



## STAFF REPORT

DATE: December 4<sup>th</sup>, 2018

**REGULAR**

ITEM #: 28

**MOTION**

**TO:** Planning Commission  
**FROM:** Ben Prchal, City Planner  
**AGENDA ITEM:** Revision of Planning Commission Ordinance. Chapter 32  
**REVIEWED BY:** Ken Roberts – Planning Director

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### **BACKGROUND:**

Staff recently had a discussion with a Parks Commission member regarding procedures and Chapter 32 as it pertains to the Parks Commission. After reviewing the ordinance with the commission in July, staff understood the same review should be conducted of the Planning Commission Ordinance. The Planning Commission reviewed their section of the City code on November 27<sup>th</sup>, 2018. The suggested code changes by staff as well as the Planning Commission comments are outlined below.

### **ISSUE BEFORE THE COMMISSION:**

Would the City Council like to adopt the recommended changes to Chapter 32 of the City Code as they pertain to the Planning Commission?

### **PROPOSAL:**

To review Lake Elmo's Planning Commission Ordinance, staff gathered examples from other Washington County communities and did some comparisons and analysis. Staff has proposed amendments to the ordinance in order to shorten and further clarify the objectives of the chapter. There are many corrections to the chapter but staff has chosen to specifically highlight some of the amendments below. In addition to the amendments, staff would propose creating a set of bylaws for the planning commission to follow. If the commission and City Council supportive of having bylaws, a draft set of by-laws would be brought to future meeting for their review.

### **32.082 Composition**

Comparable communities have 5 - 7 voting members.

<b>Jurisdiction</b>	<b>Commission Members</b>	<b>Quorum</b>	<b>Consecutive Terms</b>
Hugo	7 Voting Members	4	None Stated
Oak Park Heights	5 Voting Members	Not Stated	No more than consecutive 2 terms
Mahtomedi	7 Voting Members	Majority of all members	None Stated
Oakdale	7 Voting Members	Simple Majority of serving members	3 consecutive terms
Cottage grove	9 Voting Members	Majority of appointed members	No more than consecutive 2 terms
Lake Elmo	7 Voting 2 Alternates	4 Members	No more than 2 consecutive terms

Staff does not believe there should be a limit on consecutive terms. Instead, at the end of term they may be reappointed by the City Council if they wish to continue serving on the Planning Commission. If there is another interested party, council must decide on who shall receive the appointment. State statue has not established a number of members, length of terms, or consecutive term limits for the Planning Commission.

**32.030 Officers**

There is no longer a need to elect a secretary as the duties which have been assigned to them by the ordinance now have staff members who have been or can perform the assigned duties.

**32.031 Annual Meetings, 32.033 regular Meetings, and 32.04 Special Meetings**

Currently there are 3 sections that discuss meetings. There is no need to have 3 separate sections to outline meetings. Instead the language in them has been reduced and consolidated into “32.031 Meetings”

**32.036 VOTING**

The adjustments to this section are for consistency and to remove other rules that are not practical to follow.

**32.040 Records**

Adjustments are for consistency.

**32.042 Duties and Powers Of The Commission**

The title has been amended as well as the content. At first glance the current language is a lot to take in. Staff has done their best to consolidate and clean up the separate bullets.

**FISCAL IMPACT:**

Staff does not foresee a fiscal impact with the proposed changes.

**RECOMMENDATION AND STAFF COMMENTS:**

**Planner Comments:**

Though there are a lot of changes throughout the ordinance, much of the language has been reduced for simplification and consolidated. Staff believes the language proposed for removal is no longer practical to follow, has not been followed in the past, or can be incorporated into bylaws.

**Planning Commission Recommendation:**

The Planning commission suggested amendments to the Ordinance, which the Planning Staff is in support of. The conversation regarding the suggested edits circled around two main points. The reduction in commission members as well as consecutive term limits. There was a concern by the Planning Commission that fewer members would make it more difficult to meet a quorum. There are also several other communities that have 7 members, if the lower number was indeed an issue staff believes it would not be as common. The second concern was the elimination of consecutive term limits. The term limit was removed because it is not always followed and if there are not enough applicants to fill positions it would be a shame not to allow a member a 3<sup>rd</sup> or 4<sup>th</sup> term because of a 2 term limit. The discussion here was in regard to fresh thoughts/ideas coming forward to the Planning Commission. By removing the term limit it would perceivably allow a member to sit on the commission for several years. However, if there was a full commission and a new resident became interested in serving on the Planning Commission the City Council would have the option to appoint the new member to the Planning Commission thus removing the long standing member. There was a motion to keep the language for 2 term limits but it was denied 5-2.

Overall the Commission voted to approve the changes with amendments, 7-0.

***“Recommend approval of the amended language to Chapter 32 as it pertains to the Planning Commission”***

**ATTACHMENTS:**

- Proposed Ordinance.
- LMNC write up, Hugo, Mahtomedi, Oak Park Heights, and Oakdale Code sections.

CITY OF LAKE ELMO  
COUNTY OF WASHINGTON  
STATE OF MINNESOTA

ORDINANCE NO. 08-XX

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY  
AMENDING CHAPTER 32 TO REDUCE THE NUMBER OF COMMISSIONERS AND SIMPLIFY  
THE CHAPTER.**

**SECTION 1.** The City Council of the City of Lake Elmo hereby amends Title III, Chapter 32, City Organizations, Sections 32.025-32.042, Planning Commission by amending the following language:

**§ 32.025 ESTABLISHMENT.**

A Planning Commission is continued in the city.  
(1997 Code, § 210.01)

**§ 32.026 PURPOSE.**

The Planning Commission is established to meet the requirements of state statute; to develop and enforce the Comprehensive Plan and amendments to the plan, subject to City Council approval and the requirements of the State Municipal Planning Act; and to review and make recommendations on subdivisions, zoning applications, planned unit developments, and site and building plans as provided by ordinance. No expenditures by the Commission shall be made unless and until authorized for the purpose by the City Council.

(1997 Code, § 210.02)

**~~§ 32.027—COMPOSITION~~ COMPOSITION.**

(A) *Generally.* The Planning Commission shall consist of 7 voting members. ~~members and 2 non-voting alternate members.~~ The voting Mmembers shall be appointed for a 3-year terms so that only 1/3 of the appointments will expire on December 31 of each year. ~~Voting members may not serve more than 2 consecutive terms.~~ Appointments to an additional term(s) will be considered with the available applicant pool. ~~Alternate members shall be appointed to serve until there is a vacancy on the Planning Commission. The City Council shall appoint a first alternate and a second alternate who shall become voting members in the order of their appointment upon a vacancy on the Commission.~~

(1997 Code, § 210.03) (Am. Ord. 97-96, passed 1-15-2002; Am. Ord. 97-147, passed 2-15-2005; Am. Ord. 97-200, passed 11-5-2007; Am. Ord. 08-046, passed 6-21-2011)

~~—(B) *Special appointments.*~~

~~—(1) At the discretion of the City Council, up to 5 additional appointments can be made to the Planning Commission, for each special project, including but not limited to Environmental Management, Maintenance Advisory, and the Old Village, to assist with special projects currently in process, or directed by the City Council to be studied, drafted, and completed.~~

~~—(2) The term of the special appointments shall expire 2 years from the date of appointment, or upon completion of the special project, whichever is first. Any special appointee may request reappointment if the specific project is not completed in that time.~~

~~—(3) (a) Special project appointees shall have full voting privileges only on issues specifically related to the special project.~~

~~—(b) Full voting privileges for the regular Planning Commission shall remain consistent with this section.~~

~~(Ord. 97-67, passed 1-2-2001; Am. Ord. 97-70, passed 1-16-2001)~~

**§ 32.028 QUALIFICATIONS.**

Each member ~~and alternate member~~ shall be a resident of the city. Wherever possible, Commission

members should represent all geographical areas of the city and a cross-section of the population of the city at the time of appointment.

(1997 Code, § 210.04)

### **§ 32.029 REMOVAL.**

(A) The Council may consider exceptional circumstances when considering the removal of a planning commission member. Nonetheless, Any member or alternate member may be removed by a majority vote of the City Council, for any of cause the following reasons: Cause shall include but not be limited to having

1. Having more than 3 consecutive unexcused absences from Planning Commission meetings.

2. ~~or b~~ Being absent from more than 1/3 of the Planning Commission meetings in any 1 calendar year.

3. Changing their primary place of residence to a location outside of the City of Lake Elmo.

4. Exhibiting behavior disruptive to the good order and efficiency of the Planning Commission.

The Council may consider exceptional circumstances when applying this rule planning.

(1997 Code, § 210.05) (Am. Ord. 08-172, passed 4-18-2017)

### **§ 32.030 OFFICERS.**

The Commission shall elect a Chairperson, and a Vice Chairperson, and a Secretary from among its appointed members at the annual meeting each year, first available date of the each year, for a term of 1 year. The Chairperson shall preside at all meetings of the Commission, if present, and shall perform all other duties and functions required by state statute or assigned by the Commission or the Council. The Vice Chairperson shall perform these duties in the absence of the Chairperson. If a vacancy occurs in the Chairperson's office, the Vice Chairperson shall assume the Chairperson's duties for the remainder of the year, and a new Vice Chairperson shall be elected by the Commission at a special election to be held at the next regularly scheduled Commission meeting; after at least 2 days written notice to each Commission member. The Secretary shall perform those duties assigned by state statute only. A recording Secretary shall be appointed by the Council to take and keep the minutes and records of the Commission.

(1997 Code, § 210.06)

### **~~§ 32.031 ANNUAL MEETINGS.~~**

~~—(A) The Commission shall hold an annual meeting the second Monday in the month of January in each year.~~

~~—(B) The meeting shall be devoted to the election of officers and other business as shall be scheduled.~~

~~(1997 Code, § 210.07)~~

### **~~§ 32.032 ANNUAL WORK PLAN.~~**

~~—The Planning Commission shall develop an annual work plan, including a list of projects, points of interaction on projects, programs, and goals for the following year.~~

~~(1997 Code, § 210.08) (Am. Ord. 08-172, passed 4-18-2017)~~

### **§ 32.033 REGULAR MEETINGS.**

A) The first available meeting of the New Year with a quorum shall be dedicated to the election of officers and other business as scheduled.

B) Regular meetings shall be held in the City Hall at 7:00 p.m. on the second and fourth Mondays of each month. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. A regular meeting may be canceled or rescheduled by the Commission Chair at a prior meeting or if there are no scheduled agenda items on the Thursday prior to the meeting. All action taken by the Commission shall be by the affirmative vote of a majority of the members present.

C) Special meetings for the Commission may be called by the Chair following three (4) days posted notice at City Hall.

(1997 Code, § 210.09)

#### **~~§ 32.034 SPECIAL MEETINGS.~~**

~~—Special meetings of the Commission shall be held in the City Hall at a time and place designated or at a public place at a time designated and shall be called by the Chairperson. Upon the written request of at least 4 members, the Chairperson shall be required to call a special meeting to be held within 7 days of the request. Written notice of the meeting shall be given to all members not less than 3 working days in advance of the meeting.~~

~~(1997 Code, § 210.10)~~

#### **§ 32.035 QUORUM.**

A quorum shall consist of 4 members.

(1997 Code, § 210.11) (Am. Ord. 97-14, passed 9-2-1997; Am. Ord. 08-046, passed 6-21-2011)

#### **§ 32.036 VOTING.**

Each member attending any meeting shall be entitled to cast 1 vote. Voting shall be by voice vote or by raise of hand. If any member has a personal interest of any kind in the matter before the Commission, the member shall disclose the interest and be disqualified shall remove themselves from voting upon the matter. It shall then be recorded in the minutes that there was a no vote cast by that member. The Secretary shall record in the minutes that no vote was cast by that member. ~~Alternate members shall be entitled to cast 1 vote in the absence of any member. The second alternate shall be entitled to cast 1 vote in the absence of any 2 members.~~

(1997 Code, § 210.12)

#### **~~§ 32.037 PROCEEDINGS.~~**

~~—At any regular meeting of the Commission, the following shall be the regular order of business:~~

- ~~—(A) Roll call;~~
- ~~—(B) Approval of agenda;~~
- ~~—(C) Minutes of the preceding meeting;~~
- ~~—(D) Public hearings as scheduled on the agenda;~~
- ~~—(E) Old and new business as scheduled on the agenda;~~
- ~~—(F) Communications;~~
- ~~—(G) Other; and~~
- ~~—(H) Adjournment.~~

~~(1997 Code, § 210.13)~~

#### **§ 32.038 RULES OF PROCEDURE.**

All meetings of the Commission shall be conducted in accordance with the Revised Robert's Rules of Order.

(1997 Code, § 210.14)

#### **§ 32.039 AGENDA.**

~~The Chairperson shall cause all items to be considered at any meeting to be placed on a written agenda by the City Administrator or an appointed designee.~~ The City Administrator, or appointed designee, shall advise the Chairperson of any matters the Commission must consider by Council directive, ordinance, or statute and shall have prepared and supply a written agenda of all meetings to all Commission members, the Council, and the public no less than 4 days before each meeting.

