

Local Planning Assistance

Law sets the stage for community-based planning

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In 1997, the Minnesota Legislature and Governor Arne H. Carlson for the first time set statewide goals for local government planning by establishing voluntary community-based planning.

The Community-Based Planning Act builds on the state's planning statutes and sustainable development initiative. It sets 11 goals for community-based planning, creates an advisory council to refine program details, funds pilot projects and provides technology and planning grants.

Minnesota Planning provides grants and technical assistance for

community-based planning through its new local planning assistance team. Minnesota Planning will also review community-based plans for consistency with the 11 goals.

The new law is contained in Articles 1, 4 and 6 of the Omnibus State Department Bill — Minnesota Laws 1997, Chapter 202. Funding is covered by Article 1, Section 11. The law was amended in Minnesota Laws 1998, Chapter 366, Section 78.

Not included here: Chapter 202 also made changes to the municipal board and annexation procedures. These include termination of the municipal board on December 31, 1999, and transfer of its functions to Minnesota Planning.

Minnesota Planning is charged with developing a long-range plan for the state, stimulating public participation in Minnesota's future and coordinating activities among state agencies, the Legislature and other units of government.

Minnesota Planning assists local governments with community-based planning. For more information, contact:

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Upon request, this document will be made available in an alternate format, such as Braille, large print or audio tape. For TTY, contact Minnesota Relay Service at 800-627-3529 and ask for Minnesota Planning.

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Community-based planning act (Article 4)

Sets statewide goals

Section 1 adds Minnesota Statutes 4A.08

Community-Based Planning Goals

The goals of community-based planning are:

Citizen participation — To develop a community-based planning process with broad citizen participation in order to build local capacity to plan for sustainable development and to benefit from the insights, knowledge, and support of local residents. The process must include at least one citizen from each affected unit of local government;

Cooperation — To promote cooperation among communities to work towards the most efficient, planned, and cost-effective delivery of government services by, among other means, facilitating cooperative agreements among adjacent communities and to coordinate planning to ensure compatibility of one community's development with development of neighboring communities;

Economic development — To create sustainable economic development strategies and provide economic opportunities throughout the state that will achieve a balanced distribution of growth statewide;

Conservation — To protect, preserve, and enhance the state's resources, including agricultural land, forests, surface water and groundwater, recreation and open space, scenic areas, and significant historic and archaeological sites;

Livable community design — To strengthen communities by following the principles of livable community design in development and redevelopment, including integration of all income and age groups, mixed land uses and compact development, affordable and life-cycle housing, green spaces, access to public transit, bicycle and pedestrian ways, and enhanced aesthetics and beauty in public spaces;

Housing — To provide and preserve an adequate supply of affordable and life-cycle housing throughout the state;

Transportation — To focus on the movement of people and goods, rather than on the movement of automobiles, in transportation planning, and to maximize the efficient use of the transportation infrastructure by increasing the availability and use of appropriate public transit throughout the state through land-use planning and design that makes public transit economically viable and desirable;

Land-use planning — To establish a community-based framework as a basis for all decisions and actions related to land use;

Public investments — To account for the full environmental, social, and economic costs of new development, including infrastructure costs such as transportation, sewers and wastewater treatment, water, schools, recreation, and open space, and plan the funding mechanisms necessary to cover the costs of the infrastructure;

Public education — To support research and public education on a community's and the state's finite capacity to accommodate growth, and the need for planning and resource management that will sustain growth; and

Sustainable development — To provide a better quality of life for all residents while maintaining nature's ability to function over time by minimizing waste, preventing pollution, promoting efficiency, and developing local resources to revitalize the local economy.

Provides for state assistance

Section 2 adds Minnesota Statutes 4A.09

Technical Assistance

The office [Minnesota Planning] shall provide local governments technical and financial assistance in preparing their comprehensive plans to meet the community-based planning goals in section 4A.08.

Requires state review of community-based plans

Section 3 adds Minnesota Statutes 4A.10

Plan Review and Comment

The office [Minnesota Planning] shall review and comment on community-based comprehensive plans prepared by counties, including the community-based comprehensive plans of municipalities and towns that are incorporated into a county's plan, as required in section 394.232, subdivision 3.

