

(3) Where an emergency arises from accident or illness and the individual is outside the state; or

(4) Where the health of the individual would be endangered if the care and services were postponed until he returns to Minnesota; or

(5) Where the health of the individual would be endangered if he attempted to return to Minnesota in order to receive medical care.

Sec. 3. Laws 1979, Chapter 272, Section 12, is amended to read:

Sec. 12. **EFFECTIVE DATE.** This act is effective the day following its final enactment. ~~The provisions of section 62E.11, subdivision 8, shall expire on July 1, 1981.~~

Sec. 4. Section 1 of this act is effective on August 1, 1980 and shall apply to all hospitalizations occurring on or after said date. The remaining sections are effective the day following final enactment.

Approved April 14, 1980

CHAPTER 566—H.F.No. 1612

An act relating to metropolitan government; providing for metropolitan area agricultural preserves; providing for municipal planning; authorizing regulation of subdivisions; providing a penalty; appropriating money; amending Minnesota Statutes 1978, Sections 462.351; 462.352, by adding subdivisions; 462.355, Subdivision 4; 462.358, Subdivision 4, and by adding subdivisions; repealing Minnesota Statutes 1978, Sections 462.352, Subdivision 4; and 462.358, Subdivisions 1, 2 and 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[473H.01] CITATION; POLICY; PURPOSE.** Subdivision 1. Sections 2 to 17 may be cited as the "metropolitan agricultural preserves act".

Subd. 2. It is the policy of the state to encourage the use and improvement of its agricultural lands for the production of food and other agricultural products. It is the purpose of sections 2 to 17 to provide an orderly means by which lands in the metropolitan area designated for long term agricultural use through the local and regional planning processes will be taxed in an equitable manner reflecting the long term singular use of the property, protected from unreasonably restrictive local and state regulation of normal farm practices, protected from indiscriminate and disruptive taking of farmlands through eminent domain actions, protected from the imposition of unnecessary special assessments, and given such additional protection and benefits as are needed to maintain viable productive farm operations in the metropolitan area.

Sec. 2. **[473H.02] DEFINITIONS.** Subdivision 1. For purposes of sections 2 to 17 the terms defined in this section shall have the meanings given them.

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Subd. 2. "Agricultural preserve" or "preserve" means a land area cove-
nanted according to section 5 to remain in agricultural use.

Subd. 3. "Agricultural use" means the production for sale of livestock,
dairy animals, dairy products, poultry or poultry products, fur bearing animals,
horticultural or nursery stock, fruit, vegetables, forage, grains, or bees and apiary
products. Wetlands, pasture and woodlands accompanying land in agricultural use
shall be deemed to be in agricultural use.

Subd. 4. "Authority" means the unit of government exercising planning
and zoning authority for the land specified in an application as provided under
section 5 and pursuant to Minnesota Statutes, Sections 394.21 to 394.37, 462.351
to 462.364, or 366.10 to 366.19. Where both a county and a township have
adopted zoning regulations, the authority shall be the unit of government desig-
nated to prepare a comprehensive plan pursuant to Minnesota Statutes, Section
473.861, Subdivision 2.

Subd. 5. "Certified long term agricultural land" means land certified
pursuant to section 4 as eligible for designation as agricultural preserves.

Subd. 6. "Covenant agreement" means a restrictive covenant initiated by
the owner and evidenced by an agreement provided for in section 5 whereby the
owner places the limitations on specified land and receives the protections and
benefits contained in sections 2 to 17.

Subd. 7. "Long term agricultural land" means land in the metropolitan
area designated for agricultural use in local or county comprehensive plans
adopted and reviewed pursuant to Minnesota Statutes, Sections 473.175, and
473.851 to 473.871, and which has been zoned specifically for agricultural use
permitting a maximum residential density of not more than one unit per
quarter/quarter.

Subd. 8. "Metropolitan area" has the meaning given it in Minnesota Stat-
utes, Section 473.121, Subdivision 2.

Subd. 9. "Owner" means a resident of the United States owning land spec-
ified in an application pursuant to section 5, and includes an individual, legal
guardian or family farm corporation as defined in Minnesota Statutes, Section
500.24, having a joint or common interest in the land. Where land is subject to a
contract for deed, owner means the vendor in agreement with the vendee.