(1997 Code, § 210.15)

#### **§ 32.040 RECORDS.**

Each formal action of the Commission shall be embodied in full upon the minute book as formal motion or resolution. The minutes of each meeting shall be approved at a future meeting. provided to each member, the Council, and the public no more than 7 days after the date of each meeting. The recommendations and findings of the Commission shall be presented to the Council at the next regularly scheduled Council meeting. The records of meetings and actions and recommendations shall be transmitted to the City ~~Administrator~~Clerk, or appointed designee, for keeping and distribution.

### § 32.041 TRAINING.

Commission members shall be encouraged to ~~avail themselves of~~attend training courses offered by the city, the state, and other government and public training agencies and the Council shall budget for the reimbursement of expenses incurred in training each year.

(1997 Code, § 210.17)

### § 32.042 DUTIES AND POWERS OF THE COMMISSION; ~~COMPREHENSIVE PLAN.~~

~~(A)~~ ~~(A)~~ *Plan.* The Planning Commission shall have the powers and duties given city planning agencies generally by law. The Commission shall also exercise the duties conferred upon it by this code. It shall be the purpose of the Planning Commission to prepare and adopt a Comprehensive Plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utilities services, parks and playgrounds, a general land use plan, and other matters relating to the physical development of the city. The plan may be prepared in sections, each of which shall relate to the Comprehensive Plan program. After the Commission has prepared and adopted the Comprehensive Plan, it shall periodically, but at least every 5 years the Commission shall, as necessary, review the Comprehensive Plan and any ordinances or program implementing the plan.

~~(B)~~ ~~(B)~~ *Means of executing plan.* Upon the adoption of a Comprehensive Plan or any section, it shall be the concern of the Planning Commission to recommend to the Council reasonable and practicable means for putting into effect the plan or section in order that the same will serve as a pattern and guide for the orderly physical development of the city and as a basis for judging the timely disbursements of funds to implement the objective. Means of effectuating the plan shall, among other things, consist of a zoning ordinance, subdivision regulations, capital improvement programming and technical review, and recommendations of matters referred to the Planning Commission by the Council.

(C) The Planning Commission shall also perform reviews and provide recommendations to the City Council the following items:

1. Zoning Ordinance or text amendments
2. Conditional Use Permits
3. Subdivisions Major and Minor
4. Planned Unit Development Requests (PUD)
5. Variance Requests
6. Five (5) Year Capital Improvement Program (for consistency with the Comprehensive Plan)
7. Annual Work Plan
8. All necessary reviews pertaining to the Comprehensive plan, amendments, or otherwise

~~(C) Zoning ordinance.~~ The Planning Commission shall review all proposed amendments to the zoning ordinance, take part in public hearings, and make recommendations to the Council as may be prescribed by the zoning ordinance.

~~(D) Conditional use permits.~~

~~(1) The Planning Commission may make recommendations on all requests for a conditional use permit under the terms of the zoning ordinance.~~

~~(2) The Commission shall report its recommendations to the Council for action.~~

~~(E) Subdivisions.~~ The Planning Commission may make recommendations in relation to the subdividing of land as prescribed by the ordinance; the Commission shall report its recommendations to the Council for action.

~~(F) Variances.~~ The Planning Commission shall hear all variance requests from the literal provisions of this code, and shall follow the guidelines set forth in the zoning code.

~~(G) Capital Improvement Program.~~

~~(1) (a) The Planning Commission shall endeavor to obtain from city officers a descriptive list of~~

~~proposed improvements for the ensuing 5-year period.~~

~~(b) The Planning Commission shall also request from the local school district a similar list of its proposed public works.~~

~~—(2) (a) The Planning Commission shall list and classify all the proposed public works and shall prepare a coordinated program of proposed public works for the ensuing year and for a projected 5-year period.~~

~~—(b) The program shall be recommended by the Planning Commission to the Council and to the other officers, departments, boards, or public bodies as have jurisdiction over the recommended planning or construction of the public works.~~

~~(1997 Code, § 210.18)~~

**SECTION 2. Effective Date.** This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

**SECTION 3. Adoption Date.** This Ordinance 08-XXX was adopted on this \_\_\_\_\_ day of \_\_\_\_ 2018, by a vote of \_\_\_\_ Ayes and \_\_\_\_ Nays.

**LAKE ELMO CITY COUNCIL**

\_\_\_\_\_  
Mike Pearson, Mayor

ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

This Ordinance 08-\_\_\_\_ was published on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.





## INFORMATION MEMO

# Planning Commission Guide

*Learn ways the city may create, change, or discontinue a city planning commission. Get information on appointment of members, commission powers and duties, and meeting rules. Understand council and planning commission roles in creating a comprehensive plan for growth and development, and how to implement it. Learn about ways to participate in joint or multijurisdictional planning.*

### RELEVANT LINKS:

[Minn. Stat. § 462.355.](#)  
[Minn. Stat. § 473.175.](#)

[Minn. Stat. § 462.352, subd 3.](#)  
[Minn. Stat. § 462.354, subd 1.](#)

[Minn. Stat. § 462.354.](#)

[Minn. Stat. § 410.12.](#)  
See Handbook, *The Home Rule Charter City*.

## I. Creation of a city planning commission

State law encourages all cities to prepare and implement a comprehensive municipal plan. In addition, cities within the seven-county metro area are required to adopt comprehensive plans. Under state law, the city planning commission or planning department is delegated the authority to create the city's comprehensive plan.

A comprehensive plan is an expression of the community's vision for future growth and development. It is also a strategic map to reach that vision. Comprehensive planning is an important tool for cities to guide future development of land to ensure a safe, pleasant, and economical environment for residential, commercial, industrial, and public activities.

The first step in creating a comprehensive plan is the creation of a city planning agency. A planning agency can be either a planning commission or a planning department with an advisory planning commission. Planning commissions are by and large the most prevalent form of planning agencies in Minnesota. This memorandum discusses the commission form of a planning agency in depth. In most instances, the laws related to planning commissions will apply to planning departments as well. However, cities interested in forming a planning department as their main planning agency, or who currently operate a planning department, should consult their city attorney for guidance.

The planning commission must be created by city ordinance or charter provision. When a planning commission is created by ordinance, a simple majority of councilmembers present is needed to adopt the ordinance. When a planning commission is created by charter, the statutory provisions for amending a charter must be followed. In drafting a planning commission ordinance or charter provision, a city will need to include provisions related to:

- Size or number of planning commission members.
- Terms of members.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.



## RELEVANT LINKS:

[Establishing a Planning Commission](#), LMC Model Ordinance.

- Organization and structure.
- Powers and duties.

### A. Size or number of members

State statute does not specify how many commissioners a planning commission should have. As a result, the city ordinance should establish a reasonable number that reflects the needs of the city. An odd number is preferred to avoid tie-vote situations. Generally, cities appoint between five and nine individuals to serve as commission members.

Some considerations in choosing the number of commissioners include:

- Costs to the city in terms of salary (if a salary is paid).
- Availability of community members to serve or potential difficulty in recruiting members to serve full terms.

### B. Terms of members

State statute does not set the length of terms for commission members, or impose limits on the number of successive terms that commission members may serve. As a result, city ordinance should establish the length of terms for commission members.

Some considerations in choosing the length of commission terms include:

- The substantial length of time necessary to conduct studies, draft, and adopt a comprehensive plan.
- The extensive body of knowledge that commission members must master to be effective planning commissioners.

These two considerations generally favor a longer, four-year term (rather than a two-year term), since rapid turnover of planning commissioners may hinder the city's efficiency in adopting, implementing, and enforcing its comprehensive plan.

Cities establishing a new planning commission for the first time, may wish to provide staggered terms initially. For example, one term may be for one year, another for two years, and another for three years, etc., with successors serving full four-year terms. Staggering terms in this manner will help ensure long-range continuity for the planning commission, and prevent a situation where all commission seats are vacant at once. This ensures that the planning commission is not without veteran members every four years.

Cities may establish consecutive term limits in their ordinance for commission members if desired. In addition, the city may wish to establish ordinance provisions for the removal of commission members, should it become necessary, in consultation with the city attorney.

## RELEVANT LINKS:

See Section IV- *Planning Agency Meetings*.

See *Planning Commission Structure and Procedure*, LMC Model Policy.

[Minn. Stat. § 462.354](#).  
See Section III – *Powers and Duties of the Planning Commission*.

[Minn. Stat. § 462.354](#).

### C. Organization and structure

The planning commission ordinance may establish an organizational form for the planning commission. For example, the ordinance may require a chairperson, acting chair, and secretary. In the alternative, the ordinance may enable the planning commission to suggest a policy (commonly known as bylaws), subject to council approval, that establishes a form of organization for its meetings. Placing organizational requirements in a policy adopted by council resolution, rather than in ordinance form, is generally preferred, because it provides a more flexible means to develop and amend policies.

### D. Powers and duties

If the city creates a planning commission, state statutes prescribe several mandatory duties for the commission. The city ordinance should be drafted to include these duties. In addition, state statute permits some optional duties to be assigned to the planning commission in the council's discretion. City ordinance should make it clear which of these optional duties are assigned to the planning commission. Since state statute contains optional duties, general ordinance language stating that commission duties "shall be as established by state statute" may cause confusion over duties and should be avoided. The powers and duties of the planning commission are discussed more extensively below.

## II. Appointment of city planning commission members

### A. Council as a whole may serve as the planning commission

The city council may choose to designate itself as the city's planning commission by ordinance. However, most cities choose to establish a planning commission as a separate advisory body. This approach reduces the overall workload of the council, promotes citizen involvement, and allows commissioners to specialize in developing their body of knowledge concerning municipal planning.

### B. Authority to appoint commissioners

State statute does not establish a process for the appointment of planning commissioners. As a result, the city ordinance or charter provisions should specify who has the authority to appoint commission members. Generally, appointing authority is vested in the city council as a whole.

## RELEVANT LINKS:

In the alternative, cities may vest appointment power in the mayor exclusively, or may vest in the mayor the power to appoint commissioners, subject to council approval.

Some city charters may already contain provisions related to general appointments to city boards and commissions. In these cities, the charter provisions preempt local ordinance.

Cities also should consider adopting a policy for the recruitment and retention of commission members. The policy may be adopted as a resolution and need not be in ordinance form. Adopting the policy via resolution will allow more flexibility in developing and amending the ordinance. Although state law does not require the following, the policy may wish to include information regarding:

- The advertisement period for open positions.
- The submission of letters of interest and a statement of qualifications for board positions, or a city application form.
- An interview process prior to appointment.

### **C. Residency requirements**

State statute does not require that planning commissioners reside within city limits. As a result, city ordinance should specify any residency requirements for serving on the planning commission. Frequently, cities limit eligibility for planning commission membership to city residents. Often, these cities feel that planning commissioners should live in the communities they plan for and create. Conversely, some cities may wish to allow non-residents to serve on planning commissions to increase the pool of eligible citizens. In addition, these cities may feel that property owners or business owners who do not reside within the city may still bring a valuable perspective to the planning commission.

### **D. Councilmembers and city staff serving on the planning commission**

In cities where the council as a whole has decided not to serve as the planning commission, it may still be desirable for some councilmembers to sit on the planning commission or attend commission meetings. Cities may establish in their ordinance or planning commission policy various ways for councilmembers to serve on the planning commission.

#### **1. Full voting members**

Local ordinance or commission policy may provide that one or two city councilmembers will participate as full voting members of the planning commission on all decisions, and for discussion and quorum purposes.

See Section II-A, *Council as a Whole May Serve as the Planning Commission*.

## RELEVANT LINKS:

See LMC information memo, [Official Conflict of Interest](#). Part IV *Conflict of Interest in Non-Contractual Situations*. 56 Am. Jur. 2d Municipal Corporations § 142.

[Lenz v. Coon Creek Watershed, Dist.](#), 278 Minn. 1, 153 NW 2d 209 (1967). [ETO, Inc. v. Town of Marion](#), 375 NW 2d 815 (Minn. 1985).

## 2. Non-voting members

Local ordinance or commission policy may provide that one or two city councilmembers will sit on the planning commission as non-voting members. Sometimes these members are called “council liaisons.” When city ordinance creates non-voting members, to avoid confusion, city ordinance or the commission policy should specify:

- Whether the councilmembers will count for quorum purposes.
- Whether the councilmembers may participate in discussion on matters before the commission.
- Whether the councilmembers may hold an office on the commission, such as chairperson, secretary, etc.

## 3. City staff on planning commission

City ordinance or commission policy may require that the city attorney, city engineer or city administrator/clerk serve as an ex-officio, voting member or non-voting of the planning commission. This, however, does not appear to be a common practice. More commonly, city staff may attend planning commission meetings as needed to provide the planning commission with necessary advice and information.

