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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2235

02/27/2023 Authored by Elkins and Pérez-Vega
The bill was read for the first time and referred to the Committee on Housing Finance and Policy
03/09/2023 Adoption of Report: Re-referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to local and metropolitan government; the Legalizing Affordable Housing
1.3 Act; addressing provisions on land use and planning requirements; amending
1.4 Minnesota Statutes 2022, sections 15.99, subdivisions 1, 2; 326B.145; 326B.153,
1.5 by adding a subdivision; 394.24, subdivision 1; 462.355, subdivision 4; 462.357,
1.6 subdivisions 1, 2, by adding a subdivision; 462.358, subdivisions 2a, 2b; 473.145;
1.7 473.254, subdivision 2; 473.517, subdivision 3; 473.858, subdivision 1; 473.859,
1.8 subdivision 2; 473.865, subdivisions 2, 3; proposing coding for new law in
1.9 Minnesota Statutes, chapters 394; 462; 473; 513; proposing coding for new law
1.10 as Minnesota Statutes, chapter 462E; repealing Laws 2017, First Special Session
1.11 chapter 3, article 3, section 126; Laws 2018, chapter 214, article 2, section 46.

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

1.13 ARTICLE 1
1.14 IMPACT FEES

1.15 Section 1. [394.245] IMPACT FEES.

1.16 If a board has adopted a comprehensive plan that meets the requirements of this chapter
1.17 and has adopted a capital improvement program, it may impose impact fees as provided in
1.18 chapter 462E.

1.19 Sec. 2. [462.3594] IMPACT FEES.

1.20 A statutory or home rule charter city that has adopted a comprehensive municipal plan
1.21 and capital improvement program, as provided in this chapter, may impose impact fees as
1.22 provided in chapter 462E.

2.1 Sec. 3. **[462E.01] IMPACT FEES; DEFINITIONS.**

2.2 Subdivision 1. **Application.** For the purposes of this chapter, the following terms have
 2.3 the meanings given.

2.4 Subd. 2. **Applicable planning law.** "Applicable planning law" means chapter 394 for
 2.5 counties and sections 462.351 to 462.364 for statutory and home rule charter cities and
 2.6 towns.

2.7 Subd. 3. **District.** "District" means the area of the new development on which an impact
 2.8 fee is imposed by a local government, pursuant to an ordinance.

2.9 Subd. 4. **Impact fee.** "Impact fee" means a fee imposed on a new development by a
 2.10 local government, pursuant to an ordinance, to pay for capital improvements necessitated
 2.11 by the new development that will primarily benefit the new development.

2.12 Subd. 5. **Local government.** "Local government" means a statutory or home rule charter
 2.13 city, town, or county.

2.14 Subd. 6. **Metropolitan area.** "Metropolitan area" has the meaning given in section
 2.15 473.121, subdivision 2.

2.16 Subd. 7. **Project.** "Project" means the purpose for which an impact fee is imposed on a
 2.17 district.

2.18 Sec. 4. **[462E.02] AUTHORITY.**

2.19 A local government may impose impact fees by ordinance as provided for by other law
 2.20 in the interest of furthering orderly and staged development of land within the local
 2.21 government's jurisdiction and the metropolitan area, if applicable.

2.22 Sec. 5. **[462E.03] PERMITTED USES.**

2.23 (a) A local ordinance must specify the purposes for which impact fees may be imposed
 2.24 on a new development. A local ordinance may provide for fees to be imposed for any of
 2.25 the following purposes:

2.26 (1) transportation infrastructure, including public transit;

2.27 (2) water supply production and distribution;

2.28 (3) wastewater collection and treatment facilities;

2.29 (4) school facilities;

2.30 (5) parks, open space, and recreation facilities;

3.1 (6) public safety facilities, including but not limited to police, fire, and emergency
 3.2 medical and rescue facilities;

3.3 (7) stormwater control and treatment;

3.4 (8) solid waste collection and disposal; and

3.5 (9) lighting.

3.6 (b) A project that falls under one or more purposes under paragraph (a) must be described
 3.7 in the local government's approved comprehensive plan and capital improvement plan. The
 3.8 capital improvement plan must provide:

3.9 (1) the estimated cost of the project;

3.10 (2) the planned start and end dates of the project; and

3.11 (3) an estimate of the portion of the project cost that will be financed using an impact
 3.12 fee.

3.13 **Sec. 6. [462E.04] ESTABLISHMENT OF DISTRICT; PAYMENT OF FEE.**

3.14 (a) A district is established upon the completion of the design of the project that will be
 3.15 funded in whole or in part with an impact fee, and the approval of the governing body of
 3.16 the local government imposing the impact fee.

3.17 (b) The impact fee is due and payable from the owners of property located in the district
 3.18 immediately upon the establishment of the district and the issuance of notice under section
 3.19 462E.09. Failure to receive the notice shall not postpone or excuse any default.

3.20 (c) An owner of property in the district must make payment within 90 days of the
 3.21 establishment of the district under this section. The governing body of the local government
 3.22 imposing the impact fee must provide the owners of property in the district the option of
 3.23 paying an impact fee over a period of up to ten years at an interest rate that reflects the local
 3.24 government's own cost of borrowing.

3.25 **Sec. 7. [462E.05] FORMULA; CONTRIBUTIONS.**

3.26 A local impact fee ordinance must specify the formula by which the costs of the project
 3.27 will be apportioned among the properties in the district. The formula must result in fee
 3.28 amounts that are just and equitable. The formula for determining impact fees for a particular
 3.29 district must provide for credits off-setting part or all of the fees that reflect what the new
 3.30 development in the district may have contributed in the form of taxes, other fees, dedications,
 3.31 or other contributions toward the improvement for which the impact fees are imposed.

4.1 Sec. 8. **[462E.06] ADVISORY COMMITTEE.**

4.2 A local government that imposes an impact fee must establish an impact fee advisory
4.3 committee consisting of representatives of affected interests to assist in the development of
4.4 the ordinance.