Confirms county authority to do planning

Section 4 amends Minnesota Statutes 1996, section 394.23, to read:

Comprehensive Plan

The board [of county commissioners] has the power and authority to prepare and adopt by ordinance, a comprehensive plan. A comprehensive plan or plans when adopted by ordinance must be the basis for official controls adopted under the provisions of sections 394.21 to 394.37.

Outlines county planning process

Section 5 adds Minnesota Statutes 394.232

Community-Based Planning

Subdivision 1. General Each county is encouraged to prepare and implement a community-based comprehensive plan. A community-based comprehensive plan is a comprehensive plan that is consistent with the goals of community-based planning in section 4A.08.

Subdivision 2. Notice and Participation Notice must be given at the beginning of the community-based comprehensive planning process to the office of strategic and long-range planning [Minnesota Planning], the department of natural resources, the department of agriculture, the department of trade and economic development, the board of soil and water resources, the pollution control agency, the department of transportation, local government units, and local citizens to actively participate in the development of the plan. An agency that is invited to participate in the development of a local plan but

County planning process, continued

declines to do so and fails to participate or to provide written comments during the plan development process waives the right during the office's review and comment period to submit comments, except for comments concerning consistency of the plan with laws and rules administered by the agency. In determining the merit of the agency comment, the office shall consider the involvement of the agency in the development of the plan.

Subdivision 3. Coordination A county that prepares a community-based comprehensive plan shall coordinate its plan with the plans of its neighbors and its constituent municipalities and towns in order both to prevent its plan from having an adverse impact on other jurisdictions and to complement plans of other jurisdictions. The county's community-based comprehensive plan must incorporate the community-based comprehensive plan of any municipality or town in the county prepared in accordance with section 462.3535. A county may incorporate a municipal or town community-based comprehensive plan by reference.

Subdivision 4. Joint planning Under the joint exercise of powers provisions in section 471.59, a county may establish a joint planning district with other counties, municipalities, and towns, that are geographically contiguous, to adopt a single community-based comprehensive plan for the district. The county may delegate its authority to adopt official controls under this chapter, to the board of the joint planning district.

Review and comment process (amended in 1998)

Subdivision 5. Review and comment (a) The county or joint planning district shall submit its community-based comprehensive plan to the office of strategic and long-range planning for review of the extent to which the plan promotes local citizen participation, promotes cooperation among adjacent communities, and demonstrates consideration of the community-based planning goals in section 4A.08. The office has 60 days after submittal to comment on the plan.

(b) The office may not disapprove a community-based comprehensive plan if the office determines that the plan promotes local citizen participation, promotes cooperation among adjacent communities, and demonstrates consideration of the community-based planning goals in section 4A.08.

(c) If the office disagrees with a community-based comprehensive plan or any elements of the plan, the office shall notify the county or district in writing of how the plan specifically fails to address the goals of community-based planning. Upon receipt of the office's written comments, the county or district has 120 days to revise the community-based comprehensive plan and resubmit it to the office for reconsideration.

(d) If the county or district refuses to revise the plan or the office disagrees with the revised plan, the office shall within 60 days notify the county or district that it wishes to initiate the dispute resolution process in chapter 572A.

(e) Within 60 days of notice from the office, the county or joint planning district shall notify the office of its intent to enter the dispute resolution process. If the county or district refuses to enter the dispute resolution process, the county or district is ineligible for any future grant disbursements related to community-based planning activities through the office.

(f) Priority for other state grants, loans, and other discretionary spending must not be given to local units of government based on their participation in community-based planning.

Subdivision 6. Plan update The county board, or the board of the joint planning district, shall review and update the community-based comprehensive plan periodically, but at least every ten years, and submit the updated plan to the office of strategic and long-range planning [Minnesota Planning] for review and comment.

Subdivision 7. No mandamus proceeding A mandamus proceeding may not be instituted against a county under this section to require the county to conform its community-based comprehensive plan to be consistent with the community-based planning goals in section 4A.08.