## E. Compensation

City ordinance or commission policy may authorize compensation to planning commission members for their service, or, in the alternative, specify that commission members serve on a strictly non-compensated volunteer basis. Generally, when compensation is provided, it is for a nominal amount on an annual or per meeting basis.

## F. Conflicts of interest

When appointing planning commissioners, cities should be aware that appointed officials are subject to the same concerns related to conflict of interest as city councilmembers. In the appointment process, the city council should attempt to discern if potential conflicts of interest exist.

Particularly, conflicts where it is obvious that the potential appointee’s own personal interest is so distinct from the public interest that the member cannot be expected to represent the public interest fairly in deciding the matter.

## G. Removal of planning commission members

State statute does not dictate a process for removal of planning commission members before the expiration of their term.

## RELEVANT LINKS:

[Minn. Stat. § 462.351.](#)  
[Minn. Stat. § 462.352, subd 5.](#)  
[Sample: Bethel Comprehensive Plan](#), City Population 502.  
[Sample: La Crescent Comprehensive Plan](#), Population 5,174.  
[Sample: Minnetonka Comprehensive Plan](#), City Population 51,519.

Local ordinance or commission policy may outline such a process. The city should consult the city attorney before establishing criteria and a process for removal.

### III. Powers and duties of the planning commission

State statutes vest the planning commission with certain mandatory duties. In addition, state statute allows the city council to prescribe additional duties in local ordinance. In most instances, unless noted in statute or ordinance, the planning commission serves in an advisory capacity.

#### A. Preparing and recommending a comprehensive plan

The primary duty of a newly created planning agency is advising the city council on the preparation and adoption of a comprehensive plan for the city.

##### 1. Purpose of comprehensive planning

A comprehensive plan is an expression of the community's vision for the future and a strategic map to reach that vision. Comprehensive planning is not mandatory in cities outside the seven- county metropolitan area. However, comprehensive planning is an important tool for cities to guide future development of land to ensure a safe, pleasant, and economical environment for residential, commercial, industrial, and public activities. In addition, planning can help:

- Preserve important natural resources, agricultural, and other open lands.
- Create the opportunity for residents to participate in guiding a community's future.
- Identify issues, stay ahead of trends, and accommodate change.
- Ensure that growth makes the community better, not just bigger.
- Foster sustainable economic development.
- Provide an opportunity to consider future implications of today's decisions.
- Protect property rights and values.
- Enable other public and private agencies to plan their activities in harmony with the municipality's plans.

For many cities creating a comprehensive plan is the first step in adopting zoning and subdivision regulations for the city.

## RELEVANT LINKS:

Minn. Stat. § 462.352, subd.  
8.  
Minn. Stat. § 462.352, subd.  
7.  
Minn. Stat. § 462.352, subd.  
8.  
Minn. Stat. § 462.352, subd.  
9.

Minn. Stat. § 462.357, subd  
2.  
Minn. Stat. § 462.352, subd.  
6.  
Minn. Stat. § 462.357, subd.  
2 (c).

Minn. Stat. § 462.355, subd.  
1.  
Minn. Stat. § 462.355, subd.  
2.

Minn. Stat. § 462.353, subd  
2.

As a result, the comprehensive plan normally lays out a vision for the city's future land development and land use, dictating where growth should occur, the type of growth that is allowed in various areas of the city, and the density of such growth. However, a comprehensive plan also may include a:

- Public or community facilities plan.
- Thoroughfare or transportation plan.
- Parks and open space plan.
- Capital improvement program.

While not all cities are required to adopt a comprehensive plan, a plan is still a good practice for a couple of reasons. First, once a plan is adopted, it guides local officials in making their day-to-day decisions and becomes a factor in their decision-making process.

Second, preparing a comprehensive plan prior to the adoption of a zoning ordinance also affords the city additional legal protections if a particular ordinance provision is challenged in court. Zoning ordinances must be reasonable and have a rational basis. Comprehensive plans assist a city in articulating the basis for its zoning decisions. Usually the courts will not question the policies and programs contained in a comprehensive plan adopted by a local community, or question the ordinances based upon the plan, unless the particular zoning provision appears to be without any rational basis, or clearly exceeds the city's regulatory authority.

If a city is not able to develop a comprehensive plan prior to adopting a zoning ordinance, the zoning ordinance should be adopted in conjunction with extensive, written finding of facts, stating the policy reasons that necessitate the ordinance's adoption.

## 2. Preparing the comprehensive plan

State statute vests authority for preparing the comprehensive plan in the planning commission. However, the city council also may propose the comprehensive municipal plan and amendments to the plan by a resolution submitted to the planning commission. When this occurs, the council may not adopt the recommended language until it has received a report from the planning commission or 60 days have elapsed.

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.

Cities are authorized to collect and analyze data; prepare maps, charts, tables, and other illustrations and displays; and conduct necessary studies when developing a comprehensive plan. Cities also may hire planning consultants and other experts to assist in drafting their plan.

## RELEVANT LINKS:

Minn. Stat. § 462.353, subd. 3.

See LMC information memo, *Competitive Bidding Requirements in Cities*, American Institute of Certified Planners.

Minn. Stat. § 462.355, subd 1.

Minn. Stat. § 462.355, subd 1.

Minn. Stat. § 462.353, subd 2.

Minn. Stat. § 462.355, subd 2.

Minn. Stat. § 462.357, subd. 1h. Minn. Stat. § 462.355, subd. 1.

### a. Consultants and public input

#### (1) Professional planners

Cities may hire planning consultants and other experts to assist in drafting their plan. Preparing a comprehensive plan is a large undertaking. While a planning commission can and should do most of the job, many communities have found they also need professional assistance from a professional planning consultant or a competent person on the staff of the city, county, regional development commission, or neighboring city.

Cities may solicit a planner through a request for proposal. While state law does not require planners to be licensed or certified, many cities prefer to hire planners with professional certification from the American Institute of Certified Planners (AICP). To be certified by the AICP, planners need to pass an exam and meet continuing education requirements.

#### (2) Other consultants

In drafting the plan, the planning commission must consult with other city departments and agencies (for example, the city's economic development authority).

In drafting a comprehensive plan, the planning commission must consider the planning activities of adjacent units of government and other affected public agencies.

The commissioner of natural resources must provide natural heritage data from the county biological survey, if available, to each city for use in the comprehensive plan.

### b. Public input

Cities are required to hold at least one public hearing prior to adopting a comprehensive plan. However, most cities find it helpful to hold a series of public meetings to educate residents about the comprehensive plan, and to solicit citizen input. Some cities even develop extensive public relations campaigns to create excitement about and compliance with the city's comprehensive planning activities.

### c. President Theodore Roosevelt Memorial Bill to Preserve Agricultural, Forest, Wildlife, and Open Space Land

Non-metropolitan cities located in certain specified counties are subject to the President Theodore Roosevelt Memorial Act to Preserve Agricultural, Forest, Wildlife, and Open Space Land



## RELEVANT LINKS:

[Minn. Stat. § 103G.005, subd. 10b.](#)

[Minn. Stat. § 103G.005 subd. 10b.](#)

[Minn. Stat. § 462.355.](#)

[Minn. Stat. § 462.357.](#)

(hereinafter the “T. Roosevelt Memorial Preservation Act”) and should consult this law if they adopt or amend a comprehensive plan.

### **(1) Cities not subject to the T. Roosevelt Memorial Preservation Act**

Cities in Aitkin, Beltrami, Carlton, Cass, Clearwater, Cook, Crow Wing, Hubbard, Isanti, Itasca, Kanabec, Koochiching, Lake, Lake of the Woods, Milles Lacs, Pine, St Louis and Wadena counties are not subject to the T. Roosevelt Memorial Preservation Act, because they are currently classified as “greater than 80 percent area” counties. A “greater than 80 percent area” means a county or watershed or, for purposes of wetland replacement, bank service area where 80 percent or more of the presettlement wetland acreage is intact and one of the following is true:

- Ten percent or more of the current total land area is wetland.
- Fifty percent or more of the current total land area is state or federal land.

In sum, these “80 percent area” counties still contain a significant portion of their presettlement wetland acreage. “Presettlement wetland” means a wetland or public waters wetland that existed in this state at the time of statehood in 1858.

### **(2) Cities subject to the T. Roosevelt Memorial Preservation Act**

Cities outside the metro area, and not located in the counties listed above, must comply with the act. Even though these cities are not required to engage in comprehensive planning, if the city decides to do so, they must likely adopt certain findings of fact under the T. Roosevelt Memorial Preservation Act.

Specifically, when preparing or recommending amendments to the comprehensive plan, the planning commission in these cities must consider adopting goals and objectives that will protect open space and the environment again, probably as findings of fact.

In addition, within three years of adopting a comprehensive plan, the city must consider adopting ordinances as part of the city’s official controls that encourage the implementation of the goals and objectives of the T. Roosevelt Memorial Preservation Act. However, the city is not required to adopt any ordinances. Consideration of ordinance adoption could potentially be documented in findings of fact.

## RELEVANT LINKS:

[Minn. Stat. § 462.355, subd. 2.](#)

[Minn. Stat. § 462.354.](#)

[Minn. Stat. § 473.858, subd. 2.](#)

[Minn. Stat. § 473.175.](#)

[Metropolitan Council.](#)

[City of Lake Elmo v. Metropolitan Council](#), 685 N.W.2d 1 (Minn. 2004).

[Minn. Stat. § 462.355, subd. 2.](#)  
[See LMC information memo Newspaper Publication.](#)

[Minn. Stat. § 462.355, subd. 3.](#)

### 3. Recommending the comprehensive plan to council

Once a comprehensive plan is drafted, the planning commission may submit the plan (or a portion of the plan) with its recommendation for adoption to the city council. Upon receipt of the recommended plan, the council may accept the plan, reject the plan, or recommend revisions to the planning commission. In submitting the comprehensive plan to council, the planning commission serves in a strictly advisory role. The city council ultimately decides on the acceptance, rejection, or revision of the plan, and is not bound by planning commission's recommendations.

### 4. Adopting the comprehensive plan

#### a. Seven-county metro area plan review: adjacent units of government

Prior to plan adoption, cities within the seven-county metro area must submit their proposed comprehensive plans to adjacent governmental units and affected school districts for review and comment.

#### b. Seven-county metro area plan review: Metropolitan Council

Cities in the seven-county metropolitan area must submit their comprehensive plan to the Metropolitan Council for review of its compatibility and conformity with the Council's regional system plans. When the Metropolitan Council determines that a city's comprehensive land use plan may have a substantial impact on or contain a substantial departure from the Metropolitan Council's regional system plans, the Council has the statutory authority to require the city to conform to the Council's system plans.

#### c. Public hearing requirements

Prior to adoption of a comprehensive plan, the planning commission must hold at least one public hearing. A notice of the time, place, and purpose of the hearing must be published once in the official newspaper of the municipality at least ten days before the day of the hearing.

#### d. Vote requirements

Unless otherwise provided in a city charter, the city council may, by resolution by a two-thirds vote of all its members, adopt and amend the comprehensive plan or a portion of the plan. This means that on a five-member council, the comprehensive plan must receive at least four affirmative votes.

## RELEVANT LINKS:

See Section V: *Changing the Structure or Abolishing the Planning Commission*.

[Minn. Stat. § 462.356, subd 1.](#)

[Minn. Stat. § 462.356, subd 1.](#)

See LMC information memo, *Zoning Guide for Cities*.

LMC information memo *Zoning Decisions*.  
See Handbook, *Comprehensive Planning, Land Use, and City-Owned Land*.

LMC information memo, *Subdivision Guide for Cities*.  
See Handbook, *Comprehensive Planning, Land Use, and City-Owned Land*.

[Minn. Stat. § 462.355, subd 1.](#)

[Minn. Stat. § 462.355, subd. 1a.](#)

[Minn. Stat. § 473.864, subd. 2.](#)

[Minn. Stat. 473.121, subd. 2.](#)

## B. Implementing the plan

Once a comprehensive plan is adopted, the planning commission continues to exist (unless dissolved using statutory procedures). Once a plan is adopted, the main task of the planning commission is to study and propose to the city council a reasonable and practicable means for putting the plan or section of the plan into effect.

Reasonable and practicable means for putting the plan into action may include:

- 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.
- A program for urban renewal, and
- A capital improvement program.

In submitting recommendations for effectuation of the comprehensive plan to council, the planning commission serves in a strictly advisory role. The city council ultimately decides on the adoption of any land use ordinances or city programs.

## C. Role in periodic review of the comprehensive plan

After a city has adopted a comprehensive plan, the planning commission is responsible for periodically reviewing the plan and recommending amendments whenever necessary.

