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CITY OF SAINT PAUL

Powers of the Planning Commission

Presentation of CAO and Planning staff:
April 16, 2021

Get ready for some legalese

(but there's an illustrative summary at the end)



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Legal Foundation

Minnesota's municipalities exercise zoning and planning powers **only to the extent delegated by legislative enabling acts and/or city charters.**

See, e.g., *Alexander v. City of Minneapolis*, 125 N.W.2d 583, 267 Minn. 155, (1963) (The exercise of municipal zoning authority must be **based upon a specific or implicit legislative enactment delegating such authority**), *Country Joe v. City of Eagan*, 560 N.W.2d 681 (Minn. 1997) (Municipalities have no inherent power to zone except as conferred by statute or implied as necessary in aid of those powers which are expressly conferred by statute).



DELEGATION

Municipal Zoning and Planning Powers are Specifically Delegated
via Minnesota's "**Municipal Planning Act**"

The Municipal Planning Act ("MPA") is codified at Minn. Stat. §§ 462.351-.365.

* Similar delegations exists under Minn. Stat. § 394.21, et. seq. for Minnesota's counties with populations under 300,000 and Minnesota's Townships under Minn. Stat. § 366.10, as limited by Minn. Stat. § 394.33.





WHAT DOES THE MPA ACTUALLY DELEGATE?

Minn. State. § 462.351 contains a “Policy Statement” :

The MPA’s purpose is “to provide municipalities in a single body of law, with the necessary powers and uniform procedures for adequately conducting and implementing municipal planning.”

The MPA therefore:

- Provides the necessary “delegation of powers” to engage in land use planning.
- Defines “uniform” procedures which must be followed to implement land use plans.
- Restricts the exercise of those delegated powers to those set forth in this “single body of law.”



The MPA Provides for Creation of a Planning Commission via the Creation of a Planning Agency

Minn. Stat. § 462.354, entitled “ORGANIZATION FOR PLANNING” states:

Subd. 1. Planning agency. A municipality may by charter or ordinance create a planning agency. A planning agency created by ordinance may be abolished by two-thirds vote of all the members of the governing body. The planning agency shall be advisory, except as other powers and duties are imposed on it by sections 462.351 to 462.364, by statute, by charter, or by ordinance consistent with the municipal charter. The planning agency may take the following alternative forms:



Planning Agency Alternate Form No. 1

Minn. Stat. § 462.354, Subd.1 (1):

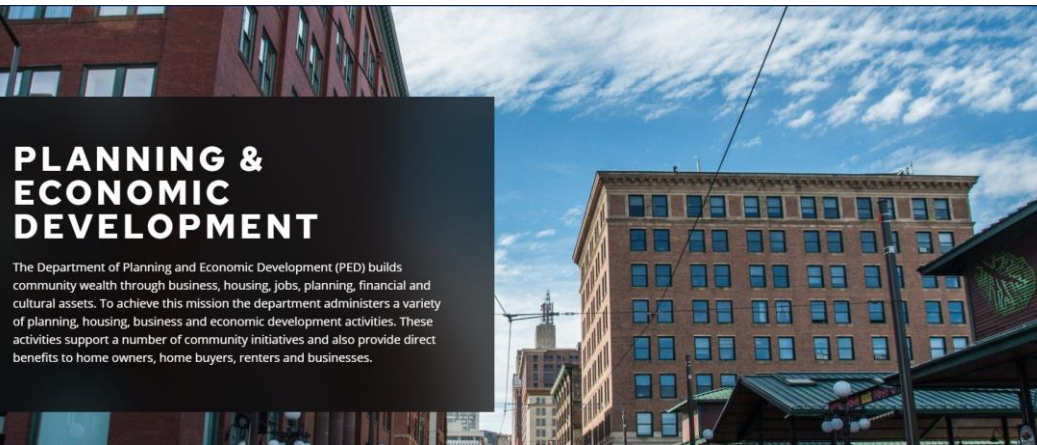
“It **may** consist of a **planning commission**, which may or may not include **municipal officials among its members**. The planning commission may be provided with staff which may be a **division of the administrative structure** of the municipal government. The commission shall be **advisory** directly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