Subd. 10. "Quarter/quarter" means one quarter of one quarter of any
section in the rectangular land survey system.

Sec. 3. [473H.03] ELIGIBILITY. Subdivision 1. Long term agricultural
land comprising 40 or more acres shall be eligible for designation as an agricul-
tural preserve.

Subd. 2. Noncontiguous parcels may be included to achieve the minimum
acreage requirement in subdivision 1, provided that each parcel is at least ten
acres in size and provided that all separate parcels are farmed together as a unit.

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Subd. 3. The minimum acreage requirement in subdivision 1 may be reduced to 35 acres provided the land is a single quarter/quarter parcel and the amount less than 40 acres is due to a public road right-of-way or a perturbation in the rectangular survey system resulting in a quarter/quarter of less than 40 acres.

Subd. 4. Contiguous long term agricultural land comprising not less than 20 acres and surrounded by eligible land on not less than two sides shall be eligible for designation as an agricultural preserve provided the authority by resolution determines that: (i) the land area predominantly comprises Class I, II, III, or irrigated Class IV land according to the Land Capability Classification Systems of the Soil Conservation Service and the county soil survey; (ii) the land area is considered by the authority to be an essential part of the agricultural region; and (iii) the parcel was a parcel of record prior to January 1, 1980, or the land was an agricultural preserve prior to becoming a separate parcel of at least 20 acres.

Subd. 5. Contiguous long term agricultural land meeting the total acreage requirements of this section but located in two or more authorities so that the minimum acreage requirement is not met in one or more of the authorities shall be eligible by joint resolution of the affected authorities.

Sec. 4. [473H.04] CERTIFICATION. Subdivision 1. On or before January 1, 1981 each authority in the metropolitan area having land classified agricultural pursuant to Minnesota Statutes, Section 273.13 shall certify by resolution using appropriate maps which lands, if any, are eligible for designation as agricultural preserves. Maps shall be in sufficient detail to identify eligible lands by property boundaries. Notification of the certification shall be published in a newspaper having a general circulation within the area of jurisdiction of the authority. No additional lands shall qualify for designation as agricultural preserves until the authority certifies qualification.

Subd. 2. Land shall cease to be eligible for designation as an agricultural preserve when the comprehensive plan and zoning for the land have been amended so that the land is no longer planned for long term agricultural use and is no longer zoned for long term agricultural use, evidenced by a maximum residential density permitting more than one unit per 40 acres. When changes have been made, the authority shall certify by resolution and appropriate maps which lands are no longer eligible. Notification of the decertification shall be published in a newspaper having a general circulation within the area of jurisdiction of the authority.

Subd. 3. The authority shall provide the metropolitan council with suitable maps showing any lands certified eligible pursuant to subdivision 1 or decertified pursuant to subdivision 2. The metropolitan council shall maintain maps of the metropolitan area showing all certified long term agricultural lands.

Sec. 5. [473H.05] APPLICATION; COVENANT AGREEMENT. Subdivision 1. An owner or owners of certified long term agricultural land may apply to the authority with jurisdiction over the land on forms provided by the commissioner of agriculture for the creation of an agricultural preserve at any time. Land for which application is received prior to March 1 of any year shall be assessed

pursuant to section 10 for taxes payable in the following year. Land for which application is received on or after March 1 of any year shall be assessed pursuant to section 10 in the following year. The application shall contain at least the following information and such other information as the commissioner deems necessary:

(a) Legal description of the area proposed to be designated or parcel identification numbers as designated by the county auditor;

(b) Name and address of owner;

(c) An affidavit by the authority evidencing that the land is certified long term agricultural land at the date of application;

(d) A witnessed signature of the owner covenanting that the land shall be kept in agricultural use, and shall be used in accordance with the provisions of sections 2 to 17 which exist on the date of application;

(e) A statement that the restrictive covenant shall be binding on the owner or his successor or assignee, and shall be an easement running with the land;

(f) Date of application and date that designation is effectuated.

Subd. 2. The authority may require an application fee, not to exceed \$50, to defray administrative costs.

Sec. 6. [473H.06] NOTIFICATION. Subdivision 1. Within five days of the date of application, the authority shall forward copies of the completed and signed application to the county recorder, the county auditor, the county assessor, the metropolitan council, and the county soil and water conservation district.

