner of energy, planning and development shall examine each redevelopment company and keep informed as to its general condition, its capitalization, and the manner in which its property is constructed, leased, operated, or managed with respect to its compliance with all provisions of law.

**Subd. 2. Powers of examination and control.** The commissioner of energy, planning and development may:

(1) Either himself or through his inspectors or employees duly authorized by him enter in or upon and inspect the property, equipment, buildings, plants, offices, apparatus, and devices of any redevelopment company or any other person entering into an agreement with any authority pursuant to the provisions of sections 462.515 to 462.545; examine all books, contracts, records, documents, and papers of any redevelopment company and by subpoena duces tecum compel the production thereof;

(2) In his discretion, prescribe uniform methods and forms of keeping accounts, records, and books to be observed by redevelopment companies, and after a hearing prescribe by order accounts in which particular outlays and receipts shall be entered, charged, or credited;

(3) Require specific answers to questions upon which he may desire information and require the filing of periodic reports in the form, covering the period, and at the time prescribed by him.

**History:** 1947 c 487 s 55; 1949 c 505 s 23; 1981 c 356 s 248

#### **462.685 SINKING FUND.**

Unless other provisions be made therefor in the contract with the authority, the commissioner of energy, planning and development, if he shall deem it feasible at any time, subject to the limitation contained in section 462.611, may require a redevelopment company to provide from earnings, after provision for dividends and interest, a sinking fund in an amount to be fixed by the commissioner for the gradual retirement of the stock and income debenture certificates of that company. That sinking fund may be used either for the purchase, from time to time, of stock or income debenture certificates at a price approved by the commissioner of energy, planning and development, not exceeding par value thereof with accrued and unpaid dividends or interest, or if it be not practicable to purchase such stock or such income debenture certificates at a price so approved, the moneys in such sinking fund may be added to the surplus of such company. Any stock or income debenture certificates purchased out of such sinking fund shall be canceled and shall not be reissued.

**History:** 1947 c 487 s 56; 1981 c 356 s 248

**462.69** [Repealed, 1947 c 487 s 61]

#### **462.691 CONSENT OF LOCAL GOVERNING BODY TO DISPOSAL OF PROPERTY.**

Until the termination of the tax exemption, whether by expiration or by any other cause, a redevelopment company shall not have power to sell any project without the consent of the local governing body. Upon acquisition of the project by any person, other than another redevelopment company, by lease or sale, or as the result of foreclosure proceedings, any tax exemption or partial tax exemption granted to such project shall immediately terminate.

Whenever the acquisition of a project by any person is the result of foreclosure proceedings, when such project is located within a city of the first class and in an area designated pursuant to section 462.415, subdivision 6, such acquisition shall require any subsequent operator to qualify as a redevelopment company as a condition of continued tax exemption. Such operator shall qualify within a reasonable period of time following foreclosure proceedings in accordance with the requirements of the commissioner of energy, planning and development.

**History:** 1947 c 487 s 57; 1973 c 319 s 7; 1981 c 356 s 248

**462.695 DISSOLUTION; DISPOSAL OF PROPERTY.**

Subdivision 1. **Dissolution.** After termination of any tax exemption granted as to any project pursuant to section 462.651, whether by expiration or by any other cause, or in the event that prior thereto the redevelopment company elects to pay to the municipality the total of all accrued taxes for which such exemption was granted and received, together with interest at the rate of five percent per annum, that company may convey title to the project in fee to any person, or, if it owns no other projects in this state as to which tax exemptions are in effect, it may voluntarily dissolve. However, as to any project located within a city of the first class and in an area designated pursuant to section 462.415, subdivision 6, the redevelopment company shall not be required to pay to the municipality the total of all accrued taxes for which such exemption was granted and received together with interest at the rate of five percent per annum, where there is the termination of any tax exemption granted to such project pursuant to section 462.651.

Subd. 2. **Conveyance without dissolution.** In case of a conveyance of a project without dissolution, pursuant to subdivision 1, the development company, after providing for the payment of all current operating expenses, taxes, indebtedness, and all accrued interest thereon, and all accrued dividends, subject to the limitations imposed by section 462.611, and after retiring stock at par value and debenture certificates at face value, in the proportion to all its outstanding stock and debenture certificates that the total actual final cost of that project bears to the total actual final cost of all projects owned by the redevelopment company in this state, which proportion shall be determined and certified by the commissioner of energy, planning and development, shall pay the cash surplus remaining, if any, into the general fund of the municipality in which the project is located, except that in a conveyance of any project located in a city of the first class in an area designated pursuant to section 462.415, subdivision 6, such payment of remaining cash surplus shall exclude amortization and capital gains.