4.5 Sec. 9. **[462E.07] EXEMPTIONS.**

4.6 An impact fee ordinance may provide exemptions from an impact fee for projects
4.7 providing low- and moderate-income housing if the need for such housing is identified in
4.8 the comprehensive plan.

4.9 Sec. 10. **[462E.08] SEGREGATION OF FEES; REFUND.**

4.10 (a) Revenues from impact fees must be placed in a separate account and used only for
4.11 projects that meet the criteria of section 462E.03.

4.12 (b) A local government that imposes an impact fee must refund any impact fee it has
4.13 not spent by the time a project is complete to the parties who paid the fee. Within 90 days
4.14 of the completion of the project, the treasurer of the local government that imposed the
4.15 impact fee must refund the impact fee in the amount proportional to the payment by the
4.16 party.

4.17 Sec. 11. **[462E.09] NOTICE; RECORDING.**

4.18 All impact fees paid or due must be recorded and a purchaser of real property must be
4.19 notified of any impact fees paid or due.

4.20 Sec. 12. **[462E.10] MODEL IMPACT FEE ORDINANCE.**

4.21 The League of Minnesota Cities, in collaboration with other stakeholders, including but
4.22 not limited to the Minnesota Chapter of the American Planning Association, the City
4.23 Engineers Association of Minnesota, and Housing First, must develop a model impact fee
4.24 ordinance for local governments on or before December 31, 2023.

5.1 **ARTICLE 2**

5.2 **ENVIRONMENTAL REVIEW AND COMPREHENSIVE LAND PLANNING**

5.3 Section 1. Minnesota Statutes 2022, section 473.145, is amended to read:

5.4 **473.145 DEVELOPMENT GUIDE.**

5.5 (a) The Metropolitan Council shall prepare and adopt, after appropriate study and such
 5.6 public hearings as may be necessary, a comprehensive development guide for the
 5.7 metropolitan area. It shall consist of a compilation of policy statements, goals, standards,
 5.8 programs, and maps prescribing guides for the orderly and economical development, public
 5.9 and private, of the metropolitan area. The comprehensive development guide shall recognize
 5.10 and encompass physical, social, or economic needs of the metropolitan area and those future
 5.11 developments which will have an impact on the entire area including but not limited to such
 5.12 matters as land use, parks and open space land needs, the necessity for and location of
 5.13 airports, highways, transit facilities, public hospitals, libraries, schools, and other public
 5.14 buildings.

5.15 (b) The council's adoption and amendment of the comprehensive development guide
 5.16 and its adoption and amendment of metropolitan system plans as defined in section 473.852,
 5.17 subdivision 8, other policy plans, and metropolitan system statements under this chapter
 5.18 shall not constitute conduct that causes or is likely to cause pollution, impairment, or
 5.19 destruction as defined under section 116B.02, subdivision 5, or governmental action as
 5.20 defined under section 116D.04, subdivision 1a, paragraph (d).

5.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.22 **Sec. 2. [473.8651] ENVIRONMENTAL REVIEW.**

5.23 Notwithstanding any environmental review required under section 116D.04 and
 5.24 Minnesota Rules, chapter 4410, the adoption or amendment of comprehensive plans and
 5.25 the adoption or amendment of fiscal devices and official controls consistent with sections
 5.26 473.858 to 473.865 shall not constitute conduct that causes or is likely to cause pollution,
 5.27 impairment, or destruction, as defined under section 116B.02, subdivision 5.

5.28 **EFFECTIVE DATE; APPLICATION.** This section is effective retroactively from
 5.29 March 1, 2018, and applies to actions commenced on or after that date. This section applies
 5.30 in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

6.1 **ARTICLE 3**

6.2 **PLANNING AND ZONING**

6.3 Section 1. Minnesota Statutes 2022, section 394.24, subdivision 1, is amended to read:

6.4 Subdivision 1. **Adopted by ordinance.** Official controls which shall further the purpose
 6.5 and objectives of the comprehensive plan and parts thereof shall be adopted by ordinance.
 6.6 The comprehensive plan must provide guidelines for the timing and sequence of the adoption
 6.7 of official controls to ensure planned, orderly, and staged development and redevelopment
 6.8 consistent with the comprehensive plan. Official controls do not conflict with a
 6.9 comprehensive plan if they permit all of the uses that are permitted or required in the
 6.10 comprehensive plan at the densities permitted or required by the comprehensive plan, and
 6.11 they prohibit all of the uses that are expressly prohibited by the comprehensive plan. Official
 6.12 controls for land guided for commercial or industrial use may be more specific than the
 6.13 comprehensive plan regarding the kinds of commercial or industrial uses that are allowed
 6.14 in specific locations.

6.15 Sec. 2. Minnesota Statutes 2022, section 462.355, subdivision 4, is amended to read:

6.16 Subd. 4. **Interim ordinance.** (a) If a municipality is conducting studies or has authorized
 6.17 a study to be conducted or has held or has scheduled a hearing for the purpose of considering
 6.18 adoption or amendment of a comprehensive plan or official controls as defined in section
 6.19 462.352, subdivision 15, or if new territory for which plans or controls have not been adopted
 6.20 is annexed to a municipality, the governing body of the municipality may adopt an interim
 6.21 ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning
 6.22 process and the health, safety and welfare of its citizens. The interim ordinance may regulate,
 6.23 restrict, or prohibit any use, development, or subdivision within the jurisdiction or a portion
 6.24 thereof for a period not to exceed one year from the date it is effective.

6.25 (b) If a proposed interim ordinance purports to regulate, restrict, or prohibit activities
 6.26 relating to livestock production, a public hearing must be held following a ten-day notice
 6.27 given by publication in a newspaper of general circulation in the municipality before the
 6.28 interim ordinance takes effect.

6.29 (c)(1) A statutory or home rule charter city may adopt an interim ordinance that regulates,
 6.30 restricts, or prohibits a housing proposal only if the ordinance is approved by majority vote
 6.31 of all members of the city council. A housing proposal that is consistent with the
 6.32 comprehensive plan on the date of submission and is submitted or pending before the

7.1 adoption of an interim ordinance under this subdivision is exempt from the regulations,
7.2 restrictions, or prohibitions in the interim ordinance.