Subd. 2. The county recorder shall file and record the restrictive covenant.

Subd. 3. The county auditor, for taxes payable in the following year and thereafter for the duration of the preserve, shall determine mill rates, assessments and taxes involving the preserve according to the provisions of section 10.

Subd. 4. The county assessor, for taxes payable in the following calendar year and thereafter for the duration of the preserve, shall value and assess the agricultural preserve according to section 10.

Subd. 5. The metropolitan council shall maintain agricultural preserve maps, illustrating (a) certified long term agricultural lands; and (b) lands covenanted as agricultural preserves. The council shall make yearly reports to the state planning agency and such other agencies as the council deems appropriate.

Subd. 6. County auditors shall maintain records of the taxes assessed and paid on agricultural preserves in a manner prescribed by the commissioner of revenue for the orderly monitoring of the program.

Subd. 7. The county soil and water conservation district may prepare an advisory statement of existing and potential conservation problems for the agricultural preserve land. The statement shall be forwarded to the owner of record and a copy of the statement shall be forwarded to the authority.

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Sec. 7. [473H.07] COMMENCEMENT OF PRESERVE. A land area shall be deemed an agricultural preserve and subject to all the benefits and restrictions of sections 2 to 17 commencing 30 days from the date of application.

Sec. 8. [473H.08] DURATION. Subdivision 1. Agricultural preserves shall continue until either the landowner or the authority initiates expiration as provided in this section.

Subd. 2. A landowner may initiate expiration by notifying the authority on a form provided by the commissioner of agriculture. The notice shall describe the property for which expiration is desired and shall state the date of expiration which shall be at least eight years from the date of notice. The notice and expiration may be rescinded by the owner at any time during the first two years following notice.

Subd. 3. The authority may initiate expiration by notifying the landowner by registered letter on a form provided by the commissioner of agriculture, provided that before notification (i) the comprehensive plan and the zoning for the land have been officially amended so that the land is no longer planned for long term agriculture and is no longer zoned for long term agriculture, evidenced by a maximum residential density permitting more than one unit per quarter/quarter, and (ii) the authority has certified such changes pursuant to section 4, subdivision 2. The notice shall describe the property for which expiration is desired and shall state the date of expiration which shall be at least eight years from the date of notice.

Subd. 4. Upon receipt of the notice provided in subdivision 2, or upon notice served by the authority as provided in subdivision 3, the authority shall notify the county recorder, county auditor, county assessor, the metropolitan council, and the county soil and water conservation district of the date of expiration. Designation as an agricultural preserve and all benefits and limitations accruing through sections 2 to 17 for the preserve shall cease on the date of expiration.

Sec. 9. [473H.09] EARLY TERMINATION. Termination of an agricultural preserve earlier than a date derived through application of section 8 may be permitted only in the event of a public emergency upon petition from the owner or authority to the governor. The determination of a public emergency shall be by the governor through executive order pursuant to Minnesota Statutes, Sections 4.035 and 12.01 to 12.46. The executive order shall identify the preserve, the reasons requiring the action and the date of termination.

Sec. 10. [473H.10] AD VALOREM PROPERTY TAXES. Subdivision 1. Real property within an agricultural preserve shall be valued and assessed pursuant to Minnesota Statutes, Chapter 273, except as provided in this section.

Subd. 2. All land classified agricultural and in agricultural use, exclusive of buildings, shall be valued solely with reference to its appropriate agricultural classification and value, notwithstanding Minnesota Statutes, Sections 272.03, Subdivision 8, and 273.11. In determining the value for ad valorem tax purposes

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the assessor shall not consider any added values resulting from nonagricultural factors.

Subd. 3. (a) After the assessor has determined the market value of all land valued according to subdivision 2, he shall compute the assessed value of those properties by applying the appropriate classification percentages. When the county auditor computes the rate of tax pursuant to Minnesota Statutes, Section 275.09, he shall include the assessed value of land as provided in this clause.

(b) The county auditor shall compute the tax on lands valued according to subdivision 2 and nonresidential buildings by multiplying the assessed value times the total rate of tax for all purposes as provided in clause (a).

(c) The county auditor shall then compute the maximum ad valorem property tax on lands valued according to subdivision 2 and nonresidential buildings by multiplying the assessed value times 105 percent of the previous year's statewide average mill rate levied on property located within townships for all purposes.