Cities within the seven-county metropolitan area must review and update their plan, fiscal devices, and official controls at least every 10 years, and submit their revised plans to the Metropolitan Council for review. “Fiscal devices” means the valuation of property, the designation of urban and rural service districts, and the establishment of development districts and any other statutes authorizing the creation of districts in which the use of tax increment bonding is authorized. “Metropolitan area” or “area” means the area over which the Metropolitan Council has jurisdiction, including the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, but excluding the cities of Northfield, Cannon Falls, Hanover, Rockford, and New Prague.

## RELEVANT LINKS:

[Minn. Stat. § 462.355, subd. 3.](#)

See Section III-A-4 *Adopting the Comprehensive Plan*.  
[Minn. Stat. § 462.355, subd. 3.](#)

[Minn. Stat. § 473.175. Metropolitan Council.](#)

[Minn. Stat. § 462.355, subd. 3.](#)

[Minn. Stat. § 462.356, subd. 2.](#)

[Lerner v. City of Minneapolis](#), 284 Minn. 46, 169 N.W.2d 380 (Minn. 1969). A.G. Op. 63-b-24 (Dec. 9, 1971). A.G. Op. 161-b, (Aug. 8, 1966).  
See LMC information memo *Purchase and Sale of Real Property*.

## D. Role in amending the comprehensive plan

After a city has adopted a comprehensive plan, all future amendments to the plan must be referred to the planning commission for review and comment. No plan amendment may be acted upon by the city council until it has received the recommendation of the planning commission, or until 60 days have elapsed from the date an amendment proposed by the city council has been submitted to the planning commission for its recommendation.

In submitting review and comment to council, the planning commission serves in a strictly advisory role. The city council ultimately decides on the acceptance, rejection or the revision of the plan, and is not bound by planning commission recommendations.

### 1. Procedure for amending a comprehensive plan

In amending a comprehensive plan, cities must follow the same procedure for adoption of a new plan. The planning commission must hold at least one public hearing on the amendment preceded by published notice.

Cities in the seven-county metro area must submit all amendments to their comprehensive plans to the Metropolitan Council for review.

Unless otherwise provided by charter, all amendments to the comprehensive plan must be approved by a two-thirds vote of all its members.

## E. Role in purchase and sale of real property

After a comprehensive municipal plan or section of a plan has been recommended by the planning commission and a copy filed with the city council, the planning commission must be given a chance to review and comment on all proposed public acquisitions or disposal of real property within the city. This includes acquisitions or disposal by the city, but also:

- Any special district or agency in the city.
- Any other political subdivision (public schools or the county for example) having jurisdiction within the city.

This provision would appear to apply even when the comprehensive plan has not yet been adopted by council, so long as the planning commission has filed its recommended plan with the city.

After review, the planning commission must report in writing its findings to compliance of the proposed acquisition or to disposal of real estate with the comprehensive municipal plan.

## RELEVANT LINKS:

*Lerner v. City of Minneapolis*, 284 Minn. 46, 169 N.W.2d 380 (Minn. 1969). A.G. Op. 161-b (Aug. 8, 1966).

Minn. Stat. § 462.356, subd. 2.

Minn. Stat. § 475.521, subd. 1 (b).

Minn. Stat. § 373.40, subd. 1(b).

The purpose of this requirement is to allow review of overall municipal development by the city planning commission, the authority charged with developing and reviewing the comprehensive land use plan for the municipality.

The planning commission has 45 days to report on the proposal, unless the city council designates a shorter or longer period for review. If the planning commission does not report within the required timeline, this statutory provision is considered waived by the commission.

In addition, a city council may by resolution adopted by two-thirds vote dispense with this requirement when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the comprehensive municipal plan.

In submitting comments and review, the planning commission serves in a strictly advisory role. The city council ultimately decides on the purchase or disposal of real estate and is not bound by planning commission recommendations.

## F. Role in capital improvements program

After a comprehensive municipal plan or section of a plan has been recommended by the planning commission and a copy filed with the city council, the planning commission must be given a chance to review and comment on all proposed public capital improvements within the city. This includes not only capital improvements built by the city, but also by:

- Any special district or agency in the city.
- Any other political subdivision having jurisdiction within the city.

The planning commission must report in writing to the city council, other special district or agency, or political subdivision concerned, its findings to compliance of the proposed capital improvement with the comprehensive municipal plan.

The term capital improvement is not defined within the comprehensive planning statute. Other laws governing issuing municipal bonds define “capital improvement” in part as acquisition or betterment of public lands, buildings or other improvements for a city hall, town hall, library, public safety facility, and public works facility. An improvement must have an expected useful life of five years or more to qualify. Capital improvement does not include light rail transit or any activity related to it, or a park, road, bridge, administrative building other than a city or town hall, or land for any of those facilities. For purposes of this section, “capital improvement” may include expenditures involving those for which bonds were or are issued.

## RELEVANT LINKS:

*Lerner v. City of Minneapolis*, 284 Minn. 46, 169 N.W.2d 380 (Minn. 1969). A.G. Op. 161-b (Aug. 8, 1966).

Minn. Stat. § 462.357, subd 2.  
Minn. Stat. § 462.352, subd 6.

Minn. Stat. § 462.357, subd 2 (c).  
For more information see LMC information memo, *Zoning Decisions*.

Minn. Stat. § 462.357, subds. 1a, 1b.  
Minn. Stat. § 462.357, subd. 1.  
Minn. Stat. § 462.357, subd. 1e.  
Minn. Stat. § 462.357, subd. 1g.  
Minn. Stat. § 462.357, subd. 1.  
Minn. Stat. § 462.357, subd. 1.  
Minn. Stat. § 462.357, subd. 7.

Minn. Stat. § 462.357, subd. 7.

Minn. Stat. § 462.357, subd. 7.  
Minn. R. 9502.0315 to 9502.0445.  
Minn. Stat. § 462.357, subd. 8.

The planning commission has 45 days to report on the proposal, unless the city council designates a shorter or longer period for review. If the planning commission does not report within the required timeline, this statutory provision is considered waived by the commission.

A city council may by resolution adopted by two-thirds vote dispense with this requirement when in its judgment it finds that the proposed capital improvement has no relationship to the comprehensive municipal plan.

In submitting comments and review, the planning commission serves in a strictly advisory role. The city council ultimately decides on capital improvements for the city and is not bound by planning commission recommendations.

## G. Role in zoning ordinance adoption and amendment

### 1. Zoning ordinance adoption

The planning commission may, after adopting a comprehensive plan or a portion of a land use plan, prepare a proposed zoning ordinance (including a zoning map) and submit it to the city council with its recommendations for adoption. If a city adopts only a land use plan, the 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 land use plan.

Note: The Municipal Planning Act has specific provisions related to local zoning of the following uses, which impact zoning ordinances:

- Manufactured home parks.
- Manufactured homes.
- Existing legal nonconformities at the time of zoning ordinance adoption.
- Feedlots.
- Earth sheltered construction, as defined by Minn. Stat. 216C.06.
- Relocated residential buildings.
- State licensed residential facilities or housing services registered under Minn. Stat. 144D and serving six or fewer persons in single family residential districts.
- Licensed day care facilities serving 12 or fewer persons in single family residential districts.
- Group family day care facilities licensed under Minnesota Rules to serve 14 or fewer children in single family residential districts.
- State licensed residential facilities serving 7-16 persons in multifamily residential districts.

## RELEVANT LINKS:

[Minn. Stat. § 462.357, subd. 7.](#)

[Minn. Stat. § 462.3593.](#)  
[Minn. Stat. § 462.357, subd. 6.](#)

[Northshor Experience, Inc. v. City of Duluth, MN, 442F.Supp.2d 713 \(D. Minn. 2006\). Costley v. Caromin House, Inc., 313 N.W.2d 21 \(Minn. 1981\). A.G. Op. 59-A-32 \(Jan. 25, 2002\).](#)

[Minn. Stat. § 462.357, subd. 2.](#)

[A.G. Op. 59-A-32 \(Jan. 25, 2002\).](#)

[Minn. Stat. § 462.357, subd 3.](#)

[LMC information memo, Newspaper Publication.](#)

[See LMC information memo, Zoning Guide for Cities.](#)

[Minn. Stat. § 462.357, subd 4.](#)

[For more information see LMC information memo Zoning Decisions.](#)

[See Section IV- B on the 60-Day Rule.](#)

- Licensed day care facilities serving 13-16 persons in multifamily residential districts.
- Temporary family health care dwellings.
- Solar energy systems.

Cities cannot adopt local ordinances that contradict the explicit provisions of state law as set out in the Municipal Planning Act on the uses listed above.

The city council may adopt a zoning ordinance by a majority vote of all its members.

In adopting an ordinance, one Minnesota attorney general opinion has found that charter cities may not provide for different voting requirements in their city charter, because the Municipal Planning Act supersedes inconsistent charter provisions.

Prior to the adoption of a zoning ordinance, the city council or planning commission must hold a public hearing. Notice of the time, place, and purpose of the hearing must 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 must 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.

The drafting and adoption of a city zoning ordinance is covered in detail in the LMC Information Memo, Zoning Guide for Cities.

## 2. Zoning ordinance amendment

An amendment to a zoning ordinance, including a rezoning, may be initiated by the governing body, the planning commission, or by petition of affected property owners as defined in the zoning ordinance. An amendment not initiated by the planning commission must be referred to the planning commission for study and report. The city council may not act on the proposed amendment (either by adopting or denying the amendment) until the planning commission has made its recommendations or 60 days have elapsed from the date of reference of the amendment without a report by the planning commission.

It is important to note that while state statute provides the planning commission 60 days to respond to proposals, the 60-Day Rule (an entirely different rule with 60 days in the title) still applies to ordinance amendments brought by application or petition of property owners.



## RELEVANT LINKS:

[Minn. Stat. § 462.357, subd. 3.](#)

[Minn. Stat. § 462.357, subd. 2.](#)

[Minn. Stat. § 462.357, subd. 5.](#)

[Minn. Stat. § 462.3595.](#)

See LMC information memo, [Zoning Guide for Cities](#).

As a result, internal procedures should be developed to coordinate planning commission review that does not violate the 60-Day Rule automatic approval statute.

In generating a report on a proposed zoning amendment, the planning commission serves in a strictly advisory role. The city council ultimately decides on the amendment for the city and is not bound by planning commission recommendations.

Prior to the adoption of a zoning ordinance amendment, a public hearing must be held. Under state statute, the city council or the planning commission may conduct the hearing.

Cities may adopt an ordinance or policy directing the planning commission to conduct these hearings when necessary.

The city council may adopt and amend a zoning ordinance by a majority vote of all its members. However, the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the governing body.

### **3. Cities of the first class, additional duties for planning commissions**

First class cities must follow very detailed procedures in state statute for zoning amendments that change residential zoning classifications to new commercial or industrial classifications. Planning commissions in cities of the first class must assist the city in these circumstances by conducting studies and developing reports. The adoption or amendment of any portion of a zoning ordinance that changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the governing body. Charter cities of the first class may opt to follow a different procedure via a city charter provision.

## **H. Conditional use permits**

Some city zoning ordinances provide that some uses within a zoning district will only be allowed upon the granting of a conditional use permit.

Conditional use permits are discussed in detail in the LMC Information Memo Zoning Guide for Cities. State statute allows city councils to delegate via ordinance their authority to review and approve conditional use permits to a planning commission or other designated authority.

Planning commissions charged with reviewing applications for conditional use permits must follow fairly strict legal standards for their review.

## RELEVANT LINKS:

See LMC information memos  
[Zoning Guide for Cities;](#)  
[Land Use Conditional Use](#)  
[Permits.](#)

Minn. Stat. § 462.359, subd.  
2.  
See Handbook, [City](#)  
[Licensing.](#)  
Minn. Stat. § 462.352, subd.  
7, 8.

See LMC information memo,  
[Purchase and Sale of Real](#)  
[Property.](#)

Specifically, the city must follow the requirements of the zoning ordinance it has adopted.

If a conditional use permit application meets the requirements of the ordinance, generally it must be granted. If an application is denied, the stated reasons for the denial should all relate to the applicant's failure to meet standards established in the ordinance. The standard of review for conditional use permits is discussed in depth in the LMC Information Memo *Zoning Guide for Cities*.

## **I. Role in adoption of an official map for a major thoroughfare plan and a community facilities plan**

After the planning commission has adopted a comprehensive plan containing a major thoroughfare plan and a community facilities plan or simply these portions of their comprehensive plan, it may adopt an official map. The official map is not the zoning map required for adoption of a zoning ordinance.

In addition, it is not the map adopted as part of the comprehensive planning process. Instead, the official map is a unique map designed to help carry out the policies of the major thoroughfare plan and community facilities plan. The official map can cover the entire city or any portion of the city.

The purpose of an official map is to identify land needed for future public uses, such as streets, aviation purposes or other necessary public facilities, such as libraries, city halls, parks, etc. 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 that will make adjustments difficult to accomplish.