Subd. 3. **Provisions for dissolution.** In case of a dissolution, or upon expiration of the period of corporate existence, similar provisions shall be made as to each project, the amount required to retire stock and debenture certificates being apportioned to each project in the same manner as provided in subdivision 2 for the apportionment of stock and debenture certificates to be retired in the case of a single project, and the cash surplus, if any, found to exist in the case of any project shall be paid into the general fund of the municipality in which that project is located.

Subd. 4. **Termination of tax exemption upon conveyance or dissolution.** After any conveyance or dissolution provided for in this section, the provisions of this act shall become and be inapplicable to any project involved in that conveyance or dissolution, and to its owner or owners, and any tax exemption granted to the redevelopment company pursuant to section 462.651 shall cease and terminate as to the project or projects involved.

Subd. 5. **Mortgage settlement before voluntary dissolution.** In no event shall a redevelopment company be voluntarily dissolved unless provision is made for the payment in full of the remaining balance of principal and interest due or unpaid upon any mortgage on its property or any part thereof, but any project may, with the consent of the governing body of the municipality, in which it is located, be conveyed and transferred to the municipality subject to such mortgage and accrued interest.

Subd. 6. **Dissolution under subdivisions 1 and 3.** Unless the local governing body of the municipality shall consent to the voluntary dissolution of a redevelopment company, such a company shall not dissolve except in accordance with subdivisions 1 and 3 or upon the expiration of the period of corporate existence as fixed by its certificate of incorporation.

Subd. 7. **Contract with authority.** The contract with the authority may contain such other provisions for the dissolution of the redevelopment company as may be deemed advisable, not inconsistent with the provisions of this section.

**History:** 1947 c 487 s 58; 1973 c 319 s 8,9; 1981 c 356 s 248

**462.70** [Repealed, 1947 c 487 s 61]

#### **462.701 INSURANCE COMPANIES.**

Subdivision 1. **Insurance companies may organize a redevelopment company.** One or more insurance companies shall have the power to organize, or cause to be organized, a redevelopment company formed pursuant to the provisions of sections 462.415 to 462.705 and to purchase for cash, or to receive and hold in exchange for property, and to own and control, the stock or the income debenture certificates, or both, of any redevelopment company, and shall also have power to invest, singly, or jointly, in a bond and first mortgage or in an issue of bonds secured by mortgage or trust indenture constituting a first lien upon any project as provided in sections 462.415 to 462.705. An insurance company, however, which owns stock or income debenture certificates of a redevelopment company and also owns bonds or a bond and mortgage or an interest in a bond and mortgage of the same redevelopment company shall not, without the consent of the commissioner of energy, planning and development, sell all or any part of such bonds or such bond and mortgage or of its interest in such bond and mortgage unless it shall simultaneously sell the stock and such income debenture certificates of that company owned by it.

Subd. 2. **Authority to contract; issuance of bonds.** Notwithstanding any other provisions of law, an insurance company or companies owning all of the stock of a redevelopment company are hereby expressly authorized to enter into contracts contemplated by sections 462.415 to 462.705, and to agree by contract with a municipality or authority not to sell, assign, or otherwise transfer the stock, income, debentures, or mortgage bonds of the redevelopment company during the period of tax exemption provided for by the contract pursuant to this act without the consent of the local governing body of the municipality. Such insurance company or companies are hereby expressly authorized to make such capital contributions to any such redevelopment company, in cash or by cancellation of securities or otherwise, as may be necessary to enable that redevelopment company to comply with all conditions precedent to its dissolution or conveyance of its property in accordance with section 462.695 and, upon dissolution of such a redevelopment company, to acquire the project and own and operate the same as a permanent investment for such period as it or they may deem desirable, either directly or through acquisition and ownership of the capital stock of any corporation which may acquire title to the project pursuant to section 462.695, subdivision 1.

Subd. 3. **Restrictions or limitations.** Except as specifically provided herein, sections 462.415 to 462.705 shall not be deemed to limit or restrict any power or authority granted to insurance companies, or to any other corporation, or to any fiduciary, by any other provision of law.

**History:** 1947 c 487 s 59; 1981 c 356 s 248; 1982 c 424 s 105

#### **462.705 INSURANCE COMPANY DEFINED.**

"Insurance company" as used in sections 462.591 to 462.705 means any insurance company or investment trust company authorized to do business in this state.

**History:** 1947 c 487 s 60; 1949 c 505 s 24; 1982 c 424 s 106

**462.71** [Repealed, 1947 c 487 s 61]

**462.711** [Repealed, 1981 c 356 s 247]

NOTE: Powers and duties transferred to state planning office. See section 4.16, subdivision 4.