(d) The tax due and payable by the owner of preserve land valued according to subdivision 2 and nonresidential buildings will be the amount determined in clause (b) or (c), whichever is less. If the gross tax in clause (c) is less than the gross tax in clause (b), the state shall reimburse the taxing jurisdictions for the amount of difference. Residential buildings shall continue to be valued and classified according to the provisions of Minnesota Statutes, Sections 273.11 and 273.13, as they would be in the absence of this section, and the tax on those buildings shall not be subject to the limitation contained in this clause.

The county auditor shall certify to the commissioner of revenue on or before June 1, 1983, and each year thereafter, the total amount of tax lost to the taxing jurisdictions located within his county as a result of this subdivision. Payments shall be made by the state annually on or before July 15, 1983 and each year thereafter to each of the affected taxing jurisdictions. There is annually appropriated from the general fund in the state treasury to the commissioner of revenue an amount sufficient to make the reimbursement provided in this subdivision. This section shall be effective for taxes levied in 1982, payable in 1983 and thereafter.

Sec. 11. [473H.11] LIMITATION ON CERTAIN PUBLIC PROJECTS.
Notwithstanding Minnesota Statutes, Chapter 429, construction projects for public sanitary sewer systems and public water systems benefiting land or buildings in agricultural preserves shall be prohibited. New connections between land or buildings in agricultural preserves and sanitary sewers or water systems shall be prohibited. Public sanitary sewer or water systems built in the vicinity of agricultural preserves are deemed of no benefit to the land and buildings in agricultural preserves.

Sec. 12. [473H.12] PROTECTION FOR NORMAL FARM PRACTICES.
Local governments and counties shall be prohibited from enacting ordinances or regulations within an agricultural preserve which would unreasonably restrict or regulate normal farm structures or farm practices in contravention of the purpose

of sections 2 to 17 unless the restriction or regulation bears a direct relationship to the public health and safety. This section shall apply to the operation of farm vehicles and machinery in the planting, maintenance and harvesting of crops and in the care and feeding of farm animals, the type of farming, and the design of farm structures, exclusive of residences.

Sec. 13. [473H.13] STATE AGENCIES TO BE SUPPORTIVE. Subdivision 1. It shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural preserves.

Subd. 2. The joint legislative committee on agricultural land preservation shall undertake a study of state agency rules which negatively affect long term agricultural lands. The committee shall identify any state rules which favor nonagricultural development and adversely affect the long term nature of farming in an agricultural preserve. For any rules so identified, the committee shall propose modifications for application to agricultural preserves encourage agriculture as the primary and long term use of land within an agricultural preserve while protecting the health, safety, and welfare of the public. The committee shall make a report on this study to the legislature by January 1, 1982.

Sec. 14. [473H.14] ANNEXATION PROCEEDINGS. Agricultural preserve land within a township shall not be annexed to a municipality pursuant to Minnesota Statutes, Chapter 414, without a specific finding by the Minnesota municipal board that either (a) the expiration period as provided for in section 8 has begun; (b) the surviving unit of government due to size, tax base, population or other relevant factors would not be able to provide normal governmental functions and services; or (c) the agricultural preserve would be completely surrounded by lands within a municipality.

This section shall not apply to annexation agreements approved by the Minnesota municipal board prior to creation of the preserve.

Sec. 15. [473H.15] EMINENT DOMAIN ACTIONS. Subdivision 1. Any agency of the state, any public benefit corporation, any local, county or regional unit of government, or any other entity possessing powers of eminent domain under Minnesota Statutes, Chapter 117, shall follow the procedures contained in this section before (1) acquiring any land or easement having a gross area over ten acres in size within agricultural preserves; or (2) advancing a grant, loan, interest subsidy or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve nonfarm structures within agricultural preserves.

Subd. 2. At least 60 days prior to an action described in subdivision 1, notice of intent shall be filed with the environmental quality board containing information and in the manner and form required by the environmental quality board. The notice of intent shall contain a report justifying the proposed action, including an evaluation of alternatives which would not require acquisition within agricultural preserves.

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Subd. 3. The environmental quality board, in consultation with affected units of government, shall review the proposed action to determine the effect of the action on the preservation and enhancement of agriculture and agricultural resources within the preserves and the relationship to local and regional comprehensive plans.