Subdivision 8. Planning authority Nothing in this section shall be construed to prohibit or limit a county's authority to prepare and adopt a comprehensive plan and official controls under this chapter.

Requires official controls for follow-through

Section 6 amends Minnesota Statutes 1996, section 394.24, subdivision 1, to read:
Subdivision 1. Adopted by ordinance Official controls which shall further the purpose and objectives of the comprehensive plan and parts thereof shall be adopted by ordinance. The comprehensive 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 comprehensive plan.

Refines definition of "comprehensive municipal plan"

Section 7 amends Minnesota Statutes 1996, section 462.352, subdivision 5, to read:
Subdivision 5. Comprehensive municipal plan "Comprehensive municipal plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs, including air space and subsurface areas necessary for mined underground space development pursuant to sections 469.135 to 469.141, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

Refines definition of "land use plan"

Section 8 amends Minnesota Statutes 1996, section 462.352, subdivision 6, to read:
Subdivision 6. Land use plan "Land use plan" means a compilation of policy statements, goals, standards, and maps, and action programs for guiding the future development of private and public property. The term includes a plan designating types of uses for the entire municipality as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may also include the proposed densities for development.

Defines "urban growth area"

Section 9 amends Minnesota Statutes 1996, section 462.352, by adding a subdivision to read:
Subdivision 18. Urban growth area "Urban growth area" means the identified area around an urban area within which there is a sufficient supply of developable land for at least a prospective 20-year period, based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area.

Community-Based Planning

Subdivision 1. General Each municipality is encouraged to prepare and implement a community-based comprehensive municipal plan. A community-based comprehensive municipal plan is a comprehensive plan that is consistent with the goals of community-based planning in section 4A.08.

Subdivision 2. Coordination A municipality that prepares a community-based comprehensive municipal plan shall coordinate its plan with the plans, if any, of the county and the municipality's neighbors both in order to prevent the plan from having an adverse impact on other jurisdictions and to complement the plans of other jurisdictions. The municipality shall prepare its plan to be incorporated into the county's community-based comprehensive plan, if the county is preparing or has prepared one, and shall otherwise assist and cooperate with the county in its community-based planning.

Subdivision 3. Joint planning Under the joint exercise of powers provisions in section 471.59, a municipality may establish a joint planning district with other municipalities or counties that are geographically contiguous, to adopt a single community-based comprehensive plan for the district. A municipality may delegate its authority to adopt official controls under sections 462.351 to 462.364, to the board of the joint planning district.

Subdivision 4. Cities; urban growth areas (a) The community-based comprehensive municipal plan for a statutory or home rule charter city, and official controls to implement the plan, must at a minimum, address any urban growth area identified in a county plan and may establish an urban growth area for the urbanized and urbanizing area. The city plan must establish a staged process for boundary adjustment to include the urbanized or urbanizing area within corporate limits as the urban growth area is developed and provided municipal services.

(b) Within the urban growth area, the plan must provide for the staged provision of urban services, including, but not limited to, water, wastewater collection and treatment, and transportation.

Subdivision 5. Urban growth area boundary adjustment process (a) After an urban growth area has been identified in a county or city plan, a city shall negotiate, as part of the comprehensive planning process and in coordination with the county, an orderly annexation agreement with the townships containing the affected unincorporated areas located within the identified urban growth area. The agreement shall contain a boundary adjustment staging plan that establishes a sequencing plan over the subsequent 20-year period for the orderly growth of the city based on its reasonably anticipated development pattern and ability to extend municipal services into designated unincorporated areas located within the identified urban growth area. The city shall include the staging plan agreed upon in the orderly annexation agreement in its comprehensive plan. Upon agreement by the city and town, prior adopted orderly annexation agreements may be included as part of the boundary adjustment plan and comprehensive plan without regard to whether the prior adopted agreement is consistent with this section. When either the city or town requests that an existing orderly annexation agreement affecting unincorporated areas located within an identified or proposed urban growth area be renegotiated, the renegotiated plan shall be consistent with this section.