**462.712 RETROACTIVE EFFECT OF PUBLISHED NOTICE PROVISIONS.**

Laws 1959, Chapter 545, Sections 1 to 14, so far as they relate to published notice of public hearings of any and all kinds shall operate not only prospectively, but retroactively, so as to eliminate the necessity of more than one publication of a given hearing, if more than one publication is, was, or is claimed to be required under Minnesota Statutes, Sections 462.415 to 462.705 and Laws 1959, Chapter 545, Sections 1 to 19. All orders, resolutions, motions, plans, and agreements and actions taken by any municipal housing and redevelopment authority organized, or purported to be organized under Minnesota Statutes, Sections 462.415 to 462.705 and Laws 1959, Chapter 545, Sections 1 to 19, and taken or purported to have been taken by any governing body, city planning commission, or political subdivision of the state or public state body with respect to plans and projects, are hereby declared valid and effective.

**History:** 1959 c 545 s 15; 1982 c 424 s 107

**462.713 BOND PENDING LITIGATION.**

When any action or proceeding at law or in equity shall hereafter be commenced, drawing in question the right, power, or authority of a public corporation created and operating under Minnesota Statutes 1957, Sections 462.415 to 462.705 and Laws 1959, Chapter 545, Sections 1 to 19, to do any act or to make or perform any contract or agreement or to undertake or enter upon the discharge of any obligations or commitments under such statutes, the corporation may, if it deems that the pendency of such litigation might directly or indirectly impair its borrowing power, increase the cost of its projects, or be otherwise injurious to the public interest, move the court in which such litigation is pending, to require the party or parties who instituted the suit to give a surety bond as provided in sections 462.714 to 462.716.

**History:** 1959 c 545 s 16; 1982 c 424 s 108

**462.714 APPEARANCE OF PUBLIC CORPORATION; BOND.**

If the public corporation is not a party to the litigation described in section 462.713 it may appear specially for the purpose of making and being heard on such a motion. Three days' notice of hearing on the motion shall be given. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the action or proceeding, the court may require the party or parties who instituted the same to give a surety bond, approved by the court or judge, in a penal sum to be determined by the court to protect against such loss or damage, whether or not a temporary injunction or restraining order against the corporation shall have been demanded or ordered. If the bond so ordered be not filed within the reasonable time allowed therefor by the court, the action or proceeding shall be dismissed with prejudice. Such bond shall be executed by the party or parties who instituted the litigation or some person for him or them as principal and conditioned for the payment to the corporation of such damage as the public and taxpayers shall sustain by reason of the litigation, if the court finally determines that the party or parties were not entitled to the relief sought. The amount of damages may be ascertained by a reference or otherwise as the court shall direct, in which case the sureties shall be concluded as to the amount but the damages shall be recoverable only in an action on the bond. If the party or parties by or for whom such bond is furnished prevails in the litigation, the



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premium paid on the bond shall be repaid by or taxed against the corporation. During the pendency of the litigation, the court, on motion, may require additional security if found necessary, and upon failure to furnish the same shall dismiss the action or proceeding with prejudice. The court may likewise, on motion, reduce the amount of a bond theretofore required or release the bond upon a showing that the amount is excessive or the bond no longer required.

**History:** 1959 c 545 s 17

## 462.715 ADVANCE OF LITIGATION ON CALENDAR.

In any litigation as described in sections 462.713 and 462.714, wherein a bond has been required and given or the court has denied a motion to require such bond, the court shall advance the case on its calendar for trial at the earliest feasible date; and in such litigation an appeal to the supreme court from an appealable order made, or from a judgment entered in a district court may be taken after 30 days from entry of such judgment or after written notice of such order from the adverse party.

**History:** 1959 c 545 s 18

## 462.716 SUIT FOR CIVIL DAMAGES.

Nothing contained in sections 462.713 to 462.716 shall affect the rights of any person to bring a suit for civil damages. No bond shall be required in such a suit except as otherwise provided by law.

**History:** 1959 c 545 s 19

- 462.72 [Expired]
- 462.73 [Repealed, 1947 c 487 s 61]
- 462.731 [Expired]
- 462.74 [Repealed, 1947 c 487 s 61]
- 462.741 [Expired]
- 462.75 [Repealed, 1947 c 487 s 61]
- 462.751 [Expired]
- 462.76 [Repealed, 1947 c 487 s 61]
- 462.761 [Expired]
- 462.77 [Repealed, 1947 c 487 s 61]
- 462.771 [Expired]
- 462.78 [Repealed, 1947 c 487 s 61]
- 462.781 [Expired]
- 462.79 [Repealed, 1947 c 487 s 61]
- 462.791 [Expired]
- 462.80 [Repealed, 1947 c 487 s 61]
- 462.801 [Expired]
- 462.81 [Repealed, 1947 c 487 s 61]
- 462.811 [Expired]
- 462.82 [Expired]