Subd. 4. If the environmental quality board finds that the proposed action might have an unreasonable effect on an agricultural preserve or preserves, the environmental quality board shall issue an order within the 60 day period for the party to desist from such action for an additional 60 day period.

Subd. 5. During the additional 60 day period, the environmental quality board shall hold a public hearing concerning the proposed action at a place within the affected preserve or otherwise easily accessible to the preserve upon notice in a newspaper having a general circulation within the area of the preserves, and individual notice, in writing, to the municipalities whose territory encompasses the preserves, the agency, corporation or government proposing to take the action, and any public agency having the power of review of or approval of the action, in a manner conducive to the wide dissemination of the findings to the public.

Subd. 6. The review process required in this section may be conducted jointly with any other environmental impact review conducted by the environmental quality board.

Subd. 7. The environmental quality board may request the attorney general to bring an action to enjoin any agency, corporation or government from violating the provisions of this section.

Subd. 8. This section shall not apply to an emergency project which is immediately necessary for the protection of life and property.

Subd. 9. The environmental quality board shall be empowered to suspend any eminent domain action for up to one year which it determines to be contrary to the purposes of sections 2 to 17 and for which it determines there are feasible and prudent alternatives which have less negative impact on the agricultural preserves.

Sec. 16. [473H.16] CONSERVATION. Subdivision 1. Land within an agricultural preserve shall be farmed and otherwise managed according to sound soil and water conservation management practices. Management practices which are not sound shall be any use of to the land resulting in wind or water erosion in excess of the soil loss tolerance for each soil type as found in the United States soil conservation service, Minnesota technical guide.

Subd. 2. The authority shall be responsible for enforcing this section. Upon receipt of a written complaint stating the conditions or land management practices which are believed to be in violation of this section, the authority shall consult with the county soil and water conservation district. The district shall determine the average soil loss in tons per acre per year for each field cited in the complaint according to the universal soil loss equation and the wind erosion equation, and shall return to the authority a report showing the average soil loss in tons per acre

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per year for each field and a list of alternative practices that the landowner can use to reduce the soil loss to the limit allowed in subdivision 1. After consultation, and if in the judgment of the authority the land is not being managed properly as required by this section, the authority shall adopt a resolution to this effect and shall seek corrective measures from the owner. At the request of the landowner, the district shall assist in the planning, design and application of the practices selected to reduce the soil loss to an acceptable level and shall give such landowners a high priority for providing technical and cost share assistance.

Subd. 3. Any owner who fails to implement corrective measures to the satisfaction of the authority within one year of notice from the authority shall be subject to a fine of not more than \$1,000. The authority may recover the penalty by a civil action in a court of competent jurisdiction.

Subd. 4. Costs incurred by the authority in the enforcement of this section may be charged to the property owner. Charges not timely paid may be placed on the tax rolls and collected as a special assessment against the property.

Sec. 17. [473H.17] LAND USE. Subdivision 1. Land within an agricultural preserve shall be maintained for agricultural production. The average maximum density of residential structures within an agricultural preserve shall not exceed one unit per 40 acres. The location of any new structure shall conform to locally applicable zoning regulations. Commercial and industrial uses shall not be permitted except that small on-farm commercial or industrial operations normally associated with and important to farming in the area may be permitted by the authority. The authority shall be responsible for enforcing this section.

Subd. 2. When a separate parcel is created for a residential structure permitted under subdivision 1, the parcel shall cease to be an agricultural preserve unless the eligibility requirements of section 3 are met. However, the residential unit shall continue to be included in the maximum residential density for the original preserve.

Sec. 18. Minnesota Statutes 1978, Section 462.351, is amended to read:

462.351 MUNICIPAL PLANNING AND DEVELOPMENT; STATEMENT OF POLICY. The legislature finds that municipalities are faced with mounting problems in providing means of guiding future development of land so as to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities, to preserve agricultural and other open lands, and to promote the public health, safety, ~~morals~~ and general welfare. Municipalities can prepare for anticipated changes and by such preparations bring about significant savings in both private and public expenditures. Municipal planning, by providing public guides to future municipal action, enables other public and private agencies to plan their activities in harmony with the municipality's plans. Municipal planning will assist in developing lands more wisely to serve citizens more effectively, will make the provision of public services less costly, and will achieve a more secure tax base. It is the purpose of sections 462.351 to 462.364 to provide municipalities, in a single body of law, with the necessary powers and a uniform procedure for adequately conducting and implementing municipal planning.

