

Subject Legalizing Affordable Housing Act

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Overview

This bill contains various provisions related to local land use, building permits, building codes, and fees imposed by local governments.

Article 1: Impact Fees

Creates a new chapter 462E providing authority and parameters for the imposition of impact fees by certain local governments. Adds impact fee authority sections in other chapters of the law.

Section Description – Article 1: Impact Fees

- [394.245] Impact fees.**
Authorizes a county board to impose impact fees so long as the board has adopted a comprehensive plan and a capital improvement program.
- [462.3594] Impact fees.**
Authorizes a statutory or home rule charter city to impose impact fees so long as the city has adopted a comprehensive municipal plan and capital improvement program.
- [462E.01] Impact fees; definitions.**
Defines various terms for the purpose of the new chapter 462E, which contains provisions relating to impact fees imposed by a city, town, or county.
- [462E.02] Authority.**
Authorizes a local government to impose impact fees by ordinance.
- [462E.03] Permitted uses.**
Requires that a local ordinance imposing impact fees must specify the purposes for which the fees are imposed on new development. The purposes for which such fees may be imposed are enumerated in this section. Also requires any qualified project to be described in the local government's approved comprehensive plan and capital

Section Description – Article 1: Impact Fees

- improvement plan, with specific information required to be included in the capital improvement plan.
- 6 **[462E.04] Establishment of district; payment of fee.**
Provides that a district is established when the design of the project funded by an impact fee is completed and the governing body of the local government has approved the imposition of the impact fee.

States that the impact fee is due and payable from owners of property located in the district once the district is established and notice is issued. Failure to receive the notice does not postpone or excuse any default.

Payment of the fee must be made within 90 days of district establishment. The local government must provide the option for a property owner to pay the impact fee over a period of up to ten years at an interest rate that reflects the local government's own cost of borrowing.
- 7 **[462E.05] Formula; contributions.**
Requires a local impact fee ordinance to specify the formula by which the cost of the project will be apportioned among the properties in the district. The formula must result in a just and equitable fee. The formula must provide for credits off-setting part or all of the fees that reflect what the new development in the district may have contributed in the form of taxes, other fees, dedications, or other contributions toward the improvement for which the impact fees are imposed.
- 8 **[462E.06] Advisory committee.**
Requires a local government that imposes impact fees to establish an impact fee advisory committee to assist in developing the ordinance.
- 9 **[462E.07] Exemptions.**
Provides that an impact fee ordinance may provide exemptions from impact fees for low- and moderate-income housing if the need for such housing is identified in the comprehensive plan.
- 10 **[462E.08] Segregation of fees; refund.**
Requires impact fees to be placed in a separate account and used only for qualified projects. A local government that imposes an impact fee must refund any fee that is not spent by the time a project is complete. Refunds are in the amount proportional to the payment by the party.

Section Description – Article 1: Impact Fees

11 [462E.09] Notice; recording.

Requires impact fees paid or due to be recorded and notice of such fees to be provided to a purchaser of real property.

12 [462E.10] Model impact fee ordinance.

Requires the League of Minnesota Cities, in collaboration with other stakeholders, to develop a model impact fee ordinance for local governments on or before December 31, 2023.

Article 2: Environmental Review and Comprehensive Land Planning

Section Description – Article 2: Environmental Review and Comprehensive Land Planning

1 Development guide.

Amends the statute for Metropolitan Council development guide requirements to provide that the adoption and amendment of the council’s development guide and the adoption and amendment of its metropolitan system plans, other policy plans, and metropolitan system statements do not constitute conduct that causes or is likely to cause pollution, impairment, or destruction as defined under the environmental rights chapter of the law, or governmental action as defined under the chapter of the Minnesota Statutes on environmental policy.

Effective the day following final enactment.

2 [473.8651] Environmental review.

Provides that the adoption or amendment of comprehensive plans and fiscal devices and official controls consistent with Metropolitan Council comprehensive planning statutes does not constitute conduct that causes or is likely to cause pollution, impairment, or destruction as defined under the environmental rights chapter of the law.

Effective retroactively from March 1, 2018, and applies to actions commenced on or after that date. Applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Article 3: Planning and Zoning

Amends statutes related to conflicts between comprehensive plans and local government official controls and other regulations and policies.

