



## INFORMATION MEMO

# Planning Commission Guide

*Learn ways the city may create, change or discontinue a city planning commission. Provides 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; how to implement it. Ways to participate in joint or multijurisdictional planning.*

### RELEVANT LINKS:

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

See MN Planning “*Under Construction: Tools and Techniques for Local Planning.*”

[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:

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:

LMC Model [Planning Commission Ordinance](#).

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

**RELEVANT LINKS:**

See Section IV- *Planning Agency Meetings*.

See LMC Model [Planning Commission Policy on Rules and Procedure](#).

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

[Minn. Stat. § 462.354](#).

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.

### **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**

State statutes prescribe several mandatory duties for the city planning commission. A 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.

**RELEVANT LINKS:**

[Sample Advertisement.](#)  
[Sample City Application Forms.](#)  
[Sample Interview Questions.](#)

[LMC information memo, Residency Requirements for City Boards and Commissions.](#)

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

## **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.

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.

## 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.

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.

### 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 provide that planning commission members may be compensated for their service, or that they 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.

## RELEVANT LINKS:

[Lenz v. Coon Creek Watershed, Dist.](#), 278 Minn. 1, 153 NW 2d 209 (1967).  
[Township Bd. Of Lake Valley Township v Lewis](#), 305 Minn. 488, 234 N.W. 2d 815 (1975).

[Minn. Stat. § 462.351.](#)  
[Minn. Stat. § 462.352, subd 5.](#)  
See MN Planning “*Under Construction: Tools and Techniques for Local Planning.*”  
Sample: [Bethel Comprehensive Plan](#), City Population 502.  
Sample: [Chisago City Comprehensive Plan](#), City Population 4,307.  
Sample: [Minnetonka Comprehensive Plan](#), City Population 51,519.

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. Local ordinance or commission policy should establish both criteria for removal 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

In essence, 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.

## 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.

- 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. 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.

**RELEVANT LINKS:**

[Minn. Stat. § 462.353, subd 2.](#)

[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.](#)

[Sample: Newsletter Article on Comprehensive Planning.](#)

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.

**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). In order 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.

**RELEVANT LINKS:**

[Minn. Stat. § 462.357, subd. 1h.](#) [Minn. Stat. § 462.355, subd. 1.](#) [Minn. Stat. § 103G.005, subd. 10b.](#)

[Minn. Stat. § 462.355.](#)

[Minn. Stat. § 462.357.](#)

[Minn. Stat. § 462.355, subd 2.](#)

[Minn. Stat. § 462.354.](#)

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

Non-metropolitan cities located in certain counties are subject to the President Theodore Roosevelt Memorial Bill to Preserve Agricultural, Forest, Wildlife, and Open Space Land (hereinafter the “T. Roosevelt Memorial Preservation Act”) when adopting or amending a comprehensive plan.

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. These counties still contain a significant portion of their presettlement wetland acreage. Cities outside the metro area, and not located in the counties listed above, must comply with the Act.

Cities subject to the T. Roosevelt Memorial Preservation Act are not required to engage in comprehensive planning, but when they do must consider the natural resource and open space preservation goals of the Act when adopting a comprehensive plan.

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. Such consideration could potentially be documented in 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.

**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.

**RELEVANT LINKS:**

[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.](#)

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

[Minn. Stat. § 462.356, subd 1.](#)

[Minn. Stat. § 462.356, subd 1.](#)

## **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. All cities: 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 of 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.

## **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:

**RELEVANT LINKS:**

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, *Subdivisions, Plats and Development Agreements*. See Handbook, *Comprehensive Planning, Land Use, and City-Owned Land*.

Minn. Stat. § 462.355, subd 1.

Minn. Stat. § 462.355, subd. 1a. Minn. Stat. § 473.121, subd. 2. Minn. Stat. § 473.864, subd. 2.

Minn. Stat. § 462.355, subd. 3.

See Section III-A-4 *Adopting the Comprehensive Plan*. Minn. Stat. § 462.355, subd. 3.

- 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 metro 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.

**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.

## RELEVANT LINKS:

[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\*.](#)

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

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 of 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.

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.

## RELEVANT LINKS:

[Minn. Stat. § 462.356, subd 2.](#)

[Minn. Stat. § 475.521, subd. 1 \(b\).](#) [Minn. Stat. § 373.40, subd. 1\(b\).](#)

[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](#).

## 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. However, other statutes define a capital improvement as “betterment of public lands, buildings or other improvements.”

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

At any time after the adoption of a comprehensive plan or simply a portion of the plan creating a land use plan, the planning commission, for the purpose of carrying out the policies and goals of the land use plan, may 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.

## RELEVANT LINKS:

[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.](#)

[Minn. Stat. § 462.357, subd 3.](#)

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. 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.

## RELEVANT LINKS:

[Minn. Stat. § 462.357, subd. 2.](#)

[Minn. Stat. § 462.357, subd. 5.](#)

[Minn. Stat. § 462.3595.](#)

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

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.](#)

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. 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. 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**

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.

