

**SENATE  
STATE OF MINNESOTA  
NINETY-FIRST SESSION**

**S.F. No. 3794**

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DATE  
02/27/2020

D-PG  
5045 Introduction and first reading  
Referred to Local Government

OFFICIAL STATUS

1.1 A bill for an act  
1.2 relating to local government; modifying planning and zoning fees; amending  
1.3 Minnesota Statutes 2018, section 462.358, subdivision 2b.  
1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2018, section 462.358, subdivision 2b, is amended to read:

1.6 Subd. 2b. **Dedication.** (a) The regulations may require that a reasonable portion of the  
1.7 buildable land, as defined by municipal ordinance, of any proposed subdivision be dedicated  
1.8 to the public or preserved for public use as streets, roads, sewers, electric, gas, and water  
1.9 facilities, storm water drainage and holding areas or ponds and similar utilities and  
1.10 improvements, parks, recreational facilities as defined in section 471.191, playgrounds,  
1.11 trails, wetlands, or open space. The requirement must be imposed by ordinance or under  
1.12 the procedures established in section 462.353, subdivision 4a.

1.13 (b) If a municipality adopts the ordinance or proceeds under section 462.353, subdivision  
1.14 4a, as required by paragraph (a), the municipality must adopt a capital improvement budget  
1.15 and have a parks and open space plan or have a parks, trails, and open space component in  
1.16 its comprehensive plan subject to the terms and conditions in this paragraph and paragraphs  
1.17 (c) to (i).

1.18 (c) The municipality may choose to accept a cash fee as set by ordinance from the  
1.19 applicant for some or all of the new lots created in the subdivision, based on the average  
1.20 fair market value of the unplatted land for which park fees have not already been paid that  
1.21 is, no later than at the time of final approval or under the city's adopted comprehensive plan,  
1.22 to be served by municipal sanitary sewer and water service or community septic and private  
1.23 well as authorized by state law. For purposes of redevelopment on developed land, the

2.1 municipality may choose to accept a cash fee based on fair market value of the land no later  
2.2 than the time of final approval. The park fee is capped at five percent of the fair market  
2.3 value of the development. "Fair market value" means the value of the land as determined  
2.4 by the municipality annually based on tax valuation or other relevant data. If the  
2.5 municipality's calculation of valuation is objected to by the applicant, then the value shall  
2.6 be as negotiated between the municipality and the applicant, or based on the market value  
2.7 as determined by the municipality based on an independent appraisal of land in a same or  
2.8 similar land use category. In addition to the cash fee option, fees may be paid by donating  
2.9 land, building recreational facilities, or a combination of these options.

2.10 (d) In establishing the portion to be dedicated or preserved or the cash fee, the regulations  
2.11 shall give due consideration to the open space, recreational, or common areas and facilities  
2.12 open to the public that the applicant proposes to reserve for the subdivision. The value of  
2.13 any portion dedicated or preserved for park or trail purposes shall be deducted from any  
2.14 cash fee so that the applicant is not penalized for including open space, recreational, or  
2.15 common areas and facilities in their development proposal.

2.16 (e) The municipality must reasonably determine that it will need to acquire that portion  
2.17 of land for the purposes stated in this subdivision as a result of approval of the subdivision.

2.18 (f) Cash payments received must be placed by the municipality in a special fund to be  
2.19 used only for the purposes for which the money was obtained. The municipality must  
2.20 maintain records detailing the purposes for which the money was obtained and the manner  
2.21 in which it was spent to further those purposes. The records must be readily available to the  
2.22 applicant upon request.

2.23 (g) Cash payments received must be used only for the acquisition and development or  
2.24 improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space  
2.25 based on the approved park systems plan. Cash payments must not be used for ongoing  
2.26 operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or  
2.27 open space. The municipality must maintain records demonstrating the manner in which  
2.28 each cash payment was used.

2.29 (h) The municipality must not deny the approval of a subdivision based solely on an  
2.30 inadequate supply of parks, open spaces, trails, or recreational facilities within the  
2.31 municipality.

2.32 (i) Previously subdivided property from which a park dedication has been received,  
2.33 being resubdivided with the same number of lots, is exempt from park dedication

- 3.1 requirements. If, as a result of resubdividing the property, the number of lots is increased,
- 3.2 then the park dedication or per-lot cash fee must apply only to the net increase of lots.