7.3 (2) Before adopting the interim ordinance, the city council must hold a public hearing
7.4 after providing written notice to any person who has submitted a housing proposal, has a
7.5 pending housing proposal, or has provided a written request to be notified of interim
7.6 ordinances related to housing proposals. The written notice must be provided at least three
7.7 business days before the public hearing. Notice also must be posted on the city's official
7.8 website, if the city has an official website.

7.9 (3) The date of the public hearing shall be the earlier of the next regularly scheduled
7.10 city council meeting after the notice period or within ten days of the notice.

7.11 (4) The activities proposed to be restricted by the proposed interim ordinance may not
7.12 be undertaken before the public hearing.

7.13 (5) For the purposes of this paragraph, "housing proposal" means a written request for
7.14 city approval of a project intended primarily to provide residential dwellings, either single
7.15 family or multi-family, and involves the subdivision or development of land or the
7.16 demolition, construction, reconstruction, alteration, repair, or occupancy of residential
7.17 dwellings.

7.18 (d) The period of an interim ordinance applicable to an area that is affected by a city's
7.19 master plan for a municipal airport may be extended for such additional periods as the
7.20 municipality may deem appropriate, not exceeding a total additional period of 18 months.
7.21 In all other cases, no interim ordinance may halt, delay, or impede a subdivision that has
7.22 been given preliminary approval, nor may any interim ordinance extend the time deadline
7.23 for agency action set forth in section 15.99 with respect to any application filed prior to the
7.24 effective date of the interim ordinance. The governing body of the municipality may extend
7.25 the interim ordinance after a public hearing and written findings have been adopted based
7.26 upon one or more of the conditions in clause (1), (2), or (3). The public hearing must be
7.27 held at least 15 days but not more than 30 days before the expiration of the interim ordinance,
7.28 and notice of the hearing must be published at least ten days before the hearing. The interim
7.29 ordinance may be extended for the following conditions and durations, but, except as
7.30 provided in clause (3), an interim ordinance may not be extended more than an additional
7.31 18 months:

7.32 (1) up to an additional 120 days following the receipt of the final approval or review by
7.33 a federal, state, or metropolitan agency when the approval is required by law and the review

8.1 or approval has not been completed and received by the municipality at least 30 days before
8.2 the expiration of the interim ordinance;

8.3 (2) up to an additional 120 days following the completion of any other process required
8.4 by a state statute, federal law, or court order, when the process is not completed at least 30
8.5 days before the expiration of the interim ordinance; or

8.6 (3) up to an additional one year if the municipality has not adopted a comprehensive
8.7 plan under this section at the time the interim ordinance is enacted.

8.8 Sec. 3. Minnesota Statutes 2022, section 462.357, subdivision 2, is amended to read:

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

8.13 (b) Subject to the requirements of subdivisions 3, 4, and 5, the governing body may
8.14 adopt and amend a zoning ordinance by a majority vote of all its members. The adoption
8.15 or amendment of any portion of a zoning ordinance which changes all or part of the existing
8.16 classification of a zoning district from residential to either commercial or industrial requires
8.17 a two-thirds majority vote of all members of the governing body.

8.18 (c) The land use plan must provide guidelines for the timing and sequence of the adoption
8.19 of official controls to ensure planned, orderly, and staged development and redevelopment
8.20 consistent with the land use plan. Official controls do not conflict with a land use plan if
8.21 they permit all of the uses that are permitted or required in the land use plan at the densities
8.22 permitted or required by the land use plan, and they prohibit all of the uses that are expressly
8.23 prohibited by the land use plan. Official controls for land guided for commercial or industrial
8.24 use may be more specific than the comprehensive plan regarding the kinds of commercial
8.25 or industrial uses that are allowed in specific locations.

8.26 Sec. 4. Minnesota Statutes 2022, section 462.358, subdivision 2a, is amended to read:

8.27 Subd. 2a. **Terms of regulations.** (a) The standards and requirements in the regulations
8.28 may address without limitation: the size, location, grading, and improvement of lots,
8.29 structures, public areas, streets, roads, trails, walkways, curbs and gutters, water supply,
8.30 storm drainage, lighting, sewers, electricity, gas, and other utilities; the planning and design
8.31 of sites; access to solar energy; and the protection and conservation of floodplains, shore
8.32 lands, soils, water, vegetation, energy, air quality, and geologic and ecologic features. The

9.1 regulations shall require that subdivisions be consistent with the municipality's official map
9.2 if one exists and its zoning ordinance, and may require consistency with other official
9.3 controls and the comprehensive plan. The regulations may prohibit certain classes or kinds
9.4 of subdivisions in areas where prohibition is consistent with the comprehensive plan and
9.5 the purposes of this section, particularly the preservation of agricultural lands. The regulations
9.6 may prohibit, restrict or control development for the purpose of protecting and assuring
9.7 access to direct sunlight for solar energy systems. The regulations may prohibit the issuance
9.8 of permits or approvals for any tracts, lots, or parcels for which required subdivision approval
9.9 has not been obtained.

9.10 (b) Regulations do not conflict with a comprehensive plan if they permit all of the uses
9.11 that are permitted or required in the comprehensive plan at the densities permitted or required
9.12 by the comprehensive plan, and they prohibit all of the uses that are expressly prohibited
9.13 by the comprehensive plan. Regulations for land guided for commercial or industrial use
9.14 may be more specific than the comprehensive plan regarding the kinds of commercial or
9.15 industrial uses which are allowed in specific locations.

9.16 (c) The regulations may permit the municipality to condition its approval on the
9.17 construction and installation of sewers, streets, electric, gas, drainage, and water facilities,
9.18 and similar utilities and improvements or, in lieu thereof, on the receipt by the municipality
9.19 of a cash deposit, certified check, irrevocable letter of credit, bond, or other financial security
9.20 in an amount and with surety and conditions sufficient to assure the municipality that the
9.21 utilities and improvements will be constructed or installed according to the specifications
9.22 of the municipality. Sections 471.345 and 574.26 do not apply to improvements made by
9.23 a subdivider or a subdivider's contractor.