Section Description – Article 3: Planning and Zoning

1 Adopted by ordinance.

Clarifies that official controls do not conflict with a county comprehensive plan if the official controls permit all of the uses permitted or required in the comprehensive plan at the permitted or required densities and the official controls prohibit all of the uses that are prohibited by the comprehensive plan. Official controls for land guided for commercial or industrial use may be more specific than the comprehensive plan regarding the kinds of commercial or industrial uses allowed in specific locations.

Applies to official controls adopted by a county board.

2 Interim ordinance.

Provides that a housing proposal that is consistent with the city comprehensive plan on the date of submission and is submitted or pending before the adoption of an interim ordinance is exempt from the regulations, restrictions, or prohibitions in the interim ordinance.

3 General requirements.

Clarifies that official controls do not conflict with a land use plan if the official controls permit all of the uses that are permitted or required in the land use plan at the permitted or required densities and the official controls prohibit all of the uses prohibited by the land use plan. Official controls for land guided for commercial or industrial use may be more specific than the comprehensive plan regarding the kinds of commercial or industrial uses allowed in specific locations.

Applies to official controls adopted by a city or town.

4 Terms of regulations.

Clarifies that regulations do not conflict with a comprehensive plan if the regulations permit all of the uses permitted or required in the comprehensive plan at the permitted or required densities and the regulations prohibit all uses that are prohibited by the comprehensive plan. Regulations for land guided for commercial or industrial use may be more specific than the comprehensive plan regarding the kinds of commercial or industrial uses allowed in specific locations.

Applies to regulations adopted by a city or town.

5 Affordable, life-cycle goals.

Provides that only parcels consistent with the policies of the Metropolitan Development Guide and zoned for multifamily housing at the guided level of density may qualify toward a municipality's affordable and life-cycle housing goals.

Section Description – Article 3: Planning and Zoning

- Applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.
- 6 **No conflicting zoning, fiscal device, official control.**
Clarifies that fiscal devices and official controls do not conflict with a comprehensive plan if they permit all of the uses permitted or required in the comprehensive plan at the permitted or required densities and they prohibit all of the uses prohibited by the comprehensive plan. Fiscal devices and official controls for land guided for commercial or industrial use may be more specific than the comprehensive plan regarding the kinds of commercial or industrial uses allowed in specific locations.
- Applies to fiscal devices and official controls adopted by cities, counties, and towns in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.
- 7 **No conflict with plans.**
Clarifies that fiscal devices and official controls do not conflict with a comprehensive plan if they permit all of the uses permitted or required in the comprehensive plan at the permitted or required densities and they prohibit all of the uses prohibited by the comprehensive plan. Fiscal devices and official controls for land guided for commercial or industrial use may be more specific than the comprehensive plan regarding the kinds of commercial or industrial uses allowed in specific locations.
- Applies to fiscal devices and official controls adopted by cities, counties, and towns in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.
- 8 **Amendments.**
Provides that a development application that is not in conflict with the comprehensive plan must be processed in accordance with section 15.99.
- Applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Article 4: Limiting Regulations on Residential Development

Contains amendments to several sections of the Minnesota Statutes that relate to residential development.

Section Description – Article 4: Limiting Regulations on Residential Development

1 Authority for zoning.

Adds industrialized or modular buildings for residential use that conform with applicable rules and all other zoning ordinances to the structures that may not be prohibited by regulation.

2 Two-family property; permitted uses.

Authorizes a two-family property, like a duplex or single-family property with an accessory dwelling unit, as a permitted use in all areas zoned for single-family residential use and in any residential subdivision development provided the property complies with all municipal standards. Requirements imposed by the municipality for such properties must be reasonably related to protecting the public health, safety, and general welfare.

3 [462.3575] Limiting regulations on residential development.

Creates a new section 462.3575 limiting certain regulations on residential development.

Subd. 1. Application. Clarifies which official controls the section applies to.

Subd. 2. Planned unit development. Prohibits a municipality from requiring a planned unit development agreement in lieu of a proposed residential development if the proposed development complies with existing city zoning ordinances, subdivision regulation, or qualifies as a conditional use. Planned unit development agreements must be available to the public at least seven days before review of the agreement.

Subd. 3. Limitation on aesthetic mandates. Prohibits a municipality from conditioning approval of a building permit, subdivision development, or planned unit development on specific materials for aesthetic reasons.

Subd. 4. Limitation on square footage; accessory structures. Prohibits a municipality from requiring minimum square footage for a residential building or an accessory structure to a residential building. Also prohibits a municipality from requiring more than one garage stall for a single-family dwelling.