Official maps do not give a city any right to acquire the areas reserved on the map without just compensation by the city. When the city is ready to proceed with the opening of a mapped street, the widening and extension of existing mapped streets, or the use of lands for aviation purposes, it still must acquire the property by gift, purchase, or condemnation. It need not, however, pay for any building or other improvement erected on the land without a permit or in violation of the conditions of the permit.

Following the adoption and filing of an official map, building permits issued under the Minnesota State Building Code are subject to the provisions set forth in the city's official map. This puts landowners on notice of possible future uses and allows construction to occur within the constraints of the planning.

## RELEVANT LINKS:

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.357, subd. 6 \(1\).](#)

[Minn. Stat. § 462.357, subd. 6 \(2\).](#)  
[Minn. Stat. § 462.359, subd. 4.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

This way landowners can avoid costly expenditures on developments, for example, that sit in a location planned for future public uses. As a result, any building built without obtaining a building permit or in violation of permit conditions, loses the statutory protection for just compensation, and a municipality need not pay a landowner for a building that needs to be destroyed if a street is widened. In other words, while the official map does not give the city a fee interest in land initially, it does authorize the municipality to acquire such interests in the future without having to pay compensation for buildings that are erected in violation of the official map.

## J. Board of zoning adjustment and appeals

A city that has adopted a zoning ordinance or official map should provide for a Board of Zoning Adjustment and Appeals (BZA). By ordinance, a city may delegate the role of a BZA to the city planning commission or a committee of the planning commission. The duties of a BZA include:

- 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.
- To hear requests for variances from a city zoning ordinance.
- To hear and decide appeals when a land use, zoning permit or approval for a building is denied based upon the city's official map.
- Such other duties as the city council may direct.

In any city where the council does not serve as the BZA, the city council may, except as otherwise provided by charter, provide by ordinance that the decisions of the BZA on matters within its jurisdiction are:

- Final, subject only to judicial review; or
- Final, subject to appeal to the council and the right of later judicial review; or
- Advisory to the council.

The ordinance creating the BZA should specify at minimum:

- The time and manner by which hearings by the BZA shall be held, including provisions related to notice to interested parties.
- Rules for the conduct of proceedings before the BZA, including provisions for the giving of oaths to witnesses and the filing of written briefs by the parties.

In cities where the planning commission does not act as the BZA, the BZA may not make a decision on an appeal or petition until the planning commission, or a representative authorized by it, has had reasonable opportunity, not to exceed 60 days, to review and report to the BZA about the appeal or petition.

## RELEVANT LINKS:

See information memos, [Zoning Guide for Cities](#) and [Land Use Variances](#).

[Minn. Stat. § 462.358, subd. 3\(b\)](#).

See Handbook, [City Licensing](#). See also LMC information memo, [Subdivision Guide for Cities](#).

See LMC information memo [Subdivision Guide for Cities](#).

See the LMC information memo, [Meetings of City Councils](#).

See LMC information memo, [Meetings of City Councils](#). [Minn. Stat. § 13D.01](#).

It is important to note that while state statute provides the planning commission 60 days to respond to appeals or petitions, the 60-Day Rule (an entirely different rule with 60 days in the title) may still apply to some matters brought before the BZA (for example, requests for variances) by application or petition of property owners. As a result, internal procedures should be developed to coordinate planning commission review that does not violate the 60-Day Rule automatic approval statute.

Planning commissions charged with reviewing applications for variances must follow fairly strict legal standards for their review. Specifically, the city must follow the requirements of the state statute related to whether enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner “practical difficulties.” The standards for review in granting variances are discussed in depth in the LMC Information Memo [Zoning Guide for Cities](#).

## K. Role in review of subdivision applications

Absent a charter provision to the contrary, in cities that have adopted a subdivision ordinance, the city council may by ordinance delegate the authority to review subdivision proposals to the planning commission. However, final approval or disapproval of a subdivision application must be the decision of the city council.

Planning commissions charged with reviewing subdivision applications must follow fairly strict legal standards for their review. Specifically, the city must follow the requirements of the subdivision ordinance it has adopted. If a subdivision application meets the requirements of the ordinance, generally it must be granted. If an application is denied, the stated reasons for the denial must all relate to the applicant’s failure to meet standards established in the ordinance. The standard of review for subdivision applications is discussed in depth in an LMC information memo on subdivisions, plats and development agreements.

## IV. Planning commission meetings

Planning commission meetings are governed by the same statutes as regular city council meetings. For example, planning commission meetings are subject to the Open Meeting Law and subject to the records retention laws.

### A. Open Meeting Law

The Minnesota Open Meeting Law generally requires that all meetings of public bodies be open to the public. This presumption of openness serves three basic purposes:

## RELEVANT LINKS:

[Rupp v. Mayasich](#), 533 N.W.2d 893 (Minn. Ct. App. 1995).

[Minn. Stat. § 13D.01, subd. 1.](#)

[Minn. Stat. § 13D.01, subd. 6.](#)

LMC information memo  
[Meetings of City Councils.](#)

For more information on the 60-Day Rule see the LMC information memo, [Zoning Guide](#) Section V-A, The 60-Day Rule.

[Minn. Stat. § 15.99.](#)  
[Manco of Fairmont v. Town Bd. of Rock Dell Township](#), 583 N.W.2d 293 (Minn. Ct. App. 1998) cf. [American Tower, L.P. v. City of Grant](#), 636 N.W.2d 309 (Minn. 2001). [Hans Hagen Homes, Inc. v. City of Minnetrista](#), 728 N.W.2d 536 (Minn. 2007) distinguished by [Johnson v. Cook Cty.](#), 786 N.W.2d 291 (Minn. 2010).

See LMC information memo, [Zoning Guide for Cities](#), Section V-A, The 60-Day Rule.

- To prohibit actions from being taken at a secret meeting where it is impossible for the interested public to become fully informed concerning decisions of public bodies or to detect improper influences.
- To ensure the public's right to be informed.
- To afford the public an opportunity to present its views to the public body.

The Open Meeting Law applies to all governing bodies of any school district, unorganized territory, county, city, town or other public body, and to any committee, sub-committee, board, department or commission of a public body. Thus, the law applies to meetings of all city planning commissions and any city or commission advisory boards or committees.

At least one copy of the materials made available to the planning commission at or before the meeting must also be made available for inspection by the public. However, this does not apply to not-public data or materials relating to the agenda items of a closed meeting.

The Open Meeting Law also contains some specific notice and record-keeping requirements which are discussed in detail in the LMC Information Memo Meetings of City Councils.

## B. The 60-Day Rule

Cities generally have only 60 days to approve or deny a written request relating to zoning, including rezoning requests, conditional use permits and variances. This requirement is known as the "60-Day Rule."

The 60-Day Rule is a state law that requires cities to approve or deny a written request relating to zoning within 60 days or it is deemed approved. The underlying purpose of the rule is to keep governmental agencies from taking too long in deciding land use issues. Minnesota courts have generally demanded strict compliance with the rule.

All planning commission review of zoning related applications must be completed in a manner that allows the city to complete its entire approval process within the timeframe dictated by the 60-Day Rule. Local ordinance should not establish timeframes for planning commission review of applications or appeal of commission decisions that do not allow the city to comply with the 60-Day Rule.

## RELEVANT LINKS:

See [Planning Commission Structure and Procedure](#), LMC Model Policy.

See LMC information memo, [Meetings of City Councils](#).

See LMC information memo, [Zoning Guide for Cities](#), Section V-C-2-b on conducting a public hearing

See Handbook, [Records Management](#).  
[Minn. Stat. § 15.17, subds. 1, 2.](#)

See LMC information memo, [Meetings of City Councils](#) for more information on minutes.

See LMC information memo, [Zoning Guide](#), Section V-C-2 on making a record of the basis for zoning decisions.

## C. Commission policies on order and meeting structure

City ordinance may provide for the adoption, subject to the city council's approval, of planning commission policies related to meeting rules of order and procedure (sometimes referred to as bylaws). Such policies should be adopted by resolution, not ordinance. A policy setting forth rules of procedure can help the planning commission run its meetings, prepare agendas, call special meetings and handle public comment appropriately. Because planning commissions often conduct public hearings, the policy should prescribe a procedure for conducting orderly public hearings.

The policy should establish procedures related to:

- Meeting time and place, including provisions for calling special meetings.
- Quorum requirements.
- Voting and making official recommendations.
- Order of proceedings for both regular meetings and public hearings.
- Creating, ordering and submitting items to an official agenda.
- Minute taking and record keeping requirements.
- Appointment and duties of officers, such as chairperson.
- Filling vacancies.
- Creation of management of subcommittees.

## D. Minutes and official records

Cities, including city planning commissions, are required by law to create an accurate record of their activities. In addition, cities, including city planning commissions, must retain government records in accordance with the records retention laws.

### 1. Minutes and records

State law requires all officers and agencies of the state, including planning commissions in statutory and home-rule charter cities, to make and preserve all records necessary for a full and accurate knowledge of their official activities. These records include books, papers, letters, contracts, documents, maps, plans and other items. State statutes do not explicitly require planning commissions to take minutes of their meetings, but such minutes may be necessary to make a full and accurate record of the commission's proceedings.

Minutes are further recommended because the actions of planning commissions and land use decisions, in general, are frequently subject to court review.

## RELEVANT LINKS:

LMC information memo  
*Taking the Mystery out of  
Findings of Fact.*

LMC information memos:  
*Taking the Mystery out of  
Findings of Fact; Zoning  
Decisions.*

Minn. Stat. § 15.17.  
Minn. Stat. § 138.225.  
Minn. Stat. §§ 138.161-.21.

When a city land use decision is reviewed by a court of law, the court requires cities to document the basis for their land use decisions in written, contemporaneous findings of fact.

Planning commission bylaws or city policy should set the requirements for meeting minute approval and content. For example, a policy may require the minutes to reflect all motions and resolutions and votes taken by the commission. Planning commission policy also may assign responsibility for minute taking to the commission secretary or to a city staff member.

## 2. Findings of fact

In addition to minutes, whenever the planning commission makes an official recommendation related to a matter referred to it by council or on a land use application submitted to the city (for example, a conditional use permit, zoning amendment, variance or subdivision application), it should create written findings of fact supporting the recommendation. Findings of fact from the planning commission serve three important roles:

- They articulate to the city council the planning commission's recommendations on issues before the commission, including its basis for making its recommendations.
- They communicate to a land use applicant the commission's approval of a project or identify for the applicant disapproval and the reasons for such disapproval.
- They support the city's ultimate decision on the issue should the city's decision be challenged in court.

In land use cases, Minnesota courts are looking for a sufficient statement of the reasons given by the city to grant or deny an application request. The role of the court is to examine the city's reasons and ascertain whether the record before the city council supports them. The reasons given by the city must be legally sufficient and have a factual basis.

Minnesota case law and statutory law demand that the reasons for a city's decision on a land use case be articulated in the official record. Written findings of fact, or "reasons," and conclusions of law are required whenever an application is denied. In addition, written findings of fact and conclusions of law are strongly recommended whenever a decision or recommendation related to a land use decision is made. Findings of fact and creating accurate records are discussed at length in the LMC Information Memo "Zoning Guide for Cities."

## 3. Records retention requirements

State law limits the ability of cities, including city planning commissions, to dispose of or destroy city records.



## RELEVANT LINKS:

A.G. Op. 851F (Feb. 5, 1973). See Handbook, *Records Management*.

See LMC information memos, *Taking the Mystery out of Findings of Fact*; Land Use Findings of Fact: Elected Officials as Policy makers and *Zoning Decisions*.

Minn. Stat. § 462.354, subd. 1.

Minn. Stat. § 410.12.  
See Handbook, *The Home Rule Charter City*.

Minn. Stat. § 462.355, subd. 3.

Minn. Stat. § 462.356, subd. 2.

Minn. Stat. § 462.357, subd. 4.

“Counting the Votes on Council Actions, [Part 1](#) and [Part 2](#),” Minnesota Cities (May and June-July 2006, p. 19).  
Minn. Stat. § 410.12.

Cities must retain records that they receive or create according to a records retention schedule. It is a crime to destroy such records without statutory authority.

Maintaining adequate records is also vital for defending the city’s land use decisions in a court of law.

## V. Changing the structure or abolishing the planning commission

### A. Abolishing the planning commission

State statute provides that planning commissions created by city ordinance may be abolished by two-thirds vote of all the members of the governing body. Planning commissions created by city charter can be abolished by following the statutory provisions for amending a city charter.

Cities considering abolishing their planning commission should seek the advice of their city attorney. While state statute allows cities to abolish their planning commission, state statute also vests planning commissions with mandatory duties related to:

- Reviewing amendments to the comprehensive plan.
- Reviewing purchase and sale of public property and capital improvement projects.
- Reviewing zoning ordinance amendments.

Because state statute vests planning commissions with these mandatory duties, it is unclear how a city that has abolished its planning commission would proceed under state statute with necessary amendments to official controls, purchase and sale of property and capital improvements.