9.24 (d) A municipality may require that an applicant establish an escrow account or other
9.25 financial security for the purpose of reimbursing the municipality for direct costs relating
9.26 to professional services provided during the review, approval and inspection of the project.
9.27 A municipality may only charge the applicant a rate equal to the value of the service to the
9.28 municipality. Services provided by municipal staff or contract professionals must be billed
9.29 at an established rate.

9.30 (e) When the applicant vouches, by certified letter to the municipality, that the conditions
9.31 required by the municipality for approval under this subdivision have been satisfied, the
9.32 municipality has 30 days to release and return to the applicant any and all financial securities
9.33 tied to the requirements. If the municipality fails to release and return the letters of credit
9.34 within the 30-day period, any interest accrued will be paid to the applicant. If the municipality
9.35 determines that the conditions required for approval under this subdivision have not been

10.1 satisfied, the municipality must send written notice within seven business days upon receipt
10.2 of the certified letter indicating to the applicant which specific conditions have not been
10.3 met. The municipality shall require a maintenance or performance bond from any
10.4 subcontractor that has not yet completed all remaining requirements of the municipality.

10.5 (f) The regulations may permit the municipality to condition its approval on compliance
10.6 with other requirements reasonably related to the provisions of the regulations and to execute
10.7 development contracts embodying the terms and conditions of approval. The municipality
10.8 may enforce such agreements and conditions by appropriate legal and equitable remedies.

10.9 Sec. 5. Minnesota Statutes 2022, section 473.254, subdivision 2, is amended to read:

10.10 Subd. 2. **Affordable, life-cycle goals.** (a) The council shall negotiate with each
10.11 municipality to establish affordable and life-cycle housing goals for that municipality that
10.12 are consistent with and promote the policies of the Metropolitan Council as provided in the
10.13 adopted Metropolitan Development Guide. The council shall adopt, by resolution after a
10.14 public hearing, the negotiated affordable and life-cycle housing goals for each municipality
10.15 by January 15, 1996, and by January 15 in each succeeding year for each municipality newly
10.16 electing to participate in the program or for each municipality with which new housing
10.17 goals have been negotiated. By June 30, 1996, and by June 30 in each succeeding year for
10.18 each municipality newly electing to participate in the program or for each municipality with
10.19 which new housing goals have been negotiated, each municipality shall identify to the
10.20 council the actions it plans to take to meet the established housing goals.

10.21 (b) Only parcels that are consistent with and promote the policies of the Metropolitan
10.22 Development Guide and are zoned for multifamily housing at the guided level of density
10.23 may qualify toward a municipality's affordable and life-cycle housing goals under this
10.24 subdivision.

10.25 **APPLICATION.** This section applies in the counties of Anoka, Carver, Dakota,
10.26 Hennepin, Ramsey, Scott, and Washington.

10.27 Sec. 6. Minnesota Statutes 2022, section 473.858, subdivision 1, is amended to read:

10.28 Subdivision 1. **No conflicting zoning, fiscal device, official control.** Within nine months
10.29 following the receipt of a metropolitan system statement for an amendment to a metropolitan
10.30 system plan and within three years following the receipt of a metropolitan system statement
10.31 issued in conjunction with the decennial review required under section 473.864, subdivision
10.32 2, every local governmental unit shall have reviewed and, if necessary, amended its
10.33 comprehensive plan in accordance with sections 462.355, 473.175, and 473.851 to 473.871

11.1 and the applicable planning statute and shall have submitted the plan to the Metropolitan
 11.2 Council for review pursuant to section 473.175. The provisions of sections 462.355, 473.175,
 11.3 and 473.851 to 473.871 shall supersede the provisions of the applicable planning statute
 11.4 wherever a conflict may exist. If the comprehensive municipal plan is in conflict with the
 11.5 zoning ordinance, the zoning ordinance shall be brought into conformance with the plan by
 11.6 local government units in conjunction with the review and, if necessary, amendment of its
 11.7 comprehensive plan required under section 473.864, subdivision 2. A local government
 11.8 unit shall not adopt any fiscal device or official control which is in conflict with its
 11.9 comprehensive plan, including any amendments to the plan, or which permits activity in
 11.10 conflict with metropolitan system plans, as defined by section 473.852, subdivision 8. The
 11.11 comprehensive plan shall provide guidelines for the timing and sequence of the adoption
 11.12 of official controls to ensure planned, orderly, and staged development and redevelopment
 11.13 consistent with the comprehensive plan. For purposes of this section, a fiscal device or
 11.14 official control shall not be considered to be in conflict with a local government unit's
 11.15 comprehensive plan or to permit an activity in conflict with metropolitan system plans if
 11.16 such fiscal device or official control is adopted to ensure the planned, orderly, and staged
 11.17 development of urbanization or redevelopment areas designated in the comprehensive plan
 11.18 pursuant to section 473.859, subdivision 5. Fiscal devices and official controls do not conflict
 11.19 with a comprehensive plan if they permit all of the uses that are permitted or required in
 11.20 the comprehensive plan at the densities permitted or required by the comprehensive plan,
 11.21 and they prohibit all of the uses that are expressly prohibited by the comprehensive plan.
 11.22 Fiscal devices and official controls for land guided for commercial or industrial use may
 11.23 be more specific than the comprehensive plan regarding the kinds of commercial or industrial
 11.24 uses that are allowed in specific locations.

11.25 **APPLICATION.** This section applies in the counties of Anoka, Carver, Dakota,
 11.26 Hennepin, Ramsey, Scott, and Washington.