Article 5: Municipal Dedication Fees

Amends the municipal dedicated land provisions to cap fees, amend fee payments, and provide record keeping requirements.

Section Description – Article 5: Municipal Dedication Fees

1 Dedication.

Adds sidewalks to uses of dedicated land. Requires a municipality to maintain records detailing the purposes for which money was obtained and the manner in which it was spent to further those purposes.

Allows a municipality to accept a combination of buildable land and cash fees for a dedication. Caps the total value of a dedication at ten percent of the fair market value of the proposed subdivision. Certain land dedicated for trails factors into the calculation of the total value of the dedication. Non-buildable land may be dedicated above and beyond the ten percent cap.

Prohibits a municipality from requiring a dedication of land for roads beyond the minimum engineering standards for urban roadways. A dedication of land for a street that is not a collector or arterial street cannot exceed a curb-to-curb width of 32 feet along with associated utilities and sidewalks, as appropriate.

Article 6: Metropolitan Area Density of Development

Creates requirements for land use plan residential development densities.

Section Description – Article 6: Metropolitan Area Density of Development

1 Land use plan.

Provides that a land use plan and the related official controls must provide for an average density of residential development of no less than four units per acre for an area that has not been previously subdivided for residential development and that is not connected to the metropolitan disposal system. In areas guided for single-family homes, a minimum of 25 percent of the land must allow for a minimum density of eight units per acre. Land that is intended to remain rural must be guided and zoned at a density of no more than one unit per ten acres.

Effective the day following final enactment and applies to a land use plan amendment proposed on or after that date. Applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Article 7: Metropolitan Council; Sewer Availability Charges

Creates a new sewer availability charge adjustment requirement.

Section Description – Article 7: Metropolitan Council; Sewer Availability Charges

1 Allocation of treatment, interceptor costs; reserved capacity.

Requires the Metropolitan Council to adjust the sewer availability charge (SAC) so that development in unsewered areas is assessed at actual density, but no less than four SAC units per acre.

Effective January 1, 2024, and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Article 8: Building Permit Deadlines

Adds building permits to agency action deadline statute.

Section Description – Article 8: Building Permit Deadlines

1 Definitions.

Adds written applications for building permits to the definition of “request”.

2 Deadline for response.

Adds written requests for building permits to agency approvals or denials with a 60 day deadline.

Requires an agency to approve or deny a building application as expeditiously as possible. An agency that approves or denies a building permit application more than 60 days from receipt of the application must refund all relevant permitting fees to the applicant within five business days of the date of the decision on the application.

Article 9: Building Permit Fees

Requires the commissioner of labor and industry to establish valuation criteria for certain properties for municipal building permit fee purposes.

Section Description – Article 9: Building Permit Fees

1 Valuation.

Requires the commissioner of labor and industry to establish a cost per square foot valuation of certain residential properties and accessory utility buildings for the purpose of setting building permit fees by municipalities.

Article 10: Energy Cost Disclosure

Creates a new requirement for disclosure of utility costs for residential real property.

Section	Description – Article 10: Energy Cost Disclosure
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1	[513.62] Energy cost disclosure requirement.
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	Creates a new section 513.62 which requires a seller of residential real property to disclose to a prospective purchaser the total cost of utility usage over the previous 12-month period along with information about how the cost compares to the average cost of such utilities per residential household statewide. A utility company must provide this information at the request of the seller or a seller's representative. Also requires this information to be included in the real estate listing for the property along with the most recent Home Energy Rating System Index score, if the property has one.
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Article 11: Construction and Development Fee Report

Amends statutory requirements for municipal reporting of construction and development-related fee collections to the Department of Labor and Industry.

Section	Description – Article 11: Construction and Development Fee Report
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1	Annual report.
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	Increases the threshold for municipally collected construction and development-related fees required to be reported annually to the Department of Labor and Industry to fees in excess of \$7,000 in the reporting year.
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Article 12: Oak Grove, Nowthen Land Use Exceptions Repealed

Section	Description – Article 12: Oak Grove, Nowthen Land Use Exceptions Repealed
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1	Metropolitan Council.
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	Requires the Metropolitan Council to review and amend its development guide, policy plans, and system statements to be consistent with the repealer in section 2.
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Effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Section Description – Article 12: Oak Grove, Nowthen Land Use Exceptions Repealed

2 Repealer.

Repeals special laws requiring the Metropolitan Council to modify its Metropolitan Development Guide, system plans, for the cities of Oak Grove and Nowthen.

Effective the day following final enactment.



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