

## CHAPTER 394

### PLANNING, DEVELOPMENT, ZONING

394.23 Comprehensive plan.  
 394.232 Community-based planning.  
 394.235 May make applicant certify that taxes are paid.

394.24 Official controls.  
 394.25 Forms of control.  
 394.305 Notice of residential development on certain agricultural land.

#### 394.23 COMPREHENSIVE PLAN.

The board has the power and authority to prepare and adopt by ordinance, a comprehensive plan. A comprehensive plan or plans when adopted by ordinance must be the basis for official controls adopted under the provisions of sections 394.21 to 394.37.

**History:** 1997 c 202 art 4 s 4

#### 394.232 COMMUNITY-BASED PLANNING.

**Subdivision 1. General.** Each county is encouraged to prepare and implement a community-based comprehensive plan. A community-based comprehensive plan is a comprehensive plan that is consistent with the goals of community-based planning in section 4A.08.

**Subd. 2. Notice and participation.** Notice must be given at the beginning of the community-based comprehensive planning process to the office of strategic and long-range planning, the department of natural resources, the department of agriculture, the department of trade and economic development, the board of soil and water resources, the pollution control agency, the department of transportation, local government units, and local citizens to actively participate in the development of the plan. An agency that is invited to participate in the development of a local plan but declines to do so and fails to participate or to provide written comments during the plan development process waives the right during the office's review and comment period to submit comments, except for comments concerning consistency of the plan with laws and rules administered by the agency. In determining the merit of the agency comment, the office shall consider the involvement of the agency in the development of the plan.

**Subd. 3. Coordination.** A county that prepares a community-based comprehensive plan shall coordinate its plan with the plans of its neighbors and its constituent municipalities and towns in order both to prevent its plan from having an adverse impact on other jurisdictions and to complement plans of other jurisdictions. The county's community-based comprehensive plan must incorporate the community-based comprehensive plan of any municipality or town in the county prepared in accordance with section 462.3535. A county may incorporate a municipal or town community-based comprehensive plan by reference.

**Subd. 4. Joint planning.** Under the joint exercise of powers provisions in section 471.59, a county may establish a joint planning district with other counties, municipalities, and towns, that are geographically contiguous, to adopt a single community-based comprehensive plan for the district. The county may delegate its authority to adopt official controls under this chapter to the board of the joint planning district.

**Subd. 5. Review and comment.** (a) The county or joint planning district shall submit its community-based comprehensive plan to the office of strategic and long-range planning for review. The plan is deemed approved 60 days after submittal to the office, unless the office disagrees with the plan as provided in paragraph (c).

(b) The office may not disapprove a community-based comprehensive plan if the office determines that the plan meets the requirements of this section.

(c) If the office disagrees with a community-based comprehensive plan or any elements of the plan, the office shall notify the county or district in writing of the plan deficiencies and suggested changes. Upon receipt of the office's written comments, the county or district has 60 days to revise the community-based comprehensive plan and resubmit it to the office for reconsideration.

(d) If the county or district refuses to revise the plan or the office disagrees with the revised plan, the office shall within 60 days notify the county or district that it wishes to initiate the dispute resolution process in chapter 572A.

(e) Within 30 days of notice from the office, the county or joint planning district shall notify the office of its intent to enter the dispute resolution process. If the county or district refuses to enter the dispute resolution process, the county or district shall refund any state grant received for community-based planning activities through the office.

**Subd. 6. Plan update.** The county board, or the board of the joint planning district, shall review and update the community-based comprehensive plan periodically, but at least every ten years, and submit the updated plan to the office of strategic and long-range planning for review and comment.

**Subd. 7. No mandamus proceeding.** A mandamus proceeding may not be instituted against a county under this section to require the county to conform its community-based comprehensive plan to be consistent with the community-based planning goals in section 4A.08.

**Subd. 8. Planning authority.** Nothing in this section shall be construed to prohibit or limit a county's authority to prepare and adopt a comprehensive plan and official controls under this chapter.