## RELEVANT LINKS:

See LMC information memo, *Purchase and Sale of Real Property*.

[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.](#)

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 payment. 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, the issuance of building permits under the MN State Building Code are subject to its provisions. If any building is built without a building permit or in violation of permit conditions, a municipality need not compensate a landowner whose building may be destroyed if a street is widened. In other words, while the official map does not give any interest in land, 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.

## RELEVANT LINKS:

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

[Minn. Stat. § 462.354, subd. 2.](#)

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, [Subdivisions, Plats, and Development Agreements](#).

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.

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.

## RELEVANT LINKS:

See LMC information memo [Subdivisions, Plats, and Development Agreements](#).

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

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

[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](#).

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 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:

- 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.

## RELEVANT LINKS:

For more information on the 60-Day Rule see the LMC information memo, *The 60-Day Rule: Minnesota's Automatic Approval Statute*.

Minn. Stat. § 15.99.  
*Manco of Fairmont v. Town Bd. of Rock Dell Township*, 583 N.W.2d 293 (Minn. Ct. App. 1998).  
*Hans Hagen Homes, Inc. v. City of Minnetrista*, 728 N.W.2d 536 (Minn. 2007).

Minn. Stat. § 15.99, subd. 1(c).  
Minn. Stat. § 15.99, subd. 2(a).  
Minn. Stat. § 462.358, subd. 3b.  
*Advantage Capital Mgmt. v. City of Northfield*, 664 N.W.2d 421 (Minn. Ct. App. 2003).

## 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.

### 1. Scope of the rule

The rule applies to a “request related to zoning.” The courts have been rather expansive in their interpretation of the phrase “related to zoning.” It is useful to look at the precise wording of the statute to see it covers much more than just requests “related to zoning.”

“Except as otherwise provided in this section, section 462.358 subd. 3b, or 473.175, or chapter 505, and notwithstanding any other law to the contrary, an agency must approve or deny within 60 days a written request relating to zoning, septic systems, watershed district review, soil and water conservation district review, or expansion of the metropolitan urban service area for a permit, license, or other governmental approval of an action.”

The language covers requests for rezonings, conditional use permits and variances. Courts have also found the law applies to requests for sign permits, wetlands determination review, and road permits.

In short, almost all requests affecting the use of land have been treated as subject to the law. Subdivision and plat approvals are an exception, since those processes are subject to their own timeframes. The law also does not apply to applications for building permits.

Building permits are issued pursuant to the State Building Code to regulate the construction process, they do not regulate the use of land that may occur in a particular zoning district. Therefore, they are not “related to zoning.”

## RELEVANT LINKS:

[Minn. Stat. § 15.99, subd. 1\(c\).](#)

[Minn. Stat. § 15.99, subd. 3\(a\).](#)

[Minn. Stat. § 15.99, subd. 3\(c\).](#)

[Tollefson Dev., Inc. v. City of Elk River](#), 665 N.W.2d 554 (Minn. Ct. App. 2003).

[Minn. Stat. § 15.99, subd. 2\(a\).](#)  
[Minn. Stat. § 15.99, subd. 2\(c\).](#)  
[Hans Hagen Homes v City of Minnetrista](#), 728 NW 2d 536 (Minn. 2007). [Johnson v Cook County](#), 786 N.W.2d 291 (Minn. 2010).

[Minn. Stat. § 15.99, subd. 2\(b\).](#)

## 2. Applications

A request must be submitted in writing on the city's application form, if one exists. A request not on the city's form must clearly identify the approval sought on the first page. The city may reject a request not on the city's form as incomplete, if the request does not include information required by the city. The request also is considered incomplete if it does not include the application fee.

The 60-day time period does not begin to run if the city notifies the landowner in writing within 15 business days of receiving the application that the application is incomplete. The city must also state what information is missing.

If a city grants an approval within 60 days of receiving a written request, and the city can document this, it meets the time limit even if that approval includes certain conditions the applicant must meet. Subsequently, if the applicant fails to meet the conditions, the approval may be revoked or rescinded. An applicant cannot use the revocation or rescission to claim the city did not meet the 60-day time limit.

When a zoning applicant materially amends their application, the 60-day period runs from the date of the written request for the amendment, not from the date of the original application. However, minor changes to a zoning request should not affect the running of the 60-day period.

## 3. Denials

If an agency or a city denies a request, it must give written reasons for its denial at the time it denies the request. When a multimember governing body such as a city council denies a request, it must state the reasons for denial on the record and provide the applicant with a written statement of the reasons for denial. The written statement of the reasons for denial must be consistent with reasons stated in the record at the time of denial. The written statement of reasons for denial must be provided to the applicant upon adoption.

State statute provides that the failure of a motion to approve an application constitutes a denial, provided that those voting against the motion state on the record the reasons why they oppose the request. This situation usually occurs when a motion to approve fails because of a tie vote, or because the motion fails to get the required number of votes to pass.