### B. Modifying the planning agency

Planning commissions created by city ordinance may be modified by an ordinance amendment (for example, to change from a five- to seven-member commission). The ordinance must be approved by a simple majority of city councilmembers present at the meeting. Consult the city charter to modify planning commissions created by city charter.

## VI. Joint or multijurisdictional planning

State statutes create multiple means for cities to collaborate with other

## RELEVANT LINKS:

[Minn. Stat. § 462.3535, subd. 1, 2.](#)

[Minn. Stat. § 462.3535, subd. 4.](#)

[Minn. Stat. § 462.358, subd. 1a.](#)

[Minn. Stat. § 462.3585.](#)

governmental bodies, including other cities, counties and towns, on comprehensive land use planning.

### **A. Community-Based planning**

Cities are encouraged, but not required, to prepare and implement a community-based comprehensive municipal plan. This language is very similar to comprehensive planning as discussed above, but is not the same. Community-based comprehensive municipal plans contain an element of orderly annexation and/or boundary adjustment planning along with traditional land use and community planning.

In cities that opt for community-based comprehensive municipal plans, the city must coordinate its plan with the plans, if any, of the county and the city's neighbors. Cooperation is designed to:

- Prevent the plan from having an adverse impact on other jurisdictions.
- Complement the plans of other jurisdictions.

In cities that opt for community-based comprehensive municipal plans, the city must prepare its plan to be incorporated into the county's community-based comprehensive plan, if the county is preparing or has prepared one, and must otherwise assist and cooperate with the county in its community-based planning.

Community-based comprehensive municipal plans do not appear to be common. Cities interested in this option should consult their city attorney or a planning consultant.

### **B. Joint planning boards for unincorporated territory within two miles of the city limits**

If a city has already opted to extend the application of its subdivision regulations to unincorporated territory located within two miles of its limits before the creation of a joint board, those subdivision regulations will apply until the joint board adopts subdivision regulations.

If a city has unincorporated area within two miles of the corporate limits of a city, a joint planning board may be formed. A city council or a county board or a town board may require the establishment of a joint planning board on their own initiative by passing a resolution requiring a board to be established. The resolution, once passed, must be filed with the county auditor.

The city, county and town must agree on the number of board members for the joint board. However, each participating governmental unit must have an equal number of members. The members must be appointed from the governing bodies of the city, county and town.

## RELEVANT LINKS:

[Minn. Stat. § 462.3585.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.354, subd. 1.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.355.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.355, subd. 4.](#)  
[LMC information memo](#)  
[Zoning Guide.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.357.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.358.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.359.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.3595.](#)

[Minn. Stat. § 462.3585.](#)  
[Minn. Stat. § 462.362.](#)

[Minn. Stat. § 462.3585.](#)

[Minn. Stat. § 462.371.](#)  
[See Handbook,](#)  
[Intergovernmental](#)  
[Cooperation.](#)  
[See LMC information memo](#)  
[LMCIT Liability Coverage](#)  
[Guide.](#)

[Minn. Stat. § 462.372.](#)

Once established, the board is authorized to:

- Serve as the governing body and board of appeals and adjustments within the two-mile area.
- Create a planning agency.
- Create a BZA.
- Adopt a comprehensive plan.
- Adopt interim ordinances. Note that the law on interim ordinances for certain uses is specific and varied. Best practice suggests consultation with the city attorney before adopting interim ordinances.
- Adopt zoning ordinances.
- Adopt subdivision regulations.
- Adopt an official map.
- Provide for and issue conditional use permits.
- Enforce official controls and prescribe penalties for violations.
- Adopt and enforce the State Fire Code.

The city must provide staff for the preparation and administration of land use controls unless otherwise agreed by the governmental units composing the board.

## C. Regional planning boards

Any two or more counties, cities or towns may enter into a joint powers agreement to conduct regional planning activities. The participating entities do not need to be contiguous.

The joint powers agreement creating a regional planning agency should:

- Establish a board composed of members selected from the governing bodies of the participating governmental units.
- Set the number of board members.
- Establish terms of office for board members.
- Establish a method for member appointment and removal.

## RELEVANT LINKS:

[Minn. Stat. § 462.373, subd. 1.](#)

[Minn. Stat. § 462.373, subd. 2.](#)

[Minn. Stat. § 462.374.](#)

[Minn. Stat. § 462.375.](#)

[Minn. Stat. § 462.383.](#)

[Minn. Stat. § 462.385.](#)

[Northwest Development Commission.](#)

[Headwaters Regional Development Commission.](#)

[Arrowhead Regional Development Commission.](#)

[West Central Initiative.](#)

[Region Five Development Commission.](#)

[Mid-Minnesota Development Commission.](#)

- Create a framework for adoption of a regional plan, and provide timelines for review and comment on the plan by participating governmental units.
- Create a framework for review of participating governmental unit comprehensive plans and a timeline for comment on such plans by the regional board.

The regional planning board may hire a planning director and staff, including consultants, and appoint an advisory planning commission.

The regional planning board may prepare a plan for the development of the region. However, the plan may not be adopted by the regional planning board until it has been referred to the governing bodies of all participating units for their review and their recommendation.

Once the plan has been prepared, participating governmental units within the region may adopt all or any portion of the regional development plan.

When a regional plan is adopted, the regional planning agency must send a copy of the plan and any future revisions to the commissioner of employment and economic development, to the governing bodies of cooperating governmental units, and to the planning agencies in contiguous areas.

## **D. Regional development commissions and comprehensive planning activities**

Regional development commissions are separate entities from regional development boards discussed above. Regional development commissions are created by state statute to provide a means of pooling the resources of local governments to approach common problems related to urban and rural growth and development.

Development regions are set by state statute and are numbered as follows:

Region 1: Kittson, Roseau, Marshall, Pennington, Red Lake, Polk, and Norman.

Region 2: Lake of the Woods, Beltrami, Mahnomen, Clearwater, and Hubbard.

Region 3: Koochiching, Itasca, St. Louis, Lake, Cook, Aitkin, and Carlton.

Region 4: Clay, Becker, Wilkin, Otter Tail, Grant, Douglas, Traverse, Stevens, and Pope.

Region 5: Cass, Wadena, Crow Wing, Todd, and Morrison.

Region 6E: Kandiyohi, Meeker, Renville, and McLeod.

## RELEVANT LINKS:

[Upper Minnesota Valley Regional Development Commission.](#)

[East Central Regional Development Commission.](#)

[Southwest Regional Development Commission.](#)

[Region Nine Development Commission.](#)

[Metropolitan Council.](#)

[Minn. Stat. § 462.39, subds. 4, 5.](#)

[Minn. Stat. § 462.391, subd. 1a.](#)

[LMCIT Land Use Resources.](#)

[Government Training Services. American Planning Association.](#)

Region 6W: Big Stone, Swift, Chippewa, Lac qui Parle, and Yellow Medicine.

Region 7E: Mille Lacs, Kanabec, Pine, Isanti, and Chisago.

Region 8: Lincoln, Lyon, Redwood, Pipestone, Murray, Cottonwood, Rock, Nobles, and Jackson.

Region 9: Sibley, Nicollet, LeSueur, Brown, Blue Earth, Waseca, Watonwan, Martin, and Faribault.

Region 10: Rice, Goodhue, Wabasha, Steele, Dodge, Olmsted, Winona, Freeborn, Mower, Fillmore, and Houston.

Region 11: Anoka, Hennepin, Ramsey, Washington, Carver, Scott, and Dakota.

The creation of a regional development commission does not affect the rights of counties or cities to conduct their own planning activities. Instead, regional development commissions are designed to support planning for cities. Cities may request that a regional commission review, comment, and provide advisory recommendations on local plans or development proposals.

## VII. Training and resources for planning commission members

Planning commission members perform a vital role for their community. Training materials and seminars can increase the effectiveness of city planning commissioners and are essential for protecting the city's legal interests.

The League of Minnesota Cities Insurance Trust has a Land Use Loss Control Program to assist members through phone consultations and online training. In addition, the Land Use Loss Control Program has extensive written materials available at no cost to members.

Additional training and materials may also be obtained from private vendors such as:

- Government Training Services (GTS).
- The American Planning Association.

# Chapter 1

## GENERAL PROVISIONS

### 2-1-1: ESTABLISHMENT OF BOARDS AND COMMISSIONS:

Pursuant to state law, the following boards and commissions are hereby established:

- A. Parks, recreation and natural resources commission, as authorized by Minnesota statutes section 412.501;
- B. Planning commission, as authorized by Minnesota statutes section 462.354.

By resolution, the council may establish or dissolve any boards, commissions or committees as it deems appropriate. Each board, commission or committee created by the council shall follow the rules and procedures set forth in this chapter. (Ord. 955, 2-17-2016)

### 2-1-2: COMPOSITION; APPOINTMENTS; TERMS OF OFFICE; VACANCIES:

- A. Composition; Appointments; Terms: Unless otherwise stated herein or by separate resolution, each commission shall consist of seven (7) members, each appointed by the council for terms of two (2) years, except the planning commission. The planning commission shall consist of nine (9) members, each appointed for terms of three (3) years. Term years shall begin on March 1.

No commission member may serve more than three (3) consecutive two (2) year terms on any one commission, with the exception of the planning commission, in which no member may serve more than two (2) consecutive three (3) year terms. The council may, by special application, appoint a commissioner for one term in excess of the limit provided in this subsection where it is determined that such would serve the best interests of the city.

- B. Vacancies: Appointments to fill a vacancy shall be only for the unexpired portion of such vacancy. Filling an unexpired term of one year or less shall not be counted against the term limit. (Ord. 955, 2-17-2016)

### **2-1-3: EX OFFICIO MEMBERS:**

Ex officio members of the commission, who shall be nonvoting members, shall be the mayor and members of the city council. The council or commission chairperson may appoint ex officio, nonvoting members to the commission when such appointment, in the sole discretion of the appointing authority, is deemed beneficial to aiding the commission to fulfill its assigned duties, such ex officio member to serve for a term designated by the appointing authority. The council may appoint up to two (2) youths (ages 18 or under) to serve as ex officio members on any commission, who are residents of the community. The term of office for youth seats shall be one year from the date of appointment, renewable for a second one year term by action of the council. (Ord. 955, 2-17-2016)

### **2-1-4: QUALIFICATIONS OF MEMBERS:**

Each commission member shall be a resident of the city. It shall be the goal of the city to have one senior citizen (65 or older) on the parks, recreation and natural resources commission. (Ord. 955, 2-17-2016)

### **2-1-5: ABSENCES AND REMOVALS:**

- A. Absence From Meetings: Unexcused absence from three (3) consecutive regular meetings of the commission or four (4) meetings in any one year period (beginning March 1) shall be deemed to constitute a resignation of a member, and the vacancy thus created shall be filled thereafter. To be excused, an absence must be requested in writing by the affected member, granted by the commission chairperson (or the vice chair if the chairperson makes the request) and the council liaison and filed with the city clerk. Absences may be excused for extenuating circumstances that prevent the member's attendance, such as business demands, state of health, or personal emergencies. (Ord. 694, 5-2-2001; amd. Ord. 955, 2-17-2016)



- B. Removal Of Members: The council shall, by majority vote, have the authority to remove any member of the commission from office whenever in its discretion the best interest of the city shall be served thereby. A member removed from office shall, upon request, have a right of appeal before the council. (1971 Code § 2-46; amd. Ord. 955, 2-17-2016)

## **2-1-6: ORGANIZATION:**

### **A. Officers; Appointment, Election And Duties:**

1. Chair: The commission chair shall be appointed by the city council. It shall be the duty of the chair to preside at all meetings of the commission, to represent the commission before the council, other organizations and to the public, subject to the direction and review of the council.
2. Vice Chair:
  - a. A vice chair shall be elected by the members of the commission at the annual meeting. (Ord. 598, 4-20-1994; amd. Ord. 955, 2-17-2016)
  - b. It shall be the duty of the vice chair to carry out the duties of the chair in his/her absence. (1971 Code § 2-51; amd. Ord. 955, 2-17-2016)

- B. Staff Liaison: The city administrator shall designate a member of the city staff to serve as liaison and administrative support to each commission. It shall be the duty of the staff liaison to keep minutes and records of all proceedings of the commission; to render notice of all meetings of the commission; to communicate all recommendations to the council; to receive, record, report and transmit all correspondence of the commission; to maintain permanent files and resource materials for the commission; to issue, quarterly, a list of current members, which list shall include appointment dates and dates of expiration of office; and to prepare proposed agendas for the annual, regular and special meetings. (1971 Code § 2-51.1; amd. Ord. 955, 2-17-2016)

## **2-1-7: RULES OF PROCEDURE:**

Each commission shall adopt a set of rules to govern its meetings and procedures. The rules may be amended from time to time, but: a) only at a regular meeting of the commission, b) only with the affirmative vote of at least five (5) members, and c) only after the proposed

amendment has received consideration for at least two (2) consecutive regular meetings. Proxy voting shall be prohibited. (1971 Code § 2-52; amd. Ord. 955, 2-17-2016)