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Sec. 19. Minnesota Statutes 1978, Section 462.352, is amended by adding a subdivision to read:

Subd. 12. "Subdivision" means the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

(a) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(b) Creating cemetery lots;

(c) Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

Sec. 20. Minnesota Statutes 1978, Section 462.352, is amended by adding a subdivision to read:

Subd. 13. "Plat" means the drawing or map of a subdivision prepared for filing of record pursuant to chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to section 462.358 and chapter 505.

Sec. 21. Minnesota Statutes 1978, Section 462.352, is amended by adding a subdivision to read:

Subd. 14. "Subdivision regulation" means an ordinance adopted pursuant to section 462.358 regulating the subdivision of land.

Sec. 22. Minnesota Statutes 1978, Section 462.352, is amended by adding a subdivision to read:

Subd. 15. "Official controls" or "controls" means ordinances and regulations which control the physical development of a city, county or town or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

Sec. 23. Minnesota Statutes 1978, Section 462.352, is amended by adding a subdivision to read:

Subd. 16. "Preliminary approval" means official action taken by a municipality on an application to create a subdivision which establishes the rights and obligations set forth in section 462.358 and the applicable subdivision regulation. In accordance with section 462.358, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks,

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and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

Sec. 24. Minnesota Statutes 1978, Section 462.355, Subdivision 4, is amended to read:

Subd. 4. **INTERIM ORDINANCE.** ~~If a municipality is conducting or in good faith intends to conduct studies within a reasonable time or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of a comprehensive plan or official controls as defined in section 473.852~~ 462.352, subdivision 16, or if new territory for which plans or controls have not been adopted is annexed to a municipality, the governing body of the municipality may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety and welfare of its citizens. The interim ordinance may regulate, restrict or prohibit any use ~~or~~ development, or subdivision within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is ~~created effective,~~ renewed extended for ~~one additional year such additional periods as the municipality may deem appropriate, not exceeding a total additional period of 18 months.~~ No interim ordinance may halt, delay, or impede a subdivision which has been given preliminary approval prior to the effective date of the interim ordinance.

Sec. 25. Minnesota Statutes 1978, Section 462.358, is amended by adding a subdivision to read:

Subd. 1a. **AUTHORITY.** To protect and promote the public health, safety, and general welfare, to provide for the orderly, economic, and safe development of land, to preserve agricultural lands, to promote the availability of housing affordable to persons and families of all income levels, and to facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds, and other public services and facilities, a municipality may by ordinance adopt subdivision regulations establishing standards, requirements, and procedures for the review and approval or disapproval of subdivisions. The regulations may contain varied provisions respecting, and be made applicable only to, certain classes or kinds of subdivisions. The regulations shall be uniform for each class or kind of subdivision.

A municipality may by resolution extend the application of its subdivision regulations to unincorporated territory located within two miles of its limits in any direction but not in a town which has adopted subdivision regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the subdivision of land equal distance from its boundaries within this area. However, if a municipality extends the application of its subdivision or zoning regulations to unincorporated territory, upon the petition of any county board or town board affected by the subdivision or zoning regulations, a joint board shall be established consisting of a three-member committee with one member appointed from each of the municipal, town and county governing bodies. This joint board shall adopt zoning and subdivision regulations under Minnesota Statutes, Sections 462.351 to 462.364 for the entire

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area within two miles of the city located within a town, and designate one of the governing bodies to serve as the governing body and board of appeals and adjustment for purposes of sections 462.357 and 462.358 within the area. During the time before the joint board adopts subdivision regulations, the subdivision regulations which the municipality has extended shall apply.