(b) After a city's community-based comprehensive plan is approved under this section, the orderly annexation agreement shall be filed with the municipal board or its successor agency. Thereafter, the city may orderly annex the part or parts of the designated unincorporated area according to the sequencing plan and conditions contained in the negotiated orderly annexation agreement by submitting a resolution to the municipal board or its successor agency. The resolution shall specify the legal description of the area designated pursuant to the staging plan contained in the agreement, a map showing the new boundary and its relation to the existing city boundary, a description of and schedule for extending municipal services to the area, and a determination that all applicable conditions in the agreement have been satisfied. Within 30 days of receipt of the resolution, the municipal board or its successor shall review the resolution and if it finds that the terms and conditions of the orderly annexation agreement have been met, shall order the annexation. The boundary adjustment shall become effective upon issuance of an order by the municipal board or its successor. The municipal board or its successor shall cause copies of the boundary adjustment order to be mailed to the secretary of state, department of revenue, state demographer, and the department of transportation. No further proceedings under chapter 414 or 572A shall be required to accomplish the boundary adjustment. This section provides the sole method for annexing unincorporated land within an urban growth area, unless the parties agree otherwise.

(c) If a community-based comprehensive plan is updated, the parties shall renegotiate the orderly annexation agreement as needed to incorporate the adjustments and shall refile the agreement with the municipal board or its successor.

Subdivision 6. Review by adjacent municipalities; conflict resolution Before a community-based comprehensive municipal plan is incorporated into the county's plan under section 394.232, subdivision 3, a municipality's community-based comprehensive municipal plan must be coordinated with adjacent municipalities within the county. As soon as practical after the development of a community-based comprehensive municipal plan, the municipality shall provide a copy of the draft plan to adjacent municipalities within the county for review and comment. An adjacent municipality has 30 days after receipt to review the plan and submit written comments.

Subdivision 7. County review (a) If a city does not plan for growth beyond its current boundaries, the city shall submit its community-based comprehensive municipal plan to the county for review and comment. A county has 60 days after receipt to review the plan and submit written comments to the city. The city may amend its plan based upon the county's comments.

(b) If a town prepares a community-based comprehensive plan, it shall submit the plan to the county for review and comment. As provided in section 394.33, the town plan may not be inconsistent with or less restrictive than the county plan. A county has 60 days after receipt to review the plan and submit written comments to the town. The town may amend its plan based on the county's comment.

Subdivision 8. County approval (a) If a city plans for growth beyond its current boundaries, the city's proposed community-based comprehensive municipal plan and proposed urban growth area must be reviewed and approved by the county before the plan is incorporated into the county's plan. The county may review and provide comments on any orderly annexation agreement during the same period of review of a comprehensive plan.

Municipal planning process, continued

(b) Upon receipt by the county of a community-based comprehensive plan submitted by a city for review and approval under this subdivision, the county shall, within 60 days of receipt of a city plan, review and approve the plan in accordance with this subdivision. The county shall review and approve the city plan if it is consistent with the goals stated in section 4A.08.

(c) In the event the county does not approve the plan, the county shall submit its comments to the city within 60 days. The city may, thereafter, amend the plan and resubmit the plan to the county. The county shall have an additional 60 days to review and approve a resubmitted plan. In the event the county and city are unable to come to agreement, either party may initiate the dispute resolution process contained in chapter 572A. Within 30 days of receiving notice that the other party has initiated dispute resolution, the city or county shall send notice of its intent to enter dispute resolution. If the city refuses to enter the dispute resolution process, it must refund any grant received from the county for community-based planning activities.

Subdivision 9. Plan adoption The municipality shall adopt and implement the community-based comprehensive municipal plan after the office of strategic and long-range planning [Minnesota Planning] has reviewed and commented on the county's plan that incorporates the municipality's plan. The municipality shall thereafter, where it deems appropriate, incorporate any comments made by the office into its plan and adopt the plan.

Subdivision 10. No mandamus proceeding A mandamus proceeding may not be instituted against a municipality under this section to require the municipality to conform its community-based comprehensive plan to be consistent with the community-based planning goals in section 4A.08.