## **2-1-8: MEETINGS:**

- A. Annual Meeting: Each commission shall have an annual meeting at the first regular meeting in March of each year, at which time appointments shall be received, officers elected, committees appointed and such other business transacted as the commission may decide.
- B. Regular Meetings: Each commission shall establish a day and week of the month as its regular meeting day, and shall hold its regular meeting on the same day and week of each month thereafter, at a time to be set by the commission, in the city hall or at such other place as may be designated in advance by the commission, until the next annual meeting ; provided, that the chair may designate a different time and place upon at least ten (10) days' notice to each member.
- C. Special Meetings: Each commission may hold special meetings at any time outside of the regular meetings upon: 1) the call of the chair, 2) the call of the chair when directed by petition of at least four (4) commission members, or 3) the call of the council. Special meetings shall require notice to all commission members, in writing, mailed at least five (5) days prior to such meeting or personal notice at least twenty four (24) hours prior to such meeting.
- D. Open Meetings: All commission meetings shall be open to the public. (1971 Code § 2-53; amd. 2000 Code; Ord. 955, 2-17-2016)
- E. Quorum: A quorum shall consist of a majority of the appointed membership at the time of the meeting. (Ord. 622, 12-20-1995; amd. Ord. 955, 2-17-2016)

## **2-1-9: POWERS AND DUTIES; ADVISORY CAPACITY:**

Except as may otherwise be provided by this code, other ordinances or state statute, the powers and duties of the commissions are of advisory nature only, and the commissions shall not have any powers or duties which conflict with or supersede the powers and duties of other city commissions. (1971 Code § 2-48; amd. Ord. 955, 2-17-2016)

## **2-1-10: COOPERATION OF CITY OFFICIALS AND EMPLOYEES:**

All city officials, department heads, employees and appointees shall cooperate with each commission and render all reasonable assistance. (1971 Code § 2-54; amd. Ord. 955, 2-17-2016)

## **2-1-11: COMPENSATION:**

All commission members shall serve without compensation but may be reimbursed for expenses incurred on behalf of the commission. (1971 Code § 2-43; amd. Ord. 955, 2-17-2016)

# **Chapter 4 PLANNING COMMISSION**

## **2-4-1: PURPOSE AND DUTIES:**

The purpose and duties of the planning commission shall be those vested in it by the statutes of the state and other ordinances of the city. The commission shall also have responsibility for study and recommendation to the city council concerning sign variance applications submitted pursuant to section [9-8-10](#) of this code. (Ord. 598, 4-20-1994)

Sec. 90-31. - Planning commission.

The planning commission shall serve as advisors to the city council by preparing and making recommendations regarding the appropriateness of the city's comprehensive plan, zoning ordinance, subdivision regulations, and such other matters that impact the orderly and efficient development of the community. The planning commission shall act only as a body sitting in open session duly noticed, as required by law. The planning commission may appoint subcommittees or individuals to prepare policies, findings, and reports for consideration by the entire commission at a regular meeting thereof.

- (1) **The planning commission shall consist of seven persons,** all residents of the city and eligible voters, appointed by the city council for staggered four-year terms. The city attorney, city engineer, and city health officer, or their representatives, may serve as nonvoting, ex officio members upon request of the commission. Terms of office shall be staggered such that no more than two voting members' terms shall expire in any one year.
- (2) **A quorum of the planning commission shall consist of four voting members,** and it shall require the affirmative vote of a majority of the planning commissioners present (so long as there is a quorum) to approve any motion, resolution, or other official action.
- (3) Commission officers shall include a chairperson, a vice-chairperson, and a secretary, all appointed annually by the city council. The secretary need not be a member of the planning commission. The chairperson and vice-chairperson have full voting rights and need not limit their votes to cases of a tie.
- (4) **Planning commissioners may be removed from office by the city council for:**
  - a. Changing their place of residence to a location outside the corporate boundaries of the city or otherwise not meeting the requirements for office.
  - b. Failure to perform their official duties, including not attending called and noticed meetings.
  - c. Behavior disruptive to the good order and efficiency of the commission.
  - d. Moral turpitude.
- (5) Vacancies on the planning commission shall be filled by the city council as soon as practical after the vacancy occurs, and such appointments shall be made for the unexpired portion of the vacated term.
- (6) The planning commission may adopt such other rules of order as it deems necessary for the efficient conduct of its responsibilities.
- (7) **Planning commission responsibilities:**
  - a. To study, report, and make recommendations on amendments to the city's comprehensive plan and land use regulations.
  - b. To conduct hearings and make recommendations regarding the issuance of conditional use permits.
  - c. To conduct hearings and make recommendations regarding requests for rezoning.
  - d. To conduct hearings and make recommendations regarding the subdivision and platting of property.
  - e. To review and make recommendations on commercial and industrial site plans.
  - f. To review and make recommendations on variances associated with site plans, preliminary plats, and conditional use permits.
  - g. Perform such other duties as the city council may, from time to time, prescribe.

(Prior Code, § 1015-030.1)

## **2.11 PLANNING COMMISSION.**

1. Purpose. The City Council finds it necessary to guide the future development of land within the City through comprehensive planning for the purposes of (1) ensuring a safer, more pleasant, and more economical environment for residential, commercial, industrial, and public activities; (2) promoting the public health, safety, and general welfare; (3) preparing for anticipated changes in land use, thereby causing significant savings in both private and public expenditures; and (4) providing for necessary public services on the lowest possible cost basis and achieving the maximum secured tax base for the community.
2. Definitions. The following words and phrases when used in this Section shall have the following meanings:
  - A. “Commission” means the Planning Commission.
  - B. “Land Use Plan” means a compilation of policy statements, goals, standards, maps, and use programs for guiding the future development of private and public property. The term includes a plan designating types of uses for the entire City, 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 thereof.
  - C. “Transportation Plan” means a compilation of policy statements, goals, standards, maps, and use programs for guiding the future development of the various modes of transportation in the City such as streets and highways, mass transit, railroads, trucking, and includes a major thoroughfare plan.
  - D. “Community Facilities Plan” means a compilation of policy statements, goals, standards, maps, and use programs for guiding the future development of the public or semi-public facilities of the City such as recreational, educational, and cultural facilities.
  - E. “Capital Improvements 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 City, and such other information as the Commission deems relevant.
  - F. “Official Map” means a map adopted in accordance with Minnesota Statutes Section 462.359, showing existing streets, proposed future streets, and the area needed for widening existing streets of the City. The map may also show the location of existing and future public land and facilities within the City.

3. Planning Commission Established.

- A. Creation. There is hereby created a Planning Commission for the City of Mahtomedi to be comprised of seven (7) members appointed by the City Council.
- B. Term. The term of each member shall be for three (3) years. Members may be removed at the discretion of the City Council.
- C. Vacancies. If a Commission member is absent from three (3) meetings during a one (1) year period, unless excused in advance by the Chairperson, that commission member will be considered to have abandoned their position, creating a vacancy. In the event of a vacancy, the City Council shall appoint a successor to fill the vacant position for the remainder of the unexpired term.
- D. Qualifications. Each member shall be a resident of the City of Mahtomedi. All members shall serve without compensation.
- E. Chairperson. At its first meeting every April, the members of the Planning Commission shall appoint from among their membership a chairperson to serve for a term of one (1) year. The chairperson shall preside at all meetings of the Commission if present and shall perform all other duties and functions assigned by the Commission or by the City Council. The members of the Commission may appoint from among the membership a vice-chairperson to act for the chairperson during his or her absence.

4. Meetings. The Commission shall meet on the second Wednesday of every month. A majority of all members of the Commission shall constitute a quorum. A quorum is required for any action to be taken by the Commission.. Unless otherwise provided, any action taken by the Commission shall be by the affirmative vote of a majority of the members present. The Commission may adopt such rules and regulations governing its proceedings as it deems necessary for the proper conduct of its business. The Commission shall keep a public record of its meetings, resolutions, findings, and reports.

5. General Powers and Duties. The Commission shall have the powers and duties given to city planning agencies generally by law. The Planning Commission shall also exercise the duties conferred upon it by this Code and the Zoning Ordinance, including those related to Zoning Ordinance Amendments, Conditional Use Permits, Variances, and Site Plan Review.

6. Comprehensive Plan. The Commission shall prepare and recommend to the City Council a comprehensive municipal plan for the City of Mahtomedi. Such plan shall include a compilation of policy statements, goals, standards, and maps for

guiding the physical, social and economic development, both private and public, of the City and shall include a statement of policies, goals, and standards for (a) a land use plan; (b) a community facilities plan; (c) a transportation plan; (d) a capital improvements program; and (e) an official map. The comprehensive plan may be prepared in sections, each of which shall relate to a major subject of the plan or to a major geographical section of the City.

- A. Plan Adoption and Amendment. The Commission may adopt and amend a comprehensive municipal plan as its recommendation to the City Council. The plan may be adopted in sections, each of which shall relate to a major subject of the plan or to a major geographical section of the City. Before adopting the comprehensive plan or any section or amendment thereto, the Commission shall hold at least one (1) public hearing thereon. A notice of the time, place, and purpose of the hearing shall be published once in the official newspaper of the City at least ten (10) days before the day of the hearing. Adoption and amendment of the comprehensive plan or of any section thereof shall be by resolution adopted by a majority of all the members of the Commission. When adopted, a copy of the plan or of any section or amendment thereof shall be certified to the City Council.
- B. Adoption of Plan by City Council. Upon receiving a certified copy of the plan or of any section or amendment thereof from the Commission, the City Council may, by resolution of the majority of its members, adopt or amend the comprehensive plan or portion thereof so recommended as the official comprehensive plan of the City. After a public hearing upon such recommendation, notice of the time and place of which shall be given by publication once in the official newspaper of the City at least ten (10) days before the day of the hearing, until so adopted by the City Council, the plan or any section, or amendment thereof shall constitute only the recommendation of the Commission.
- C. Recommendations for Plan Execution. Upon recommendation by the Commission, the comprehensive plan or any section or amendment thereof, may be studied and the Commission may propose to the City Council reasonable and practicable means for putting the plan, section or amendment into effect. Such means may include zoning regulations, regulations for the subdivision of land, official map, a program for coordination of normal public improvements and services, and a capital improvement program.
- D. Plan Compliance. After a comprehensive plan, section, or amendment thereof has been certified to the City Council, no publicly owned interest in real property within the City shall be acquired or disposed of or any capital improvement authorized by the City, or any other agency or political subdivision having jurisdiction within the City, until after the



Commission has reviewed the proposed acquisition, disposal, or capital improvement and reported in writing to the City Council its findings as to compliance with the comprehensive plan. If the Commission fails to report on the proposal within forty-five (45) days after such reference, such failure to report shall be deemed to have satisfied the requirements of this section. If the City Council determines that the proposed acquisition or disposal of real property or capital improvement bears no relationship to the comprehensive plan, it may dispense with the requirements of this section by resolution adopted by two-thirds vote.

- E. Studies. In exercising the powers granted under this Section, the Commission, with prior approval of the City Council, may collect and analyze data, maps, charts, tables, and other illustrations and displays and conduct necessary studies. The City Council may publicize findings and suggestions on planning matters within the scope and objectives of this Section.
- F. Appropriation. The City Council may appropriate moneys from any fund not dedicated to other purposes in order to finance planning activities authorized by this Section. The City Council may receive and expend grants and gifts for such planning purposes and may enter into contracts with other governmental units or private agencies in furtherance of the planning activities authorized herein.
- G. Plan Effectuation. Upon prior approval of the City Council and its finding that such action will promote the public health, safety, and general welfare, the Commission may prepare additional procedures for plan effectuation, including (a) zoning ordinances, (b) subdivision regulations, (c) official maps, and (d) such other means of plan execution as will accomplish the purposes of this Section. Such procedures shall be prepared in accordance with the provisions of Minnesota Statutes Chapter 462 and shall be certified to the City Council for its review and consideration.

## **2.12 PUBLIC ACCOUNTANT.**

The City Council shall appoint a Public Accountant for the purpose of auditing, examining, and reporting upon the books and records of accounts of the City each year in accordance with the minimum auditing procedures prescribed by the Public Examiner pursuant to Minnesota Statutes Section 412.222. The Public Accountant shall serve as an independent contractor and shall be compensated for his or her services as the City Council may from time to time prescribe.

# CHAPTER 16

## PLANNING AND DEVELOPMENT

**Article I Planning Commission**

**Article II Reimbursement of Consultant Development Fees**

**Article III Environmental Review Program**

### ARTICLE I. PLANNING COMMISSION

**Sec. 16-01. Commission Established.** A Planning Commission for the city is hereby established. The Commission serves as an advisory board for the City Council and City Administrator. All conclusions reached by the commission shall serve as recommendations and powers of execution shall be vested in the City Council.