Sec. 26. Minnesota Statutes 1978, Section 462.358, is amended by adding a subdivision to read:

Subd. 2a. TERMS OF REGULATIONS. The standards and requirements in the regulations may address without limitation: the size, location, grading, and improvement of lots, structures, public areas, streets, roads, trails, walkways, curbs and gutters, water supply, storm drainage, lighting, sewers, electricity, gas, and other utilities; the planning and design of sites; access to solar energy; and the protection and conservation of flood plains, shore lands, soils, water, vegetation, energy, air quality, and geologic and ecologic features. The regulations shall require that subdivisions be consistent with the municipality's official map if one exists and its zoning ordinance, and may require consistency with other official controls and the comprehensive plan. The regulations may prohibit certain classes or kinds of subdivisions in areas where prohibition is consistent with the comprehensive plan and the purposes of this section, particularly the preservation of agricultural lands. The regulations may prohibit the issuance of building permits for any tracts, lots, or parcels for which required subdivision approval has not been obtained. The regulations may permit the municipality to condition its approval on the construction and installation of sewers, streets, electric, gas, drainage, and water facilities, and similar utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, or bond in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. The regulations may permit the municipality to condition its approval on compliance with other requirements reasonably related to the provisions of the regulations and to execute development contracts embodying the terms and conditions of approval. The municipality may enforce such agreements and conditions by appropriate legal and equitable remedies.

Sec. 27. Minnesota Statutes 1978, Section 462.358, is amended by adding a subdivision to read:

Subd. 2b. DEDICATION. The regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements.

In addition, the regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for public use as parks, playgrounds, trails, or open space; provided that (a) the municipality may choose to accept an equivalent amount in cash from the applicant for part or all of the portion required to be dedicated to such public uses or purposes based on the fair market value of the land no later than at the time of final approval, (b)

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any cash payments received shall be placed in a special fund by the municipality used only for the purposes for which the money was obtained, (c) in establishing the reasonable portion to be dedicated, the regulations may consider the open space, park, recreational, or common areas and facilities which the applicant proposes to reserve for the subdivision, and (d) the municipality reasonably determines that it will need to acquire that portion of land for the purposes stated in this paragraph as a result of approval of the subdivision.

Sec. 28. Minnesota Statutes 1978, Section 462.358, is amended by adding a subdivision to read:

Subd. 3a. PLATTING. The regulations may require that any subdivision creating parcels, tracts, or lots, shall be platted. The regulations shall require that all subdivisions which create five or more lots or parcels which are 2-1/2 acres or less in size shall be platted. The regulations shall not conflict with the provisions of chapter 505 but may address subjects similar and additional to those in that chapter.

Sec. 29. Minnesota Statutes 1978, Section 462.358, is amended by adding a subdivision to read:

Subd. 3b. REVIEW PROCEDURES. The regulations shall include provisions regarding the content of applications for proposed subdivisions, the preliminary and final review and approval or disapproval of applications, and the coordination of such reviews with affected political subdivisions and state agencies. The regulations may provide for the consolidation of the preliminary and final review and approval or disapproval of subdivisions. Preliminary or final approval may be granted or denied for parts of subdivision applications. The regulations may prescribe fees sufficient to defray the costs incurred by the municipality in the review and investigation of and actions upon such applications. The regulations may delegate the authority to review proposals to the planning commission, but final approval or disapproval shall be the decision of the governing body of the municipality unless otherwise provided by law or charter. The regulations shall require that a public hearing shall be held on all subdivision applications prior to preliminary approval, unless otherwise provided by law or charter. The hearing shall be held following publication of notice of the time and place thereof in the official newspaper at least ten days before the day of the hearing. At the hearing, all persons interested shall be given an opportunity to make presentations. A subdivision application shall be preliminarily approved or disapproved within 120 days following delivery of an application completed in compliance with the municipal ordinance by the applicant to the municipality, unless an extension of the review period has been agreed to by the applicant. When a division or subdivision to which the regulations of the municipality do not apply is presented to the city, the clerk of the municipality shall within ten days certify that the subdivision regulations of the municipality do not apply to the particular division.

If the municipality or the responsible agency of the municipality fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed preliminarily approved, and upon demand the municipality shall execute a certificate to that effect. Following preliminary approval

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the applicant may request final approval by the municipality, and upon such request the municipality shall certify final approval within 60 days if the applicant has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which the preliminary approval is expressly conditioned either through performance or the execution of appropriate agreements assuring performance. If the municipality fails to certify final approval as so required, and if the applicant has complied with all conditions and requirements, the application shall be deemed finally approved, and upon demand the municipality shall execute a certificate to that effect. After final approval a subdivision may be filed or recorded.

