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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2323

03/11/2019 Authored by Elkins, Zerwas, Theis, Masin and Howard
The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to local and metropolitan government; defining conflict for the purposes
1.3 of planning and zoning; amending Minnesota Statutes 2018, sections 394.24,
1.4 subdivision 1; 462.357, subdivision 2; 462.358, subdivision 2a; 473.858,
1.5 subdivision 1; 473.865, subdivisions 2, 3.

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

1.7 Section 1. Minnesota Statutes 2018, section 394.24, subdivision 1, is amended to read:

1.8 Subdivision 1. **Adopted by ordinance.** Official controls which shall further the purpose
1.9 and objectives of the comprehensive plan and parts thereof shall be adopted by ordinance.
1.10 The comprehensive plan must provide guidelines for the timing and sequence of the adoption
1.11 of official controls to ensure planned, orderly, and staged development and redevelopment
1.12 consistent with the comprehensive plan. Official controls do not conflict with a
1.13 comprehensive plan if they permit all of the uses that are permitted or required in the
1.14 comprehensive plan at the densities permitted or required by the comprehensive plan, and
1.15 they prohibit all of the uses that are expressly prohibited by the comprehensive plan.

1.16 Sec. 2. Minnesota Statutes 2018, section 462.357, subdivision 2, is amended to read:

1.17 Subd. 2. **General requirements.** (a) At any time after the adoption of a land use plan
1.18 for the municipality, the planning agency, for the purpose of carrying out the policies and
1.19 goals of the land use plan, may prepare a proposed zoning ordinance and submit it to the
1.20 governing body with its recommendations for adoption.

1.21 (b) Subject to the requirements of subdivisions 3, 4, and 5, the governing body may
1.22 adopt and amend a zoning ordinance by a majority vote of all its members. The adoption
1.23 or amendment of any portion of a zoning ordinance which changes all or part of the existing

2.1 classification of a zoning district from residential to either commercial or industrial requires
 2.2 a two-thirds majority vote of all members of the governing body.

2.3 (c) The land use plan must provide guidelines for the timing and sequence of the adoption
 2.4 of official controls to ensure planned, orderly, and staged development and redevelopment
 2.5 consistent with the land use plan. Official controls do not conflict with a land use plan if
 2.6 they permit all of the uses that are permitted or required in the land use plan at the densities
 2.7 permitted or required by the land use plan, and they prohibit all of the uses that are expressly
 2.8 prohibited by the land use plan.

2.9 Sec. 3. Minnesota Statutes 2018, section 462.358, subdivision 2a, is amended to read:

2.10 Subd. 2a. **Terms of regulations.** The standards and requirements in the regulations may
 2.11 address without limitation: the size, location, grading, and improvement of lots, structures,
 2.12 public areas, streets, roads, trails, walkways, curbs and gutters, water supply, storm drainage,
 2.13 lighting, sewers, electricity, gas, and other utilities; the planning and design of sites; access
 2.14 to solar energy; and the protection and conservation of floodplains, shore lands, soils, water,
 2.15 vegetation, energy, air quality, and geologic and ecologic features. The regulations shall
 2.16 require that subdivisions be consistent with the municipality's official map if one exists and
 2.17 its zoning ordinance, and may require consistency with other official controls and the
 2.18 comprehensive plan. The regulations may prohibit certain classes or kinds of subdivisions
 2.19 in areas where prohibition is consistent with the comprehensive plan and the purposes of
 2.20 this section, particularly the preservation of agricultural lands. The regulations may prohibit,
 2.21 restrict or control development for the purpose of protecting and assuring access to direct
 2.22 sunlight for solar energy systems. The regulations may prohibit the issuance of permits or
 2.23 approvals for any tracts, lots, or parcels for which required subdivision approval has not
 2.24 been obtained.

2.25 Regulations do not conflict with a comprehensive plan if they permit all of the uses that
 2.26 are permitted or required in the comprehensive plan at the densities permitted or required
 2.27 by the comprehensive plan, and they prohibit all of the uses that are expressly prohibited
 2.28 by the comprehensive plan.

2.29 The regulations may permit the municipality to condition its approval on the construction
 2.30 and installation of sewers, streets, electric, gas, drainage, and water facilities, and similar
 2.31 utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash
 2.32 deposit, certified check, irrevocable letter of credit, bond, or other financial security in an
 2.33 amount and with surety and conditions sufficient to assure the municipality that the utilities
 2.34 and improvements will be constructed or installed according to the specifications of the

3.1 municipality. Sections 471.345 and 574.26 do not apply to improvements made by a
3.2 subdivider or a subdivider's contractor.

3.3 A municipality may require that an applicant establish an escrow account or other
3.4 financial security for the purpose of reimbursing the municipality for direct costs relating
3.5 to professional services provided during the review, approval and inspection of the project.
3.6 A municipality may only charge the applicant a rate equal to the value of the service to the
3.7 municipality. Services provided by municipal staff or contract professionals must be billed
3.8 at an established rate.