Ties zoning to community-based plans

Section 11 amends Minnesota Statutes 1996, section 462.357, subdivision 2, to read:
Subdivision 2. General requirements At any time after the adoption of a land use plan for the municipality, the planning agency, for the purpose of carrying out the policies and goals of the land use plan, may prepare a proposed zoning ordinance and submit it to the governing body with its recommendations for adoption. Subject to the requirements of subdivisions 3, 4 and 5, the governing body may adopt and amend a zoning ordinance by a two-thirds vote of all its members. 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 plan.

Requires revisions to Metropolitan Development Guide

Section 12 adds Minnesota Statutes 473.1455
Metropolitan Development Guide Goals

The metropolitan council shall amend the metropolitan development guide, as necessary, to reflect and implement the community-based planning goals in section 4A.08. The office of strategic and long-range planning [Minnesota Planning] shall review and comment on the metropolitan development guide. The council may not approve local comprehensive plans or plan amendments after July 1, 1999, until the metropolitan council has received and considered the comments of the office of strategic and long-range planning [Minnesota Planning]. Section 12 applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

**Creates advisory
council**

Section 13 creates:

Advisory Council on Community-Based Planning

Subdivision 1. Establishment; purpose An advisory council on community-based planning is established to provide a forum for discussion and development of the framework for community-based planning and the incentives and tools to implement the plans.

Subdivision 2. Duties The advisory council shall propose legislation for the 1998 legislative session relating to the framework to implement community-based planning. The advisory council shall:

- (1) develop a model process to involve citizens in community-based planning from the beginning of the planning process;
- (2) hold meetings statewide to solicit advice and information on how to implement community-based planning;
- (3) develop specific, measurable criteria by which plans will be reviewed for consistency with the goals in Minnesota Statutes, section 4A.08, and commented on by the office of strategic and long-range planning [Minnesota Planning];
- (4) recommend a procedure for review and comment on community-based plans;
- (5) recommend a process for coordination of plans among local jurisdictions;
- (6) recommend an alternative dispute resolution method for citizens and local governments to use to challenge proposed plans or the implementation of plans;
- (7) recommend incentives to encourage state agencies to implement the goals of community-based planning;
- (8) recommend incentives for local governments to develop community-based plans, including for example, assistance with computerized geographic information systems, builders' remedies and density bonuses, and revised permitting processes;
- (9) describe the tools and strategies that a county, city, or town may use to achieve the goals, including, but not limited to, densities, urban growth areas, purchase or transfer of development rights programs, public investment surcharges, transit and transit-oriented development, and zoning and other official controls;
- (10) recommend the time frame in which the community-based plans must be completed;
- (11) consider the need for ongoing stewardship and oversight of sustainable development initiatives and the community-based planning process;
- (12) review and recommend changes to the community-based planning framework established in this act; and
- (13) make other recommendations to implement community-based planning as the advisory council determines would be necessary or helpful in achieving the goals.

**Advisory council,
continued**

Subdivision 3. Membership The advisory council consists of 18 voting members who serve at the pleasure of the appointing authority as follows:

(1) two members of the majority caucus of the house of representatives appointed by the speaker, and two members of the minority caucus appointed by the minority leader;

(2) four members of the senate appointed by the subcommittee on committees of the committee on rules and administration of the senate, two of whom shall be members of the minority caucus;

(3) the director, or the director's designee, of the office of strategic and long-range planning [Minnesota Planning];

(4) three public members, at least one of whom must be knowledgeable about and have experience in local government issues or planning, appointed by the speaker of the house of representatives;

(5) three public members, at least one of whom must be knowledgeable about and have experience in local government issues or planning, appointed by the subcommittee on committees of the committee on rules and administration of the senate; and

(6) three public members, at least one of whom must be knowledgeable about and have experience in local government issues or planning, appointed by the governor. The commissioners, or their designees, of the departments of natural resources, agriculture, transportation, and trade and economic development, and the chair, or the chair's designee, of the metropolitan council shall serve as ex-officio members. The advisory council may form an executive committee to facilitate the work of the council.

Subdivision 4. First meeting; chair The director of the office of strategic and long-range planning [Minnesota Planning], or the director's designee, shall convene the first meeting of the advisory council. At its first meeting, the advisory council shall select from among its members a person to serve as chair.

