

Minnesota Association of Townships



February 11, 2022

Chair Michael Nelson
585 State Office Bldg.
St. Paul, MN 55155

Re: **HF 3175 & SF 3016 – Repeal of redundant and unused land use statutes
Comparison of Land Use Management Powers ch. 366 & 462**

Dear Chair Masin,

Townships currently have authority to regulate land use by two separate and unrelated sets of statutes. The two systems are very similar, but one has become the preferred (likely exclusive) method of adopting new regulations. MAT seeks to remove the land use powers in Chapter 366 because they are unused and towns now use the powers provided in Chapter 462.

The first and older of the powers is found in Chapter 366 which provided townships with their first land use management powers. Some of these were adopted as early as the 1930's. They were restricted to townships and contemplated the voters' involvement in some aspects of zoning matters. Some townships used these powers and continue to have a land use ordinance based on that chapter. However, MAT is not aware of any township adopting land use powers under this chapter at any recent time. They are simply not used for any new land use management purposes.

The second set of powers are those described in Chapter 462, which originally applied to cities. All townships became eligible to use the powers of Chapter 462 in 1982, and since then Chapter 462 has become the preferred if not exclusive method of adopting land use powers. Towns preferred the use of this Chapter because it offered more robust powers, greater specificity of rules, was familiar to land use professionals, and it allowed towns to respond quickly to land use issues within the township.

The bill also ensures continuity of the management powers for towns that have a land use ordinance under Chapter 366. It does so by granting those townships the powers of Chapter 462. The powers and procedures of the two chapters are so similar that we expect little to no problems in the conversion to the Chapter 462 powers.

The chart on the following page provides a side-by-side comparison of the powers proposed for removal and where the same powers exist in Chapter 462. MAT and Townships appreciate the attention being giving to this issue by both the House and the Senate. Please contact me with further questions about the Bill.

Sincerely,



Steve M. Fenske
 General Counsel - Minn. Assoc. of Townships

The chart below compares the powers in Chapter 366 that are proposed to be removed and where the powers exist in Chapter 462.

366.10	Authorizing language; Enactment procedure	462.353	Authorizing language;
		462.352	Definitions: town is included as a “municipality”
366.11	Enactment procedure; ballot language	462.355	Enactment procedure; recommendation by planning committee; adoption by governing body
366.12	Eligible Regulations: location, height, bulk, size, stories of buildings; location of roads & schools; percentage of lot occupancy; density; uses of buildings & lands; Refers to 366.15 for Procedure to adopt regulations.	462.357, s1	Eligible regulations: the same as 366.12, plus access to sunlight, water conservation, shoreland, flood control, and others.
366.125	Town may require applicant to certify taxes are paid as part of an application and permit	462.353, s5	Same as 366.125; language is nearly identical
366.13	Establishing Zoning districts; Town may divide lands into districts with rules that apply in each district	462.357 s1	Regulations may divide lands into districts; with rules that apply in each district;
366.14	Generic Public purposes of regulations	462.357, s1	
366.15	Power to amend the ordinance; hearing requirement to amend; 10 days’ notice by publication & public hearing required; limits powers to change based on landowner petition;	462.357, s2(b) & s3	Power to amend the ordinance; limitations on changing residential districts into commercial or industrial requires 2/3 majority vote of the governing body; Notice & hearing required; 10 days’ published notice and public hearing; additional mailed notices required to certain landowners to be affected
366.151	Manufactured homes; town may not limit existing rules of manufactured home parks existing before 1995	462.357, s1a	Nearly identical language prohibiting changes to rules of manufactured home parks existing before 1995
366.152	Manufactured home park is a conditional use if its to allow multi-family occupancy	462.357, s1b	Same or nearly identical language about manufactured home park CUP status
366.16	Town may enforce zoning regulations by withholding permits; right to bring enforcement action; town may employ a zoning commissioner to manage ordinance & administration	462.354, s1(1) & 462.362	may employ staff to exercise powers and administer; also implied powers under 462 exist & MSA 367.05; 366.011; 462.362 allows Ordinance to set enforcement powers and process.
366.17	May appoint planning commission	462.354, s1	May create a planning agency
366.18	Ordinance cannot stop or alter uses that pre-exist the enactment of the ordinance.	462.357, s1e	Non-conforming uses of property that existed before the adoption of an ordinance remain eligible uses of the property
366.181	Violations of the ordinance are a misdemeanor	462.362	Ordinance may set the penalties for violations