3.9 When the applicant vouches, by certified letter to the municipality, that the conditions
3.10 required by the municipality for approval under this subdivision have been satisfied, the
3.11 municipality has 30 days to release and return to the applicant any and all financial securities
3.12 tied to the requirements. If the municipality fails to release and return the letters of credit
3.13 within the 30-day period, any interest accrued will be paid to the applicant. If the municipality
3.14 determines that the conditions required for approval under this subdivision have not been
3.15 satisfied, the municipality must send written notice within seven business days upon receipt
3.16 of the certified letter indicating to the applicant which specific conditions have not been
3.17 met. The municipality shall require a maintenance or performance bond from any
3.18 subcontractor that has not yet completed all remaining requirements of the municipality.

3.19 The regulations may permit the municipality to condition its approval on compliance
3.20 with other requirements reasonably related to the provisions of the regulations and to execute
3.21 development contracts embodying the terms and conditions of approval. The municipality
3.22 may enforce such agreements and conditions by appropriate legal and equitable remedies.

3.23 Sec. 4. Minnesota Statutes 2018, section 473.858, subdivision 1, is amended to read:

3.24 Subdivision 1. **No conflicting zoning, fiscal device, official control.** Within nine months
3.25 following the receipt of a metropolitan system statement for an amendment to a metropolitan
3.26 system plan and within three years following the receipt of a metropolitan system statement
3.27 issued in conjunction with the decennial review required under section 473.864, subdivision
3.28 2, every local governmental unit shall have reviewed and, if necessary, amended its
3.29 comprehensive plan in accordance with sections 462.355, 473.175, and 473.851 to 473.871
3.30 and the applicable planning statute and shall have submitted the plan to the Metropolitan
3.31 Council for review pursuant to section 473.175. The provisions of sections 462.355, 473.175,
3.32 and 473.851 to 473.871 shall supersede the provisions of the applicable planning statute
3.33 wherever a conflict may exist. If the comprehensive municipal plan is in conflict with the
3.34 zoning ordinance, the zoning ordinance shall be brought into conformance with the plan by

4.1 local government units in conjunction with the review and, if necessary, amendment of its
 4.2 comprehensive plan required under section 473.864, subdivision 2. A local government
 4.3 unit shall not adopt any fiscal device or official control which is in conflict with its
 4.4 comprehensive plan, including any amendments to the plan, or which permits activity in
 4.5 conflict with metropolitan system plans, as defined by section 473.852, subdivision 8. The
 4.6 comprehensive plan shall provide guidelines for the timing and sequence of the adoption
 4.7 of official controls to ensure planned, orderly, and staged development and redevelopment
 4.8 consistent with the comprehensive plan. ~~For purposes of this section, a fiscal device or~~
 4.9 ~~official control shall not be considered to be in conflict with a local government unit's~~
 4.10 ~~comprehensive plan or to permit an activity in conflict with metropolitan system plans if~~
 4.11 ~~such fiscal device or official control is adopted to ensure the planned, orderly, and staged~~
 4.12 ~~development of urbanization or redevelopment areas designated in the comprehensive plan~~
 4.13 ~~pursuant to section 473.859, subdivision 5.~~ Fiscal devices and official controls do not conflict
 4.14 with a comprehensive plan if they permit all of the uses that are permitted or required in
 4.15 the comprehensive plan at the densities permitted or required by the comprehensive plan,
 4.16 and they prohibit all of the uses that are expressly prohibited by the comprehensive plan.

4.17 Sec. 5. Minnesota Statutes 2018, section 473.865, subdivision 2, is amended to read:

4.18 Subd. 2. **No conflict with plans.** A local governmental unit shall not adopt any official
 4.19 control or fiscal device which is in conflict with its comprehensive plan or which permits
 4.20 activity in conflict with metropolitan system plans. Fiscal devices and official controls do
 4.21 not conflict with a comprehensive plan if they permit all of the uses that are permitted or
 4.22 required in the comprehensive plan at the densities permitted or required by the
 4.23 comprehensive plan, and they prohibit all of the uses that are expressly prohibited by the
 4.24 comprehensive plan.

4.25 Sec. 6. Minnesota Statutes 2018, section 473.865, subdivision 3, is amended to read:

4.26 Subd. 3. **Amendments.** If an official control conflicts with a comprehensive plan as the
 4.27 result of an amendment to the plan, the official control shall be amended by the unit within
 4.28 nine months following the amendment to the plan or within 60 days of the submission of a
 4.29 development application that is not in conflict with the comprehensive plan, whichever
 4.30 occurs first, so as to not conflict with the amended comprehensive plan.

4.31 Sec. 7. **APPLICATION.**

4.32 Sections 4 to 6 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
 4.33 Scott, and Washington.