Subdivision 5. Administration The office of strategic and long-range planning [Minnesota Planning], with assistance from other state agencies and the metropolitan council as needed, shall provide administrative and staff assistance to the advisory council. The attorney general shall provide advice on legal issues to the advisory council.

Subdivision 6. Expenses The office of strategic and long-range planning [Minnesota Planning] shall compensate members of the advisory council. Members shall receive per diem and expenses as provided by Minnesota Statutes, section 15.059, subdivision 3.

Subdivision 7. Expiration This section expires June 30, 1998.

Community-based planning pilot projects (Article 4)

Calls for pilot projects

Section 16

Pilot Projects Established

The office of strategic and long-range planning [Minnesota Planning] shall establish community-based comprehensive land use planning pilot projects as specified in sections 17 to 21.

Requires state review of pilot project plans

Section 17

Plan submittal; review

A county or joint planning district participating in a pilot project must prepare a community-based comprehensive plan as specified in Minnesota Statutes, section 394.232. The county or joint powers board must submit the plan to the office of strategic and long-range planning [Minnesota Planning] within 24 months of the county's or district's selection as a pilot project. The office shall review each plan to determine if it is consistent with the community-based planning goals in Minnesota Statutes, section 4A.08. The office shall complete its review and comment as specified in Minnesota Statutes, section 394.232, subdivision 5.

Defines plan content

Section 18

Plan Content

Subdivision 1. Goals The plan must address the community-based planning goals in Minnesota Statutes, section 4A.08.

Subdivision 2. Municipal and town plan incorporation The plan must incorporate the community-based comprehensive plan of each municipality and town in the county. Incorporation of a municipal or town plan is sufficient if the county or joint powers board adopts a resolution approving and incorporating by reference the plan or any subsequent amendments to the plan.

Subdivision 3. Urban growth areas The plan must identify, establish, and address urban growth areas, as defined in Minnesota Statutes, section 462.352, subdivision 18, within the county. The land outside an urban growth area must be zoned as permanent rural or agricultural land, or other appropriate land use, and must be maintained at density levels consistent with those uses. The plan must also identify the density at which the municipality wishes to develop.

Subdivision 4. Existing plans If the county has a previously adopted plan, the county board or joint powers board shall review, update, and submit to the office of strategic and long-range planning [Minnesota Planning] a revised plan and official controls meeting the requirements of this section, including the community-based comprehensive municipal plan for each municipality or town in the county, if any, within 24 months of the county's or district's selection as a pilot project.

Stresses coordination

Section 19

Coordination with adjacent counties

Before submitting the community-based comprehensive plan to the office of strategic and long-range planning [Minnesota Planning], the county or joint powers board shall coordinate its plan with adjacent counties. The adjacent counties shall review and submit written comments on the proposed plan to the board within 60 days of receiving the plan.

Section 20

Coordination with metropolitan council

A county or joint planning district adjacent to the metropolitan area shall coordinate its plan with the metropolitan council, in relation to the council's development guide. The county or joint planning district shall not submit its plan to the office of strategic and long-range planning [Minnesota Planning] until the metropolitan council has had 60 days for review and comment on the plan.

Section 21

Limitation on plan amendment

The county or joint powers board shall not amend its plan for an area inside an urban growth area that is outside a municipality's jurisdiction without the municipality's approval.

Community-based planning dispute resolution (Article 6)

Mediating disputes

Section 1 adds Minnesota Statutes 572A.01

Comprehensive Planning Disputes; Mediation

Subdivision 1. Filing In the event of a dispute between a county and the office of strategic and long-range planning [Minnesota Planning] under section 394.232 or a county and a city under section 462.3535, regarding the development, content, or approval of a community-based comprehensive land use plan, an aggrieved party may file a written request for mediation, as provided in subdivision 2, with the bureau of mediation services at any time prior to a final action on a community-based comprehensive plan or within 30 days of a final action on a community-based comprehensive plan.