11.27 Sec. 7. Minnesota Statutes 2022, section 473.865, subdivision 2, is amended to read:

11.28 Subd. 2. **No conflict with plans.** A local governmental unit shall not adopt any official
 11.29 control or fiscal device which is in conflict with its comprehensive plan or which permits
 11.30 activity in conflict with metropolitan system plans. Fiscal devices and official controls do
 11.31 not conflict with a comprehensive plan if they permit all of the uses that are permitted or
 11.32 required in the comprehensive plan at the densities permitted or required by the
 11.33 comprehensive plan, and they prohibit all of the uses that are expressly prohibited by the
 11.34 comprehensive plan. Fiscal devices and official controls for land guided for commercial or

12.1 industrial use may be more specific than the comprehensive plan regarding the kinds of
 12.2 commercial or industrial uses that are allowed in specific locations.

12.3 **APPLICATION.** This section applies in the counties of Anoka, Carver, Dakota,
 12.4 Hennepin, Ramsey, Scott, and Washington.

12.5 Sec. 8. Minnesota Statutes 2022, section 473.865, subdivision 3, is amended to read:

12.6 Subd. 3. **Amendments.** If an official control conflicts with a comprehensive plan as the
 12.7 result of an amendment to the plan, the official control shall be amended by the unit within
 12.8 nine months following the amendment to the plan so as to not conflict with the amended
 12.9 comprehensive plan. If a development application is submitted that is not in conflict with
 12.10 the comprehensive plan, it must be processed in accordance with section 15.99.

12.11 **APPLICATION.** This section applies in the counties of Anoka, Carver, Dakota,
 12.12 Hennepin, Ramsey, Scott, and Washington.

12.13 **ARTICLE 4**

12.14 **LIMITING REGULATIONS ON RESIDENTIAL DEVELOPMENT**

12.15 Section 1. Minnesota Statutes 2022, section 462.357, subdivision 1, is amended to read:

12.16 Subdivision 1. **Authority for zoning.** For the purpose of promoting the public health,
 12.17 safety, morals, and general welfare, a municipality may by ordinance regulate on the earth's
 12.18 surface, in the air space above the surface, and in subsurface areas, the location, height,
 12.19 width, bulk, type of foundation, number of stories, size of buildings and other structures,
 12.20 the percentage of lot which may be occupied, the size of yards and other open spaces, the
 12.21 density and distribution of population, the uses of buildings and structures for trade, industry,
 12.22 residence, recreation, public activities, or other purposes, and the uses of land for trade,
 12.23 industry, residence, recreation, agriculture, forestry, soil conservation, water supply
 12.24 conservation, conservation of shorelands, as defined in sections 103F.201 to 103F.221,
 12.25 access to direct sunlight for solar energy systems as defined in section 216C.06, flood control
 12.26 or other purposes, and may establish standards and procedures regulating such uses. To
 12.27 accomplish these purposes, official controls may include provision for purchase of
 12.28 development rights by the governing body in the form of conservation easements under
 12.29 chapter 84C in areas where the governing body considers preservation desirable and the
 12.30 transfer of development rights from those areas to areas the governing body considers more
 12.31 appropriate for development. No regulation may prohibit earth sheltered construction as
 12.32 defined in section 216C.06, subdivision 14, relocated residential buildings, ~~or~~ manufactured
 12.33 homes built in conformance with sections 327.31 to 327.35, or industrialized or modular

13.1 buildings for residential use built in conformance with Minnesota Rules, chapter 1361, that
 13.2 comply with all other zoning ordinances promulgated pursuant to this section. The regulations
 13.3 may divide the surface, above surface, and subsurface areas of the municipality into districts
 13.4 or zones of suitable numbers, shape, and area. The regulations shall be uniform for each
 13.5 class or kind of buildings, structures, or land and for each class or kind of use throughout
 13.6 such district, but the regulations in one district may differ from those in other districts. The
 13.7 ordinance embodying these regulations shall be known as the zoning ordinance and shall
 13.8 consist of text and maps. A city may by ordinance extend the application of its zoning
 13.9 regulations to unincorporated territory located within two miles of its limits in any direction,
 13.10 but not in a county or town which has adopted zoning regulations; provided that where two
 13.11 or more noncontiguous municipalities have boundaries less than four miles apart, each is
 13.12 authorized to control the zoning of land on its side of a line equidistant between the two
 13.13 noncontiguous municipalities unless a town or county in the affected area has adopted
 13.14 zoning regulations. Any city may thereafter enforce such regulations in the area to the same
 13.15 extent as if such property were situated within its corporate limits, until the county or town
 13.16 board adopts a comprehensive zoning regulation which includes the area.

13.17 Sec. 2. Minnesota Statutes 2022, section 462.357, is amended by adding a subdivision to
 13.18 read:

13.19 Subd. 7a. **Two-family property; permitted use.** A two-family property is a permitted
 13.20 use in all areas zoned for single-family residential use and in any residential subdivision
 13.21 development provided the two-family property complies with all municipal standards. For
 13.22 the purposes of this subdivision, a two-family property includes but is not limited to a duplex
 13.23 or a single-family property with an accessory dwelling unit. Any standards, performance
 13.24 conditions, or requirements imposed by the municipality for properties permitted under this
 13.25 subdivision must reasonably relate to protecting the public health, safety, and general welfare.

13.26 Sec. 3. [462.3575] **LIMITING REGULATIONS ON RESIDENTIAL**
 13.27 **DEVELOPMENT.**

13.28 Subdivision 1. **Application.** This section applies to official controls adopted under
 13.29 sections 462.357, 462.358, and 462.3595 governing residential development.

13.30 Subd. 2. **Planned unit development.** (a) A municipality must not require a planned unit
 13.31 development agreement in lieu of a proposed residential development if the proposed
 13.32 residential development complies with existing city zoning ordinances or subdivision
 13.33 regulations, or qualifies as a conditional use.

14.1 (b) A planned unit development agreement must be made available to the public by
 14.2 posting the agreement on the website of the municipality at least seven days prior to the
 14.3 governing body's review of the agreement. If the municipality does not have a website, a
 14.4 copy of the planned unit development agreement must be available for review at the city
 14.5 hall building of the municipality.