Planning Agency Alternate Form No. 2

Minn. Stat. § 462.354, Subd.1 (2):

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



PLANNING & ECONOMIC DEVELOPMENT

The Department of Planning and Economic Development (PED) builds community wealth through business, housing, jobs, planning, financial and cultural assets. To achieve this mission the department administers a variety of planning, housing, business and economic development activities. These activities support a number of community initiatives and also provide direct benefits to home owners, home buyers, renters and businesses.



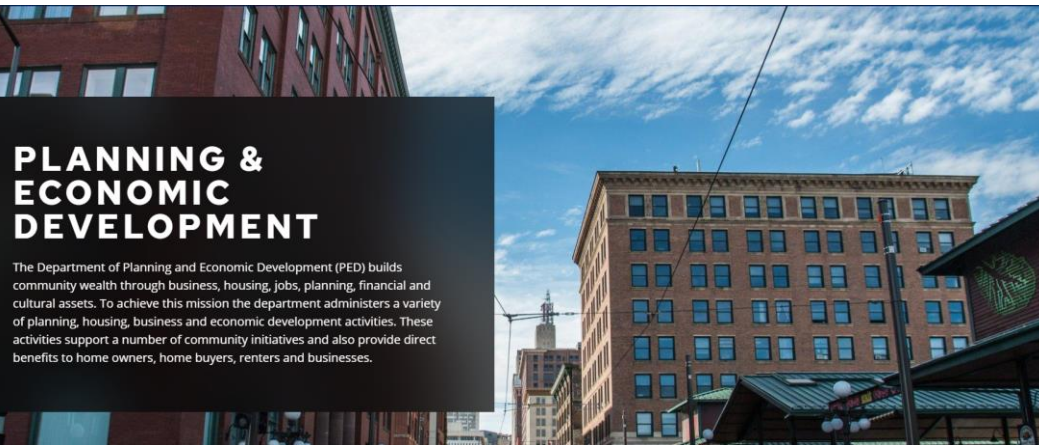
A very dated photo of the Commission



Saint Paul Adopted Alternate Form No. 2

Recall that the MPA states “a municipality may by charter or ordinance create a planning agency.” Minn. Stat. § 462.354, Subd. 1.

In order to create a “planning agency” Minn. Stat. § 462.354, Subd. 1 **requires** a municipality to enact a charter provision of an ordinance in order to create its planning agency.



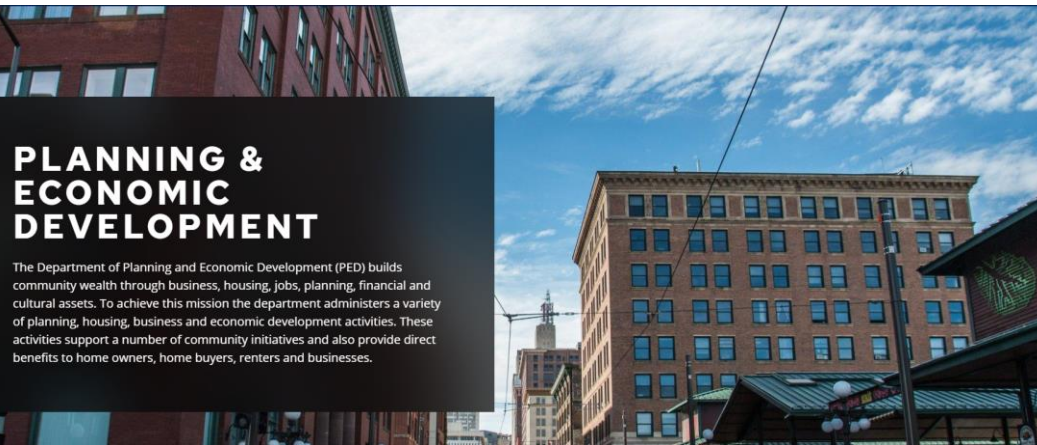


Saint Paul's **Planning Agency** created via Ordinance in Administrative Code Chapter 10*