Subdivision 2. Mediation Within ten days of receiving a request for mediation in subdivision 1, the bureau of mediation services shall provide written notice of the request for mediation to the parties and provide a list of neutrals experienced in land use planning or local government issues obtained from the supreme court, Minnesota municipal board, bureau of mediation services, Minnesota state bar association, Hennepin county bar association, office of dispute resolution, and others. Within 30 days thereafter, the affected parties shall select a mediator from the list of neutrals or someone else acceptable to the

parties and submit to mediation for a period of 30 days facilitated by the bureau. If the dispute remains unresolved after the close of the 30-day mediation period, the bureau shall prepare a report of its recommendations and transmit the report within 30 days to the parties. Within 60 days after the date of issuance of the mediator's report, the dispute shall be submitted to binding arbitration as provided in this chapter. The mediator's report submitted to the parties is informational only and is not admissible in arbitration.

Arbitrating disputes

Section 3 adds Minnesota Statutes 572A.02

Arbitration

Subdivision 1. Submittal to binding arbitration If a dispute remains unresolved after the close of mediation, the dispute shall be submitted to binding arbitration within 60 days of issuance of the mediation report pursuant to the terms of this section and the Uniform Arbitration Act, sections 572.08- 572.30, except the period may be extended for an additional 15 days as provided in this section. In the event of a conflict between the provisions of the Uniform Arbitration Act and this section, this section controls.

Subdivision 2. Appointment of panel (a) The parties shall each appoint one qualified arbitrator within 30 days of issuance of the mediation report. If a party does not appoint an arbitrator within 30 days, the bureau of mediation services shall appoint a qualified arbitrator from the list of neutrals under sections 572A.01, subdivision 2, and 572A.015, subdivision 2, or someone else for the party. The parties shall notify the bureau prior to the close of the 30-day appointment period of the name and address of their respective appointed arbitrator. Each party is responsible for the fees and expenses for the arbitrator it selects.

(b) After appointment of the two arbitrators to the arbitration panel by the parties, or by the bureau should one or both of the parties fail to act, the two appointed arbitrators shall appoint a third arbitrator who must be learned in the law, within 15 days of the close of the initial 30-day arbitrator appointment period. If the arbitrators cannot agree on the selection of the third arbitrator within 15 days, the arbitrators shall jointly submit a request to the district court of the county in which the disputed area is located in accordance with the selection procedures established in section 572.10. Within 15 days of receipt of an application by the district court, the district court shall select a neutral arbitrator and notify the parties and the bureau of mediation services of the name and address of the selected arbitrator. The fees and expenses of the third arbitrator shall be shared equally by the parties. The third appointed arbitrator shall act as chair of the arbitration panel and shall conduct the proceedings. If the district court selects the third arbitrator, the date required for first hearing the matter may be extended an additional 15 days.

Subdivision 3. Hearing Except as otherwise provided, within 60 days, the matter must be brought on for hearing in accordance with section 572.12. The bureau of mediation services shall provide for the proceedings to occur in the county in which the majority of the affected property is located.

Subdivision 4. Contracts; information The arbitration panel shall have authority to contract with regional, state, county, or local planning commissions or to hire expert

**Arbitrating disputes,
continued**

consultants to provide specialized information and assistance. Any member of the panel conducting or participating in any hearing shall have the power to administer oaths and affirmations, to issue subpoenas, to compel the attendance and testimony of witnesses, and the production of papers, books, and documents. Any costs related to this subdivision shall be shared equally by the parties.

Subdivision 5. Decision factors In comprehensive planning disputes, the arbitration panel shall consider the goals stated in section 4A.08 and the following factors in making a decision. In all other disputes brought under this section, the arbitration panel shall consider the following factors in making a decision:

- (1) present population and number of households, past population, and projected population growth of the subject area and adjacent units of local government;
- (2) quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions, and such natural features as rivers, lakes and major bluffs;
- (3) degree of contiguity of the boundaries between the municipality and the subject area;
- (4) present pattern of physical development, planning, and intended land uses in the subject area and the municipality including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those land uses;
- (5) the present transportation network and potential transportation issues, including proposed highway development;
- (6) land use controls and planning presently being utilized in the municipality and the subject area, including comprehensive plans for development in the area and plans and policies of the metropolitan council, and whether there are inconsistencies between proposed development and existing land use controls and the reasons therefore;
- (7) existing levels of governmental services being provided in the municipality and the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of said services;
- (8) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;
- (9) plans and programs by the municipality for providing needed governmental services to the subject area;
- (10) an analysis of the fiscal impact on the municipality, the subject area, and adjacent units of local government, including net tax capacity and the present bonded indebtedness, and the local tax rates of the county, school district, and township;