14.6 (c) If the agreement is approved by the governing body, the agreement cannot be modified
 14.7 unless all parties to the agreement concur.

14.8 Subd. 3. **Limitation on aesthetic mandates.** A municipality must not condition approval
 14.9 of a residential building permit, subdivision development, or planned unit development on
 14.10 the use of specific materials for aesthetic reasons for property subject to the Minnesota
 14.11 Residential Code under Minnesota Rules, chapter 1309.

14.12 Subd. 4. **Limitation on square footage; accessory structures.** (a) A municipality must
 14.13 not require a minimum square footage for a residential building or accessory structure to a
 14.14 residential building.

14.15 (b) A municipality must not require more than one garage stall for a single-family
 14.16 dwelling.

14.17 **ARTICLE 5**

14.18 **MUNICIPAL DEDICATION FEES**

14.19 Section 1. Minnesota Statutes 2022, section 462.358, subdivision 2b, is amended to read:

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

14.27 (b) If a municipality adopts the ordinance or proceeds under section 462.353, subdivision
 14.28 4a, as required by paragraph (a), the municipality must adopt a capital improvement budget
 14.29 and have a parks and open space plan or have a parks, trails, and open space component in
 14.30 its comprehensive plan subject to the terms and conditions in this paragraph and paragraphs
 14.31 (c) to (i).

15.1 (c) The municipality may choose to accept a cash fee as set by ordinance from the
15.2 applicant for some or all of the new lots created in the subdivision, based on the average
15.3 fair market value of the unplatted land for which park fees have not already been paid that
15.4 is, no later than at the time of final approval or under the city's adopted comprehensive plan,
15.5 to be served by municipal sanitary sewer and water service or community septic and private
15.6 well as authorized by state law. For purposes of redevelopment on developed land, the
15.7 municipality may choose to accept a cash fee based on fair market value of the land no later
15.8 than the time of final approval. "Fair market value" means the value of the land as determined
15.9 by the municipality annually based on tax valuation or other relevant data. If the
15.10 municipality's calculation of valuation is objected to by the applicant, then the value shall
15.11 be as negotiated between the municipality and the applicant, or based on the market value
15.12 as determined by the municipality based on an independent appraisal of land in a same or
15.13 similar land use category.

15.14 (d) In establishing the portion to be dedicated or preserved or the cash fee, the regulations
15.15 shall give due consideration to the open space, recreational, or common areas and facilities
15.16 open to the public that the applicant proposes to reserve for the subdivision.

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

15.19 (f) Cash payments received must be placed by the municipality in a special fund to be
15.20 used only for the purposes for which the money was obtained. The municipality must
15.21 maintain records detailing the purposes for which the money was obtained and the manner
15.22 in which the municipality spent the money to further those purposes. The municipality must
15.23 make the records readily available to the applicant upon request.

15.24 (g) Cash payments received must be used only for the acquisition and development or
15.25 improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space
15.26 based on the approved park systems plan. Cash payments must not be used for ongoing
15.27 operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or
15.28 open space. The municipality must maintain records demonstrating the manner in which
15.29 the municipality used each cash payment.

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

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

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

16.3 (j) The municipality may accept a combination of buildable land and cash fees to satisfy
 16.4 the municipality's dedication requirements set by ordinance pursuant to this subdivision or
 16.5 the procedures established in section 462.353, subdivision 4a. The municipality may require
 16.6 buildable land, cash fees, or a combination of both, to be dedicated for the purposes described
 16.7 in paragraph (a), the total value of which must not exceed ten percent of the fair market
 16.8 value of the proposed subdivision. Land in the proposed subdivision that is not buildable
 16.9 may be dedicated, and the value of that land is not factored into the ten percent limit on the
 16.10 total value of the dedication. Land in the proposed subdivision that is dedicated because of
 16.11 its current or potential use for regional trails applies to the ten percent limit on the total
 16.12 value of the dedication unless the land is already dedicated for street, road, or right-of-way
 16.13 purposes.

16.14 (k) The municipality must not require a dedication of land for streets, roads, or
 16.15 right-of-way to a width that exceeds the minimum engineering standards for urban roadways,
 16.16 as adopted in administrative rules by the commissioner of transportation for the municipal
 16.17 state-aid street system, as provided under sections 162.09, subdivision 1, and 162.155.

16.18 (l) A dedication of land for a street that is not a collector or arterial street must not exceed
 16.19 the amount of land required to construct the street with a curb-to-curb width of 32 feet and
 16.20 associated utilities and sidewalks, if sidewalks are included in the plan for the proposed
 16.21 subdivision. The municipality must apply guidance established by national traffic engineering
 16.22 organizations when designing these streets.

16.23 **ARTICLE 6**

16.24 **METROPOLITAN AREA DENSITY OF DEVELOPMENT**

16.25 Section 1. Minnesota Statutes 2022, section 473.859, subdivision 2, is amended to read:

16.26 Subd. 2. **Land use plan.** (a) A land use plan shall include the water management plan
 16.27 required by section 103B.235, and shall designate the existing and proposed location,
 16.28 intensity and extent of use of land and water, including lakes, wetlands, rivers, streams,
 16.29 natural drainage courses, and adjoining land areas that affect water natural resources, for
 16.30 agricultural, residential, commercial, industrial and other public and private purposes, or
 16.31 any combination of such purposes.

17.1 (b) A land use plan shall contain a protection element, as appropriate, for historic sites,
 17.2 the matters listed in the water management plan required by section 103B.235, and an
 17.3 element for protection and development of access to direct sunlight for solar energy systems.

17.4 (c) A land use plan shall also include a housing element containing standards, plans and
 17.5 programs for providing adequate housing opportunities to meet existing and projected local
 17.6 and regional housing needs, including but not limited to the use of official controls and land
 17.7 use planning to promote the availability of land for the development of low and moderate
 17.8 income housing.