## RELEVANT LINKS:

[Minn. Stat. § 15.99, subd. 3\(f\).](#)

[American Tower, L.P. v. City of Grant](#), 636 N.W.2d 309(Minn. 2001). [Northern States Power Co. v. City of Mendota Heights](#), 646 N.W.2d 919 (Minn. Ct. App. 2002).

[Minn. Stat. § 15.99, subd. 3\(g\).](#)

[Minn. Stat. § 15.99, subd. 3\(g\).](#)

[Minn. Stat. § 15.99, subd. 3\(d\), \(e\).](#)

[Minn. Stat. ch. 116D.](#)  
[Minn. R. ch. 4410.](#)

## 4. Extensions

The law allows a city the opportunity to give itself an additional 60 days (up to a total of 120 days) to consider an application, if the city follows specific statutory requirements. In order to avail itself of an additional 60 days, the city must give the applicant:

- Written notification of the extension before the end of the initial 60-day period.
- The reasons for extension.
- The anticipated length of the extension.

The courts have been particularly demanding on local governments with regard to this requirement and have required local governments to meet each element of the statute. An oral notice or an oral agreement to extend is insufficient. The reasons stated in the written notification should be specific in order to inform the individual applicant exactly why the process is being delayed. Needing more time to fully consider the application may be an adequate reason. As demonstrated in one Minnesota Supreme Court case, the written notification should not take the form of a blanket statement on the zoning application that the city will need the extension.

An applicant may also request an extension of the time limit by written notice. If a city receives an applicant's request for an extension, this should be thoroughly documented.

Once the city has granted itself one 60 day extension any additional extensions must be negotiated with and agreed upon by the applicant. The city must initiate the request for additional time in writing and have the applicant agree to an extension in writing.

The applicant also may ask for an additional extension by written request.

The 60-day time period is also extended if a state statute requires a process to occur before the city acts on the application if the process will make it impossible for the city to act within 60 days. The environmental review process is an example. If the city or state law requires the preparation of an environmental assessment worksheet (EAW) or an environmental impact statement (EIS) under the state Environmental Policy Act, the deadline is extended until 60 days after the environmental review process is completed.

Likewise, if a proposed development requires state or federal approval in addition to city action, the 60-day period for city action is extended until 60 days after the required prior approval is granted from the state or federal entity.

## RELEVANT LINKS:

[Minn. Stat. § 15.99, subd. 2\(a\), \(e\).](#)

See LMC information memo, [The 60 Day Rule: Minnesota's Automatic Approval Statute.](#)

See LMC [Model Planning Commission Policy on Rules and Procedure.](#)

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

See LMC information memo, [Public Hearings.](#)

On occasion, a local city zoning ordinance or charter may contain similar or conflicting time provisions. The 60-Day Rule generally supersedes those time limits and requirements.

Cities should adopt a procedure or set of procedures to ensure planning staff, the planning commission and the city council follow the 60-Day Rule. City staff should develop a timetable, guidelines and forms (checklists for each application may be helpful) to ensure that no application is deemed approved because the city could not act fast enough to complete the review process.

### **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.

## RELEVANT LINKS:

See Handbook, *Records Management*.  
Minn. Stat. § 15.17, subs. 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

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

See Sample: *Findings of Fact, City of Burnsville*.  
LMC information memos:  
*Taking the Mystery out of Findings of Fact; Zoning Decisions*.

## 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. 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 make written findings of fact related to 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.

## RELEVANT LINKS:

Minn. Stat. § 15.17.  
Minn. Stat. § 138.225.  
Minn. Stat. §§ 138.161-.21.  
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*.  
Sample: Findings of Fact: City of Burnsville.

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.

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. 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.

## RELEVANT LINKS:

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

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

[Minn. Stat. § 462.3535, subd. 4.](#)

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 a from a five to seven member commission). The ordinance must be approved by a simple majority of city council members present at the meeting. Planning commissions created by city charter can only be modified by a charter amendment.

## **VI. Joint or multijurisdictional planning**

State statutes create multiple means for cities to collaborate with other 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.

**RELEVANT LINKS:**

[Minn. Stat. § 462.3585.](#)

[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.](#)

[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.](#)

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

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.

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.
- 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.

## RELEVANT LINKS:

[Minn. Stat. § 462.358, subd. 1a.](#)

[Minn. Stat. § 462.371.](#)  
See Handbook,  
*Intergovernmental Cooperation.*  
See LMC information memo  
*Liability Coverage for Joint Powers Agreements.*

[Minn. Stat. § 462.372.](#)

[Minn. Stat. § 462.373, subd. 1.](#)

[Minn. Stat. § 462.373, subd. 2.](#)

[Minn. Stat. § 462.374.](#)

[Minn. Stat. § 462.375.](#)

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, the subdivision regulations which the city has extended will apply until the joint board adopts subdivision regulations.

## 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.
- 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.

**RELEVANT LINKS:**

[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.](#)

[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.](#)

## **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.

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.

**RELEVANT LINKS:**

[LMCIT Land Use Resources.](#)

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

## **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.