

Minnesota's Statutory Authority to Plan

For Townships

Minnesota Statutes § 366.10 through § 366.18 convey to townships the authority to enact zoning regulations, zoning districts and establish zoning commissions and prescribes the manner in which this is to be done. Minnesota Statute § 394.33 also conveys to townships the authority to plan and zone with the stipulation that any official controls, after adoption, must not be inconsistent nor less restrictive than any adopted official controls of the county within which it belongs. And Minnesota Statutes § 462.352 Definitions, and its Subd. 2. Municipality defines "Municipality" to mean any city, including a city operating under a home rule charter, and any town, thereby extending all of the authority granted to municipalities to plan per Minnesota Statutes Chapter 462 - Housing, Redevelopment, Planning, Zoning - to townships as well.

For Counties

Minnesota Statutes § 394.21 specifically grants to all counties, except those in the defined seven county Metropolitan Area, the authority to “carry on county planning and zoning”. Minnesota Statutes § 394.23 gives county boards the power and authority to prepare and adopt by ordinance, a comprehensive plan and “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”.

The seven Metro counties are governed by Minnesota Statute Chapter 473, the Metropolitan Planning Act.

For Municipalities

Minnesota Statutes § 462.353 grants municipalities their authority to plan. Its Subdivision 1. states, “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.”

For cities in the seven county metropolitan area, Minnesota Statutes § 473.858 - Comprehensive Plans - governs, to wit: “Within three years following the receipt of the metropolitan system statement, every local governmental unit shall have prepared a comprehensive plan in accordance with sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 and the applicable planning statute and shall have submitted the plan to the metropolitan council for review pursuant to section 473.175.” However, Minnesota Statutes § 462.355 initially grants these municipalities their basic authority to comprehensively plan.

Regional Planning and Joint Planning

Minnesota Statutes § 394.32 allows counties and its municipalities to jointly plan and also allows a municipality to contract with a county for its planning support.

For regional planning, Minnesota Statutes § 462.371 states that “Any two or more counties, cities or towns may enter into an agreement under section 471.59 for the conduct of regional planning activities.”

Minnesota Statutes § 471.59 or the Joint Exercise of Powers Act is the vehicle whereby regional planning can be done, namely, “Two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised. The agreement may provide for the exercise of such powers by one or more of the participating governmental units on behalf of the other participating units.”

An important note:

Except for the seven county metropolitan area, land use planning by cities, townships and counties is permissive or more directly stated, not mandated by Minnesota Statutes.

Land Use Plan and Ordinance Adoption in Minnesota

Mandatory Requirements

For Counties -See MS § 394.26 & § 375.51

Public Hearings

- **When required.** In addition to public hearings required by section 375.51 prior to the adoption by ordinance of any comprehensive plan or amendments thereto or of any official control or amendment thereto, public hearings shall be held before any conditional use permit, any variance, and any proposal for a subdivision is approved or denied by the responsible authority, and in circumstances where a public hearing is otherwise required by sections 394.21 to 394.37.
- **Notice of intention.** Publication in the official newspaper of the county not less than ten the days before the meeting or public hearing required. Public hearings may be continued from time to time and additional hearings may be held.
- **Content.** The notice shall state the subject matter and the general purpose of the proposed ordinance. Proof of the publication of the notice shall be attached to and filed with the ordinance, if enacted, in the office of the county auditor.

For Cities (outside the 7 county Metro area) – See MS § 462.353

Public hearings

- **When required.** 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.
- **Notice of intention.** 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.
- **Content.** 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.

Other notice – See MS § 462.3535, Subd. 2.

- **Coordination.** A municipality that prepares a community-based comprehensive municipal plan shall coordinate its plan with the plans, if any, of the county and the municipality's neighbors both in order to prevent the plan from having an adverse impact on other jurisdictions and to complement the plans of other

jurisdictions. The municipality shall prepare its plan to be incorporated into the county's community-based comprehensive plan, if the county is preparing or has prepared one, and shall otherwise assist and cooperate with the county in its community-based planning.

For Townships – See MS § 462.352 Subd. 2

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

Townships have by this statute been conveyed the same authority to plan as has been granted to cities in MS § 462.353. Therefore the same mandates apply to townships as to cities regarding public notice and coordination, namely:

Public hearings

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- **Notice of intention.** 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.
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An editorial comment.

The above requirements are the minimum statutory requirements for **Land Use Plan and Ordinance Adoption in Minnesota**. Open government is trusted government so it is to the advantage of the Local Governmental Unit to do more than the minimum required when giving public notice. Public notice of impending plans and ordinances, including proposed changes and amendments, can be posted at public locations around the

community such as post offices, city halls and other public gathering places including grocery store bulletin boards.

Publication more than once in the official newspaper is also wise. And are there other local media that can be tapped into such as a radio station, a local internet web site or portal, the city or county's web site, a local free shopper or newspaper.

Look carefully at what the community possesses in terms of information media. We can frequently be surprised at what is out there.