17.9 (d) A land use plan shall also include the local government's goals, intentions, and
 17.10 priorities concerning aggregate and other natural resources, transportation infrastructure,
 17.11 land use compatibility, habitat, agricultural preservation, and other planning priorities,
 17.12 considering information regarding supply from the Minnesota Geological Survey Information
 17.13 Circular No. 46.

17.14 (e) A land use plan and the related official controls shall provide for an average density
 17.15 of residential development of no less than four units per acre for an area: (1) where the
 17.16 municipality has not previously subdivided the area for residential development pursuant
 17.17 to section 462.358, including areas identified as land that may come within the urban service
 17.18 area for residential development; and (2) that is not connected to the metropolitan disposal
 17.19 system. In the area guided for single-family homes, a minimum of 25 percent of the land
 17.20 must allow for a minimum density of eight units per acre. The municipality must guide and
 17.21 zone an area described in this paragraph that it intends to remain rural at a density of no
 17.22 more than one unit per ten acres.

17.23 **EFFECTIVE DATE; APPLICATION.** This section is effective the day following
 17.24 final enactment and applies to a land use plan amendment proposed on or after that date.
 17.25 This section applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott,
 17.26 and Washington.

17.27 **ARTICLE 7**

17.28 **METROPOLITAN COUNCIL; SEWER AVAILABILITY CHARGES**

17.29 Section 1. Minnesota Statutes 2022, section 473.517, subdivision 3, is amended to read:

17.30 Subd. 3. **Allocation of treatment, interceptor costs; reserved capacity.** (a) In preparing
 17.31 each budget the council shall estimate the current costs of acquisition, betterment, and debt
 17.32 service, only, of the treatment works in the metropolitan disposal system which will not be
 17.33 used to total capacity during the budget year, and the percentage of such capacity which

18.1 will not be used, and shall deduct the same percentage of such treatment works costs from
 18.2 the current costs allocated under subdivision 1. The council shall also estimate the current
 18.3 costs of acquisition, betterment, and debt service, only, of the interceptors in the metropolitan
 18.4 disposal system that will not be used to total capacity during the budget year, shall estimate
 18.5 the percentage of the total capacity that will not be used, and shall deduct the same percentage
 18.6 of interceptor costs from the current costs allocated under subdivision 1. The total amount
 18.7 so deducted with respect to all treatment works and interceptors in the system shall be
 18.8 allocated among and paid by the respective local government units in the metropolitan area
 18.9 through a metropolitan sewer availability charge for each new connection or increase in
 18.10 capacity demand to the metropolitan disposal system within each local government unit.
 18.11 Amounts collected through the metropolitan sewer availability charge (SAC) must be
 18.12 deposited in the council's wastewater reserve capacity fund. Each fiscal year an amount
 18.13 from the wastewater reserve capacity fund shall be transferred to the wastewater operating
 18.14 fund for the reserved capacity costs described in this paragraph. For the purposes of this
 18.15 subdivision, the amount transferred from the wastewater reserve capacity fund to the
 18.16 wastewater operating fund shall be referred to as the "SAC transfer amount."

18.17 (b) The council will record on a cumulative basis the total SAC transfer deficit. In any
 18.18 year that the wastewater reserve capacity fund has a year-end balance of at least two years'
 18.19 estimated SAC transfer amount, the council shall increase the subsequent annual SAC
 18.20 transfer amount in excess of the amount required by paragraph (a) with the goal of eliminating
 18.21 the cumulative total SAC transfer deficit. The annual amount by which the council increases
 18.22 the SAC transfer amount shall be determined by the council after appropriate study and a
 18.23 public hearing.

18.24 (c) The council shall adjust the SAC charge so that development in unsewered areas is
 18.25 assessed at actual density, but no less than four SAC units per acre.

18.26 **EFFECTIVE DATE; APPLICATION.** This section is effective January 1, 2024, and
 18.27 applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

18.28 **ARTICLE 8**

18.29 **BUILDING PERMIT DEADLINES**

18.30 Section 1. Minnesota Statutes 2022, section 15.99, subdivision 1, is amended to read:

18.31 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms shall
 18.32 have the meanings given.

19.1 (b) "Agency" means a department, agency, board, commission, or other group in the
 19.2 executive branch of state government; a statutory or home rule charter city, county, town,
 19.3 or school district; any metropolitan agency or regional entity; and any other political
 19.4 subdivision of the state.

19.5 (c) "Request" means a written application for a building permit or a written application
 19.6 related to zoning, septic systems, watershed district review, soil and water conservation
 19.7 district review, or the expansion of the metropolitan urban service area, for a permit, license,
 19.8 or other governmental approval of an action. A request must be submitted in writing to the
 19.9 agency on an application form provided by the agency, if one exists. The agency may reject
 19.10 as incomplete a request not on a form of the agency if the request does not include
 19.11 information required by the agency. A request not on a form of the agency must clearly
 19.12 identify on the first page the specific permit, license, or other governmental approval being
 19.13 sought. No request shall be deemed made if not in compliance with this paragraph.

19.14 (d) "Applicant" means a person submitting a request under this section. An applicant
 19.15 may designate a person to act on the applicant's behalf regarding a request under this section
 19.16 and any action taken by or notice given to the applicant's designee related to the request
 19.17 shall be deemed taken by or given to the applicant.

19.18 Sec. 2. Minnesota Statutes 2022, section 15.99, subdivision 2, is amended to read:

19.19 Subd. 2. **Deadline for response.** (a) Except as otherwise provided in this section, section
 19.20 462.358, subdivision 3b, or 473.175, or chapter 505, and notwithstanding any other law to
 19.21 the contrary, an agency must approve or deny within 60 days a written request for a building
 19.22 permit or a written request relating to zoning, septic systems, watershed district review, soil
 19.23 and water conservation district review, or expansion of the metropolitan urban service area
 19.24 for a permit, license, or other governmental approval of an action. Except as provided in
 19.25 paragraph (b), Failure of an agency to deny a request within 60 days is approval of the
 19.26 request. If an agency denies the request, it must state in writing the reasons for the denial
 19.27 at the time that it denies the request.