(11) relationship and effect of the proposed action on affected and adjacent school districts and communities;

(12) adequacy of town government to deliver services to the subject area;

(13) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment; and

(14) if only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality. Any party to the proceeding may present evidence and testimony on any of the above factors at the hearing on the matter.

Subdivision 6. Decision The arbitrators, after a hearing on the matter, shall make a decision regarding the dispute within 60 days and transmit an order to the parties and the office of strategic and long-range planning [Minnesota Planning] or the municipal board. Unless appealed by an aggrieved party within 30 days of receipt of the arbitration panel's order by the municipal board, the municipal board shall execute an order in accordance with the arbitration panel's order and shall cause copies of the same to be mailed to all parties entitled to mailed notice, the secretary of state, the department of revenue, the state demographer, individual property owners if initiated in that manner, the affected county auditor, and any other party of record. The affected county auditor shall record the order against the affected property.

Sets decision standards for arbitration

Section 4 adds Minnesota Statutes 572A.03

Arbitration Panel Decision Standards

Subdivision 1. Decision standards The arbitration panel, based upon the factors in section 572A.02, subdivision 5, shall decide the matter based upon the decision standards in subdivisions 2-6. [Note: subdivisions 3-6 cover municipal incorporations, annexations and consolidations, and are omitted here.]

Subdivision 2. Comprehensive land use planning For comprehensive land use planning disputes under section 462.3535, if a community-based comprehensive plan addresses the goals of section 4A.08 and the arbitrators find that the city's projected estimates found in its comprehensive plan are reasonable with respect to an identified urban growth area, the arbitration panel may order approval of the city plan. If the order is to approve the community-based comprehensive plan, the order shall contain notice directing the county to approve the city plan within ten days of receipt of the arbitration order. The city shall, thereafter, adopt the plan. If the order is to deny the plan, the arbitration order shall state the reasons for the denial in the order and transmit the order to the city, county, and the office of strategic and long-range planning [Minnesota Planning]. The city shall within 30 days of receipt of the order amend its plan and resubmit the plan to the county for review and approval under this subdivision. The county shall not unreasonably withhold approval of the plan if the resubmitted city plan is in keeping with the arbitration panel's order.

Funding for community-based planning (Article 1)

Provides state money for community-based planning

Section 11 appropriates funding for community-based planning:

Office of Strategic and Long-Range Planning [Minnesota Planning]

\$165,000 the first year and \$165,000 the second year are for community-based planning and the advisory council on community-based planning.

\$375,000 the second year is for planning grants to counties, joint planning districts that include at least one county, or to a county and one or more municipalities within the county, when they submit a joint planning application to prepare community-based plans. A county receiving a grant may provide funding to municipalities within the county for purposes of the grant. The office [Minnesota Planning] shall give priority for grants to joint planning districts or joint applications from a county and one or more municipalities. This appropriation is available until June 30, 2000.

\$375,000 the second year is for technology grants to counties, or joint planning districts that include at least one county, that elect to prepare community-based plans. This appropriation is available until June 30, 2000.

\$350,000 the first year is to make a grant to a joint powers board, if one is established by the counties of Benton, Sherburne, and Stearns, and the cities of St. Cloud, Waite Park, Sartell, St. Joseph, and Sauk Rapids, for the purposes of joint planning under this act. Other cities and towns within the counties may elect to participate in the joint planning district. The director may make the grant once the joint powers board has been formed and a copy of the joint powers agreement has been received by the director. Members of the joint powers board may delegate their authority to adopt official controls to the joint powers board.

\$150,000 the first year is to make three grants to additional counties or joint powers boards selected to participate in the community-based planning pilot project. A county that receives a grant from this appropriation may provide funding to municipalities within the county for purposes relating to the grant.