**History:** 1997 c 202 art 4 s 5

### **394.235 MAY MAKE APPLICANT CERTIFY THAT TAXES ARE PAID.**

The county board may require, either as part of the necessary information on an application or as a condition of a grant of approval, an applicant for an amendment to an official control established pursuant to sections 394.21 to 394.37, or for a permit or other approval required under an official control established pursuant to those sections to certify that there are no delinquent property taxes, special assessments, penalties, and interest due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order, or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this section if all required payments that are due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.

**History:** 1997 c 2 s 2

### **394.24 OFFICIAL CONTROLS.**

**Subdivision 1. Adopted by ordinance.** Official controls which shall further the purpose and objectives of the comprehensive plan and parts thereof shall be adopted by ordinance. The comprehensive plan must provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the comprehensive plan.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 202 art 4 s 6

### **394.25 FORMS OF CONTROL.**

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Districts set by zoning ordinances.** Zoning ordinances establishing districts within which the use of land or the use of water or the surface of water pursuant to section 86B.205 for agriculture, forestry, recreation, residence, industry, trade, soil conservation, water supply conservation, surface water drainage and removal, conservation of shorelands, as defined in sections 103F.201 to 103F.221, and additional uses of land and of the surface of water pursuant to section 86B.205, may be by official controls encouraged, regulated, or prohibited and for such purpose the board may divide the county into districts of such number, shape, and area as may be deemed best suited to carry out the comprehensive plan. Official controls may also be applied to wetlands preservation, open space, parks, sewage disposal, protection of groundwater, protection of floodplains as defined in section 103F.111, protection of wild, scenic, or recreational rivers as defined in sections 103F.311 and 103F.315, protection of slope, soils, unconsolidated materials or bedrock from potentially damaging

development, preservation of forests, woodlands and essential wildlife habitat, reclamation of nonmetallic mining lands; protection and encouragement of access to direct sunlight for solar energy systems as defined in section 216C.06, subdivision 8; and the preservation of agricultural lands. Official controls may include provisions for purchase of development rights by the board in the form of conservation easements under chapter 84C in areas where preservation is considered by the board to be desirable, and the transfer of development rights from those areas to areas the board considers more desirable for development.

*[For text of subds 3 and 3a, see M.S.1996]*

**Subd. 3b. Conditional uses.** A manufactured home park, as defined in section 327.14, subdivision 3, is a conditional use in a zoning district that allows the construction or placement of a building used or intended to be used by two or more families.

**Subd. 3c. Feedlot zoning ordinances.** (a) A county proposing to adopt a new feedlot ordinance or amend an existing feedlot ordinance must notify the pollution control agency and commissioner of agriculture at the beginning of the process.

(b) Prior to final approval of a feedlot ordinance, a county board may submit a copy of the proposed ordinance to the pollution control agency and to the commissioner of agriculture and request review, comment, and preparation of a report on the environmental and agricultural effects from specific provisions in the ordinance.

(c) The report may include:

(1) any recommendations for improvements in the ordinance; and

(2) the legal, social, economic, or scientific justification for each recommendation under clause (1).

(d) A local ordinance that contains a setback for new feedlots from existing residences must also provide for a new residence setback from existing feedlots located in areas zoned agricultural at the same distances and conditions specified in the setback for new feedlots, unless the new residence is built to replace an existing residence. A county may grant a variance from this requirement under section 394.27, subdivision 7.

*[For text of subds 4 to 10, see M.S.1996]*

**History:** 1997 c 200 art 4 s 4; 1997 c 216 s 135,136

### **394.305 NOTICE OF RESIDENTIAL DEVELOPMENT ON CERTAIN AGRICULTURAL LAND.**

A person who applies for a permit to construct four or more residential units on a site located on land zoned for agricultural use or on agricultural land in a county that does not have a comprehensive land use or zoning plan shall, not later than ten business days after the application is submitted, provide notice to each owner of agricultural real property within 5,000 feet of the perimeter of the residential development. The notice may be delivered by first class mail, in person, or by publication in a newspaper of general circulation within the affected area and must include information on the number of residential units.

**History:** 1997 c 216 s 137