**Sec. 16-02. Functions and Duties of Commission.** The Planning Commission shall act in an advisory capacity to the City Council and City Administrator in all matters pertaining to planning, development, and redevelopment. Specific responsibilities of the commission shall be:

- (1) To establish plans, policies, and procedures in matters relating to planning, development, and redevelopment.
- (2) To assist the City Council in developing, reviewing, and analyzing planning programs, development proposals, and redevelopment programs.
- (3) To educate the City Council on planning, development, and redevelopment issues.
- (4) To interview and review work of the planning consultant.
- (5) To assist in the collection of background data to assist the City Council to determine goals, policies, and programs for future development of the community.
- (6) To assist with the preparation and updating of the comprehensive plan.
- (7) To assist in the preparation of development controls.
- (8) To review development proposals and proposed changes to city ordinance.
- (9) To assist in preparation of a Capital Improvements Program.
- (10). To make recommendations on proposed boundary changes.

**Sec. 16-03. Composition of Commission; Appointment to Commission.** The Planning Commission shall consist of seven (7) regular members, appointed by the City Council. A simple majority of the serving members shall constitute a quorum. Vacancies shall be filled by City Council appointment for the remainder of the unexpired term. Resignation of Planning Commission members shall be submitted in writing to the City Council. At their discretion, the City Council may appoint up to two (2) student representatives to serve on the commission; such individuals shall serve in an advisory role without voting privileges and do not need to meet the age or residency requirements for a commissioner.

**Sec. 16-04. Terms of Members.** Members of the Planning Commission shall be appointed by the City Council for three (3) year terms. Terms, in general, begin July 1 of each year. Members that have served on one commission for three consecutive terms shall be given the option of submitting an application to be considered for appointment to another advisory commission or to submit an application to be considered for appointment to the same commission the following June. *Exception:* at the sole discretion of the City Council, seated commissioners that have served on one commission

for three or more consecutive terms may be reappointed to the same commission when the continuation of their service on said commission is deemed vital to projects and/or programs under the purview of the commission. The initial term for appointments to the commission shall be staggered so that only three (3) new appointment or reappointments need to be made in any one year. (Ord. 833, 10/10/17)

**Sec. 16-05. Organization of Commission.** The Planning Commission shall elect from its membership, a Chairperson and Vice-Chairperson annually at its first meeting of each year. The election of Chairperson is subject to veto by the Mayor. The Planning Commission shall adopt its own Rules of Order and Bylaws for the purpose of governmental procedure.

**Sec. 16-06. Commission Meetings and Records.** The Planning Commission shall hold regular meetings as established in the bylaws. These meetings shall be open to the public. The Planning Commission shall submit copies of its meeting minutes to the City Council following each scheduled meeting and shall submit periodic reports when requested by the City Council.

**Sec. 16-07. Removal of Commission Members.** Commission members may be removed, at will, by action supported by a majority of the City Council. Also, given that the City Council expects diligence in attendance by the members of the Planning Commission at commission meetings, excessive absences will be considered as grounds for removal from the commission.

**Sec. 16-08. Residency Requirement.** No person appointed to represent the residents shall continue to serve on the commission once that member has taken residence outside of the corporate limits of Oakdale. A written resignation shall be submitted to the City Council in this instance.

## **ARTICLE II. REIMBURSEMENT OF CONSULTANT DEVELOPMENT FEES**

**Sec. 16-09. Definitions.** As used in this article:

- **Costs** means any time or expense incurred by the city for services performed by the Community Development Director, Public Works Director/City Engineer and City Attorney or any other regular staff consultants.
- **Development** means any subdivision, planned unit development, rezoning special use permit, variance, vacation, building addition, or site plan; or proposed rezoning, special use permit, variance, building addition, or change in site plan; or any amendment to a previously approved subdivision, planned unit development, rezoning, special use permit, variance, vacation, building addition, or site plan.
- **Owner** means any property owner, applicant, or duly authorized representative of a development.

**Sec. 16-10. Reimbursement Required.** Any owner that causes the city to incur costs on behalf of, or on account of, that owner, associated with a proposed development, shall reimburse the city for the actual costs expended by the city on behalf of, or on account of, said owner. Any development which involves only one platted residential lot, for a non-commercial purpose, located in a residential zoning district shall not be responsible for costs incurred by the city beyond the initial application fee.

**Sec. 16-11. Deposit Required.** The owner shall deposit with the city in escrow an amount, as determined by the City Administrator, necessary to cover the total costs associated with the proposed

development prior to the performance of any such services by the city's regular staff or consultants. However, if a proposed development and the related consultant review is anticipated to span a period of time in excess of ninety (90) days, the owner will only be expected to deposit a sum, as determined by the City Administrator, necessary for the city to pay all costs for said ninety (90) days. The owner will then be expected to maintain the escrow fund at a balance equal to the original amount deposited. Any escrow shall be held in a special escrow account and shall be credited to the said subdivider, owner, or developer. Staff time and legal expenses incurred by the city in plat approval, office and field checking, setting grade and drainage requirements, general supervision, staking, inspection, installation and cost of traffic control and street signs, drafting as-built drawings and all other city staff and consultant services performed in the processing of said improvements and developments, administrative and legal expenses in examining title to the property being developed shall be charged to the aforementioned account and shall be credited to the city.

**Sec. 16-12. Monthly statements of Expenditures Required.** The city will provide itemized statements to the owner by the tenth day of each month showing the city's expenditures for staff and consultant services for the prior month associated with a development together with the current balance in the developer's escrow fund, and a statement, if additional funds are requested, to maintain the fund at the level established. No statement will be sent if there are no transactions during the preceding month in the escrow fund.

The city shall itemize all time, services, and materials billed to any developer's escrow account and said time, services, and materials shall be in accordance with the rules, regulations, and fees as promulgated and adopted by the City Council. The subdivider, owner, or developer making the deposit(s) in the escrow account shall, upon request, be furnished a copy of said itemized charges. Any balance remaining in the account upon completion of all platting conditions shall be returned to the depositor by the Finance Department after all claims and charges thereto have been paid.

**Sec. 16-13. Reimbursement of Escrow Fund.** The owner shall reimburse the escrow fund for any deficits caused if the amount actually expended by, or billed to, the city exceeds the escrow fund balance.

**Sec. 16-14. Refund of Unexpended Balance.** The city shall refund any monies deposited in the escrow fund not expended for consultant fees within thirty (30) days after completion of any city consultant services associated with the development.

**Sec. 16-15. Escrow Fund not to Draw Interest.** The city shall not pay interest on the monies deposited in the escrow fund.

**Sec. 16-16. Rates Established.** The City Administrator shall establish the rates charged for the services performed by city staff or consultants.

### **ARTICLE III. ENVIRONMENTAL REVIEW PROGRAM**

**Sec. 16-17. Generally.** The provisions of the rules of the Environmental Review Program, 6MCAR 3.021 to 3.048, one copy of which is on file in the office of the City Clerk, are hereby adopted, together with the other provisions of this article, as the environmental review operating procedures this city will follow in implementing the provisions of Minnesota Statutes Chapter 116D relating to the

Environmental Review Program and any rules adopted thereunder by the Minnesota Environmental Quality Board. All terms used in this article shall have the same meaning as the terms used in Chapter 116D and the rules adopted thereunder.

#### **Sec. 16-18. Cost of Preparation and Review.**

- (a) **Information to be Provided.** The applicant for a permit for any action for which environmental documents are required either by State law or by the City Council shall supply in the manner prescribed by the City Administrator, or representative, all unprivileged data or information reasonably requested by the city that the applicant has in their possession or to which the applicant has reasonable access.
- (b) **Environmental Assessment Worksheets.** The applicant for a permit for any action for which an Environmental Assessment Worksheet (EAW) is required either by State law or rules or by the City Council, shall pay all costs of preparation and review of the EAW, and, upon the request of and in the manner prescribed by the City Administrator, or representative, shall prepare a draft EAW and supply all information necessary to adequately complete that document.
- (c) **Environmental Impact Statement.** The city and the applicant for a permit for any action for which an Environmental Impact Statement (EIS) is required shall comply with the provisions of the "Rules Governing Assessment Costs for Environmental Impact Statements", one copy of which is on file in the office of the City Clerk, unless the applicant and the City Council provide otherwise by a written agreement.
- (d) **Payment of costs.** No permit for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied in adequate detail and until the environmental review process has been completed as provided in this article, and pursuant to any written agreements entered into by the applicant for the permit or permits and the City Council under Section 16-21(e).
- (e) **Agreements concerning cost of preparation and review.** The applicant for a permit for any action for which an EAW or EIS is required and the City Council may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS as provided in 6MCAR 3.042.

#### **Sec. 16-19. Administration.**

- (a) The City Administrator, or representative, shall be the person responsible for the administration of the environmental review program, this article, and the rules adopted by reference by this article.
- (b) The Community Development Director shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under 6MCAR 3.024. The Community Development Director shall also determine those proposed actions for which an optional EAW may be required under the provisions of the article and shall notify the Planning Commission and the City Council of these proposed actions.
- (c) All EAWs and EISs shall be prepared under the direction of the Community Development Director, reviewed by the Planning Commission and reviewed and approved by the City Council.

- (d) When reviewing an EAW or EIS, the Community Development Director and the Planning Commission may suggest design alterations that would lessen the environmental impact of the action. The City Council may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact on the action.
- (e) After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the City Council whether or not it should require the preparation of an EIS. The City Council shall require an EIS when it finds under 6MCAR 3.025, "that an action is major and has potential for significant environmental effects", and whether the action "is of more than local significance".

**Sec. 16-20. Enforcement and Penalty.**

- (a) No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this article have been completed.
- (b) Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for ninety (90) days or both. Each day that the violation is permitted to exist constitutes a separate offense.
- (c) No work shall commence, and any work in progress on any project for which environmental documents are required shall cease, until the environmental review procedures established by this article are fully complied with.

AN ORDINANCE ESTABLISHING A PLANNING COMMISSION PURSUANT TO MINN. STAT. §462.354.

THE CITY COUNCIL OF THE CITY OF OAK PARK HEIGHTS, WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

210.010 Establishment.

There is hereby established pursuant to Minn. Stat. §462.354 a Planning Commission for the City of Oak Park Heights.

210.020 Composition.

Such Planning Commission shall consist of five (5) members providing as follows:

- (a) There shall be a Councilperson designated by the Mayor with the consent of the City Council to be a liaison to the Planning Commission. Such Councilperson shall serve without voting power and in a capacity as *ex officio* to the Planning Commission. Additionally, the Council may designate an alternate from the Council to serve in such capacity should the primary Council appointee be unable to attend.
- (b) The five members of the Planning Commission shall be appointed by the City Council. All such appointments shall initiate and be established by resolution of the City Council. The term of each member shall be for three (3) years with the initial terms being staggered by the City Council resolution of appointment. Unless extended by special order of the City Council for a period of one (1) year, no member shall serve more than two (2) consecutive terms on the Planning Commission. Any member of the Planning Commission may be removed at any time by a 4/5 vote of the City Council, with or without cause. Should any Planning Commission member fail to attend three (3) consecutive regular meetings of the Planning Commission or fail to attend four (4) meetings within a twelve (12) month period, that position shall be determined to be vacant and the Council shall reappoint a person to fill the balance of the term remaining in that member's position.
- (c) The City Council may from time to time, by resolution, appoint other persons to the Planning Commission to serve in a non-voting/liason capacity, for limited periods of time and for specified issues on topics for which they have a



special interest or expertise determined by the Council to be of benefit to the Planning Commission.

210.030 Meetings.

The Planning Commission may hold at least one regular meeting each month. The regular meeting date of the Planning Commission shall be established by Resolution of the City Council from time to time. The Planning Commission shall adopt rules for the transaction of business and shall keep a record of its Resolutions, transactions, minutes and findings which records shall be public.

210.040 Organization and Chairperson.

The Planning Commission shall elect a chairperson from among its appointed members for the term of two years. No member shall serve as chairperson for more than two consecutive terms. Vacancies occurring within the Planning Commission shall be filled for the balance of the term by appointment from the City Council. The Commission shall also keep a record of the minutes of each of its meetings.

210.050 Powers and Duties of the Planning Commission.

The Planning Commission shall consider and make recommendations on all matters affecting zoning, subdivision and building regulations and land use development, comprehensive plans and other matters referred to it by the City Council from time to time. All recommendations made by the Planning Commission shall take into consideration the established policies of the City Council on such matters. The Planning Commission shall also carry on City planning activities and recommend such plans for the regulation of future physical development of the City including land use and building construction.

210.060 Compensation.

Compensation of Planning Commission Members as selected by the City Council shall serve without compensation except as otherwise established by Resolution of the City Council.

Amended: Section 210.02. Passed and adopted May 28, 1999.  
Section 210.020 Passed and adopted September 25, 2001