Admin. Code § 10.01:

(a). **Department established.** There is hereby established an executive department of the city to be known as the department of planning and economic development. The head of such department shall be the **director** . . . The department of planning and economic development shall be organized into the **divisions** of economic development, neighborhood and housing, and **planning and design**.

* Per City Charter § 6.03.2, any ordinance which “establishes . . . any department” must be codified under the City’s Administrative Code.



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PED Director Nicolle
Goodman





Duties of the Planning and Design Division

*Admin. Code § 10.04. **Division of planning and design.***

Within the department of planning and economic development, there shall be a division of planning and design . . . Under the supervision of the **director**, the division shall:

(2) **Administer** Minnesota **statutory requirements** (Land Planning Act) and **city ordinances** regarding the comprehensive plan. . . . Evaluate/update **comprehensive plan elements**, . . . and provide staff support to the city planning commission.

PED Planning Team



PED Planning Director
Luis Pereira



Duties of the Planning and Design Division, continued

Admin. Code § 10.04(4): “Administer legal requirements of the city zoning ordinance by providing technical review of all proposed rezonings, special condition use permits, variances, etc., making clear any related policy implications and, where appropriate, making policy recommendations, serving as lead agent in interdepartmental site plan review, conducting forty-acre studies to amend/update the zoning ordinance and **providing staff support to the zoning committee of the planning commission, the planning commission and the board of zoning appeals.**”

**Given the establishment of a
Planning and Economic Development Department and its
Planning and Design division
with specified duties regarding the Planning Commission**

HOW WAS THE PLANNING COMMISSION ESTABLISHED?



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PLANNING COMMISSION ESTABLISHED

Governing Law: Back to the MPA

1. Minn. Stat. § 462.354, Subd.1 (2): As “enabled” therein, **the City enacted an ordinance** which created a **“planning agency in the form of a planning department with a planning commission advisory to it”** which “shall function as a **department** advisory to the governing body and the municipal administration.”
2. **City Charter** § 6.03.2. An administrative ordinance is required to establish a “department, office or agency” of the City.



Saint Paul **Planning Commission** Established Under
Administrative Code Chapter 107.

Admin. Code § 107.01. Created. There is hereby created an **advisory planning commission**. The commission shall consist of twenty-one (21) voting members appointed by the mayor with consent of the council.

The advisory power granted to the Planning Commission under Admin. Code § 107.01 is consistent with the powers of a “planning agency” established under Minn. Stat. § 462.354, Subd.1 (2).

The Powers of the Commission are defined:

Sec. 107.02. - Powers and duties.

(a). The commission shall serve as an **advisory body** to the mayor and city council on **municipal planning matters** as required by the Municipal Planning and Development Act, Minnesota Statutes, Section 462.351, and the Metropolitan Land Planning Act, Minnesota Statutes, Section 473.858.

- It shall review and comment upon **comprehensive plan recommendations, studies and amendments** submitted by the office of the mayor through the division of planning and
- [It] shall recommend to the mayor initiation of such **planning studies** as it deems necessary for the proper preparation of a comprehensive plan or any portion thereof.

All such studies transmitted to the council through the mayor's office shall contain the recommendations of both the division of planning and the planning commission.





ADDITIONAL PLANNING COMMISSION POWERS

Admin. Code § 107.03. - **Zoning committee.**

There is hereby created a zoning committee **composed of eight (8)** members of the planning commission appointed in accordance with the rules of procedure of the planning commission.

The committee shall serve as an **advisory body to the planning commission** on matters relating to the Saint Paul Zoning Code.