19.28 (b) An agency must approve or deny a building application as expeditiously as possible.
 19.29 Failure of an agency to deny a request for a building permit within 60 days is not an approval
 19.30 of the request. An agency that approves or denies a building permit application more than
 19.31 60 days from receipt of the application must refund all relevant permitting fees to the
 19.32 applicant within five business days of the date of the decision on the application.

19.33 ~~(b)~~ (c) When a vote on a resolution or properly made motion to approve a request fails
 19.34 for any reason, the failure shall constitute a denial of the request provided that those voting

20.1 against the motion state on the record the reasons why they oppose the request. A denial of
 20.2 a request because of a failure to approve a resolution or motion does not preclude an
 20.3 immediate submission of a same or similar request.

20.4 ~~(e)~~ (d) Except as provided in paragraph ~~(b)~~ (c), if an agency, other than a multimember
 20.5 governing body, denies the request, it must state in writing the reasons for the denial at the
 20.6 time that it denies the request. If a multimember governing body denies a request, it must
 20.7 state the reasons for denial on the record and provide the applicant in writing a statement
 20.8 of the reasons for the denial. If the written statement is not adopted at the same time as the
 20.9 denial, it must be adopted at the next meeting following the denial of the request but before
 20.10 the expiration of the time allowed for making a decision under this section. The written
 20.11 statement must be consistent with the reasons stated in the record at the time of the denial.
 20.12 The written statement must be provided to the applicant upon adoption.

20.13 ARTICLE 9

20.14 BUILDING PERMIT FEES

20.15 Section 1. Minnesota Statutes 2022, section 326B.153, is amended by adding a subdivision
 20.16 to read:

20.17 Subd. 5. **Valuation.** The commissioner must establish a cost-per-square-foot valuation
 20.18 of new and additions to one- and two-family buildings, townhouse buildings, and accessory
 20.19 utility buildings for the purpose of setting building permit fees by municipalities.

20.20 ARTICLE 10

20.21 ENERGY COST DISCLOSURE

20.22 Section 1. **[513.62] ENERGY COST DISCLOSURE REQUIREMENT.**

20.23 (a) A seller of residential real property must disclose to a prospective purchaser the total
 20.24 cost of the usage of electricity, natural gas, and water over the previous 12-month period
 20.25 of the property, along with information about how the cost compares to the average cost of
 20.26 these utilities per residential household statewide. A utility company that provides electricity,
 20.27 natural gas, or water to a residential property must provide the information described in this
 20.28 paragraph at the request of the seller or the seller's authorized representative.

20.29 (b) A real estate listing for residential real property must include:

20.30 (1) the information described in paragraph (a); and

20.31 (2) the most recent Home Energy Rating System Index score of the property, if the
 20.32 property has received a score.

21.1 **ARTICLE 11**

21.2 **CONSTRUCTION AND DEVELOPMENT FEE REPORT**

21.3 Section 1. Minnesota Statutes 2022, section 326B.145, is amended to read:

21.4 **326B.145 ANNUAL REPORT.**

21.5 (a) Each municipality shall annually report by June 30 to the department, in a format
 21.6 prescribed by the department, all construction and development-related fees collected by
 21.7 the municipality from developers, builders, and subcontractors if the cumulative fees collected
 21.8 exceeded ~~\$5,000~~ \$7,000 in the reporting year, except that, for reports due June 30, 2009,
 21.9 to June 30, 2013, the reporting threshold is \$10,000.

21.10 (b) The report must include:

21.11 (1) the number and valuation of units for which fees were paid;

21.12 (2) the amount of building permit fees, plan review fees, administrative fees, engineering
 21.13 fees, infrastructure fees, and other construction and development-related fees; and

21.14 (3) the expenses associated with the municipal activities for which fees were collected.

21.15 (c) A municipality that fails to report to the department in accordance with this section
 21.16 is subject to the remedies provided by section 326B.082.

21.17 **ARTICLE 12**

21.18 **OAK GROVE, NOWTHEN LAND USE EXCEPTIONS REPEALED**

21.19 Section 1. METROPOLITAN COUNCIL.

21.20 The Metropolitan Council must review and amend as appropriate its metropolitan
 21.21 development guide, policy plans, and system statements to make them consistent with the
 21.22 effect of the repeal of the special laws in section 2.

21.23 **EFFECTIVE DATE; APPLICATION.** This section is effective the day following
 21.24 final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
 21.25 Scott, and Washington.

21.26 Sec. 2. REPEALER.

21.27 Laws 2017, First Special Session chapter 3, article 3, section 126; and Laws 2018, chapter
 21.28 214, article 2, section 46, are repealed.

21.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

Laws 2017, First Special Session chapter 3, article 3, section 126

Sec. 126. **OAK GROVE; COMPREHENSIVE PLAN.**

Subdivision 1. Oak Grove. Notwithstanding any law, metropolitan system plan, the 2015 system statement for the city of Oak Grove, or administrative law judge's decision to the contrary, the area of the city that was the subject of the administrative law judge's decision in OAH 5-2106-33226, dated May 10, 2016, is designated "rural residential" for the purposes of the city's comprehensive plan update.

Subd. 2. Metropolitan Council. The Metropolitan Council shall conform its metropolitan development guide, system plans, and the system statement for the city of Oak Grove to accommodate the provisions in subdivision 1.

EFFECTIVE DATE. This section is effective the day after the governing body of the city of Oak Grove and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3. This section applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Laws 2018, chapter 214, article 2, section 46

Sec. 46. **NOWTHEN; COMPREHENSIVE PLAN.**

Notwithstanding any law, metropolitan system plan, or the 2015 system statement for the city of Nowthen, the Metropolitan Council shall conform its metropolitan development guide, system plans, and the system statement for the city of Nowthen to implement any changes requested by the city of Nowthen relating to the council's designation of part or all of the city for purposes of the metropolitan development guide, systems plans and statements, and the city's comprehensive plan.

EFFECTIVE DATE; APPLICATION. This section is effective the day after the governing body of the city of Nowthen and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3. This section applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.