Sec. 30. Minnesota Statutes 1978, Section 462.358, is amended by adding a subdivision to read:

Subd. 3c. EFFECT OF SUBDIVISION APPROVAL. For one year following preliminary approval and for two years following final approval, unless the subdivider and the municipality agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the municipality may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, a municipality may by resolution or agreement grant the rights referred to herein for such periods of time longer than two years which it determines to be reasonable and appropriate.

Sec. 31. Minnesota Statutes 1978, Section 462.358, is amended by adding a subdivision to read:

Subd. 4a. DISCLOSURE BY SELLER; BUYER'S ACTION FOR DAMAGES. A person conveying a new parcel of land which, or the plat for which, has not previously been filed or recorded, and which is part of or would constitute a subdivision to which adopted municipal subdivision regulations apply, shall attach to the instrument of conveyance either: (a) recordable certification by the clerk of the municipality that the subdivision regulations do not apply, or that the subdivision has been approved by the governing body, or that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality in this case because compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the regulations; or (b) a statement which names and identifies the location of the appropriate municipal offices and advises the grantee that municipal subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction on it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, nonapplicability, or waiver from the muni-

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pality. In any action commenced by a buyer of such a parcel against the seller thereof, the misrepresentation of or the failure to disclose material facts in accordance with this subdivision shall be grounds for damages. If the buyer establishes his right to damages, a district court hearing the matter may in its discretion also award to the buyer an amount sufficient to pay all or any part of the costs incurred in maintaining the action, including reasonable attorney fees, and an amount for punitive damages not exceeding five per centum of the purchase price of the land.

Sec. 32. Minnesota Statutes 1978, Section 462.358, Subdivision 4, is amended to read:

Subd. 4b . **RESTRICTIONS ON FILING AND RECORDING CONVEYANCES.** In a municipality in which subdivision regulations are in force and have been filed or recorded as provided in this section, no conveyance of land to which the regulations are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961 or to an unapproved plat made after such regulations become effective. The foregoing provision does not apply to a conveyance if the land described:

(1) was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter, or

(2) was the subject of a written agreement to convey entered into prior to such time,

(3) was a separate parcel of not less than two and one-half acres in area and 150 feet in width on January 1, 1966, or

(4) was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980, or

(4) (5) is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width- 2 or

(6) is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subdivision shall forfeit and pay to the municipality a penalty of not less than \$100 for each lot or parcel so conveyed. A muni-

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cipality may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.

Sec. 33. Minnesota Statutes 1978, Section 462.358, is amended by adding a subdivision to read:

Subd. 10. LIMITATIONS. Nothing in this section shall be construed to require a municipality to regulate subdivisions or to regulate all subdivisions which it is authorized to regulate by this section.

Sec. 34. ~~[462.365]~~ **EXTENSION OF TIME FOR COMPLIANCE.** Any municipality which has in effect on or before the effective date of this act an ordinance for subdivision controls may elect not to come into compliance with any change in subdivision regulations as may be required by this act until such time as the ordinance for subdivision controls is next amended.

Sec. 35. Minnesota Statutes 1978, Sections 462.352, Subdivision 4; and 462.358, Subdivisions 1, 2, and 3 are repealed.

Sec. 36. **EFFECTIVE DATE.** Sections 1 to 17 are effective on June 1, 1980.

Approved April 15, 1980

CHAPTER 567—H.F.No. 1435

An act relating to health; exempting out of state physicians from licensing regulations under certain conditions; abolishing the hospital administrator registration program; amending Minnesota Statutes 1978, Section 147.09; repealing Minnesota Statutes 1978, Sections 144.59 to 144.65.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1978, Section 147.09, is amended to read:

147.09 **EXEMPTIONS.** This chapter shall not apply to commissioned surgeons of the United States armed forces, to physicians from other states who are in actual consultation here or who treat their homestate patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3, to students practicing under the direct supervision of a preceptor while they are enrolled in and regularly attending a recognized medical school or to scientific, sanitary or teaching personnel employed by the state university, the state department of education, or by any public or private school, college, or other bona fide educational institution, or the state department of health, whose duties are entirely of a public health or educational character, while engaged in such duties.

These physicians shall first register with the board of medical examiners and shall complete a form provided by the board for that purpose. The board

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