The committee shall, upon proper notification, **conduct public hearings** on district boundary amendments and the various types of zoning applications that are duties of the planning commission.



ADDITIONAL PLANNING COMMISSION POWERS

Leg. Code § 61.202. **Planning commission and planning administrator.**

(a) Planning commission review. The planning commission shall **review and approve or deny site plans, conditional use permits, nonconforming use permits, similar use determinations**, and other matters provided for in this code.

(b) Grant variances. The planning commission may act as the board of zoning appeals and **grant variances** from the regulations of the code related to permits, similar use determination, rezoning, or site plan approval **when considered by the planning commission at the same public hearing**. The commission shall grant the variances in accordance with section 61.601.

(c) Delegation to administrator. The planning commission may, **by rule, delegate to the planning or zoning administrator its power to review and approve or deny** site plans, permits or other matters, except that the planning commission shall **not** delegate its power to grant variances and modify special conditions.



ADDITIONAL PLANNING COMMISSION POWERS

Minn.Stat. § 462.357, Subd. 4 Amendments. An **amendment to a zoning ordinance** may be **initiated by** . . . , the planning agency,*"

Minn.Stat. § 462.357, Subd. 3 defines a planning agency as follows: "Planning agency** means the **planning commission** or the **planning department** of a municipality."*

LEGAL AND PRACTICAL “TAKEAWAYS” ON PLANNING COMMISSION POWERS

1. The Planning Commission is **advisory** to the City Council and Mayor regarding comprehensive plan matters.
2. “**Quasi-judicial**” zoning applications are **final decisions only** if the decision is not appealed to the City Council.
3. “**Legislative**” decisions on zoning applications are advisory to the City Council and Mayor.
4. The resources of the City are not unlimited: the Director of the Department of Planning and Economic Development supervises the work of the Division of Planning and Design including the allocation of staff and development of work plan priorities.



DUTIES AND AUTHORITIES

PLANNING COMMISSION AND PED PLANNING DIVISION

Understanding where they come from and how they relate to one another



Municipal Planning Act:

- Delegates land use planning powers & procedures
- Authorizes the city to select from two forms of **planning agency that is advisory**. Two alternate forms of planning agency (subd. 2)

ALT. FORM 1 Planning Commission

- Optional to have staff
- Advisory to city



OR

ALT. FORM 2* Planning Department

- Planning Commission is advisory to it, the administration & city



*City follows this form

City Administrative ordinance (10.02):

- Creates PED (Planning Division)
- PED director
- Division of Planning & Design



PLANNING COMMISSION ADVISES

• **Planning Commission's advisory roles** (Admin. Code 107.02): It shall:

- "Review and comment on **comprehensive plan recommendations**, studies and amendments submitted by the office of the mayor through the division of planning, and
- "Recommend to the mayor the **initiation of such planning studies** as it deems necessary for the proper preparation of a comprehensive plan or any portion thereof"



PLANNING COMMISSION DECIDES

• **Planning Commission's decision-making role** (Admin. Code 107.03 and Legis. Code 61.202):

- Zoning Committee is advisory to Planning Commission
- "Shall **review and approve or deny** site plans, conditional use permits, nonconforming use permits, similar use determinations, and other matters ...

"In addition, the Planning Commission may act as BZA and grant variances. It may also, **by rule, delegate its powers to the zoning or planning administrators** to review and approve or deny site plans and/or permits but not variances and not modifications to special conditions.

Planning Division duties (Admin. Code 10.02):

- Evaluate and update plans
- Provide staff support for Planning Commission
- Administer zoning ordinance (rezonings, CUPs, variances)
- Conduct 40-acre studies to amend the zoning ordinance



Note: MN Statute 462.357 Subd 4. Amendments says that "an amendment to a zoning ordinance may be initiated by the governing body, the planning agency, or by petition of affected property owners as defined in the zoning ordinance."



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