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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **3175**

02/07/2022 Authored by Boldon
The bill was read for the first time and referred to the Committee on State Government Finance and Elections
02/24/2022 Adoption of Report: Placed on the General Register
Read for the Second Time

1.1 A bill for an act
1.2 relating to local government; clarifying planning and zoning authority for
1.3 townships; proposing coding for new law in proposing coding for new law in
1.4 Minnesota Statutes, chapter 366; repealing Minnesota Statutes 2020, sections
1.5 366.10; 366.11; 366.12; 366.125; 366.13; 366.14; 366.15; 366.151; 366.152;
1.6 366.16; 366.17; 366.18; 366.181.

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

1.8 Section 1. **[366.183] AUTHORITY UNDER CHAPTER 462.**

1.9 Subject to any applicable general or special law or local ordinance, a town board that
1.10 has adopted land use, zoning, and restrictions in a town under chapter 366 before the effective
1.11 date of this section shall have the same authority under chapter 462.

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

1.13 Sec. 2. **REPEALER.**

1.14 Minnesota Statutes 2020, sections 366.10; 366.11; 366.12; 366.125; 366.13; 366.14;
1.15 366.15; 366.151; 366.152; 366.16; 366.17; 366.18; and 366.181, are repealed.

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

366.10 ZONING REGULATIONS.

The board of supervisors may submit to the legal voters of the town at an annual or special town meeting, the question whether the board shall adopt land use and zoning regulations and restrictions in the town. The board in a town which has within its borders a hospital established in accordance with Laws 1955, chapter 227, may submit to the voters at an annual or special town meeting, the question whether the board shall adopt land use and zoning regulations and restrictions in the town regulating the type of buildings that may be built or occupations carried on within a radius of one-half mile of the hospital.

366.11 BALLOTS.

The following question shall be printed on the ballots for the election:

"Shall the board of supervisors adopt zoning and related regulations and restrictions?

Yes

No"

The voters shall place a cross-mark after one of the alternatives to express their choice. The ballot shall be cast and counted during the same hours and in the same manner as ballots for the election of the town officers. Except as provided in sections 366.10 to 366.18, the meeting and election shall be subject to the laws regulating town meetings and elections of town officers.

366.12 REGULATIONS.

If a majority of the voters voting on the question vote "Yes," the town board may regulate:

- (1) the location, height, bulk, number of stories, size of buildings and other structures,
- (2) the location of roads and schools,
- (3) the percentage of lot which may be occupied,
- (4) the sizes of yards and other open spaces,
- (5) the density and distribution of population,
- (6) the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and
- (7) the uses of lands for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes.

To carry out this section it shall issue land use or zoning permits or approvals. It shall be unlawful to erect, establish, alter, enlarge, use, occupy, or maintain a building, structure, improvement, or premises without having a land use or zoning permit or approval.

Before adopting a regulation under this section the board shall hold a public hearing on the matter with notice as provided in section 366.15.

This section is subject to section 366.13.

366.125 MAY MAKE APPLICANT CERTIFY THAT TAXES ARE PAID.

The town board may require, either as part of the necessary information on an application or as a condition of a grant of approval, an applicant for an amendment, permit, or other approval required under a regulation established pursuant to sections 366.10 to 366.18 to certify that there are no delinquent property taxes, special assessments, penalties, and interest due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order, or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this section if all required payments that are due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.

366.13 ZONING DISTRICTS.

For the purposes of sections 366.10 to 366.18, if a majority of the voters voting on the question have voted "Yes" at an election under section 366.12, the town board may divide the town into districts or zones of the number, shape, and area as it deems best suited to carry out sections 366.10 to 366.18. Within the districts or zones it may regulate and restrict:

APPENDIX
Repealed Minnesota Statutes: 22-05330

- (1) the location, height, bulk, number of stories, size of buildings and other structures,
- (2) the location of roads and schools,
- (3) the percentage of lot which may be occupied,
- (4) the sizes of yards and other open spaces,
- (5) the density and distribution of population,
- (6) the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and
- (7) the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes.

The regulations shall be uniform for each class and kind of buildings and for the use of land throughout each district, but regulations in one district may differ from those in other districts.

The board may not make a regulation prohibiting the erection, establishment, alteration, enlargement, use, occupancy, or maintenance of a landing area or airport as defined by the federal Civil Aeronautics Act of 1938, owned by a municipality, political subdivision, or public corporation created in and for any two or more municipalities, the operation and use of which has been approved by the Department of Transportation or by the Civil Aeronautics Board and no permit under sections 366.10 to 366.18 shall be required for its erection, establishment, alteration, enlargement, use, occupancy, or maintenance. Regulations made by a board before April 20, 1943, prohibiting such erection, establishment, alteration, enlargement, use, occupancy, or maintenance of airports are annulled.

Before adopting a division or regulation under this section the board shall hold a public hearing on the matter with notice as provided in section 366.15.

366.14 PURPOSE OF REGULATIONS.

Regulations shall be made in accordance with the comprehensive plan to promote the health, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of the town, including, among other things:

- (1) lessening congestion in streets or roads;
- (2) reducing the wastes of excessive amounts of roads;
- (3) securing safety from fire and other dangers;
- (4) providing adequate light and air;
- (5) preventing excessive concentration of population and excessive and wasteful scattering of population or settlement; and
- (6) promoting a distribution of population and classification of land uses and distribution of land development and utilization that will facilitate and conserve provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supplies, and protection of urban and nonurban development.

366.15 DISTRICTS OR ZONES, AMENDMENT.

The board may amend the number, shape, boundary, or area of a district or zone, or a regulation of area within a zone, or a provision of the zoning resolution. Before finally adopting an amendment the board shall hold a public hearing on it, after giving at least ten days' notice of the time and place of the hearing, by at least one publication in a newspaper of general circulation in the county where the town is located. No change may be made in the boundary line of zones or districts unless at least 50 percent of the owners of the lands proposed to be changed file a petition for the change.

366.151 CERTAIN ORDINANCES; MANUFACTURED HOMES.

A town board must not enact, amend, or enforce a zoning ordinance that has the effect of altering the existing density, lot-size requirements, or manufactured home setback requirements in any manufactured home park constructed before January 1, 1995, if the manufactured home park, when constructed, complied with the then existing density, lot-size and setback requirements.

366.152 CONDITIONAL USES.

A manufactured home park, as defined in section 327.14, subdivision 3, is a conditional use in a zoning district that allows the construction or placement of a building used or intended to be used by two or more families.

366.16 TOWN ZONING COMMISSIONER.

The town board may enforce the regulations by withholding land use or zoning permits or approvals, building permits issued under sections 326B.101 to 326B.194, or other permits or approvals. For the purposes of sections 366.10 to 366.18, it may establish the position of town zoning commissioner and fix its compensation. If a building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used or any land is or is proposed to be used in violation of sections 366.10 to 366.18 or a regulation or provision enacted or adopted by the board under sections 366.10 to 366.18, the board, the attorney of the county where the town is situated, the town attorney, the town zoning commissioner, or any adjacent or neighboring property owner may institute any appropriate action to prevent, enjoin, abate, or remove the unlawful erection, construction, reconstruction, alteration, maintenance, or use.

366.17 PLANNING AND ZONING COMMISSION.

To carry out sections 366.10 to 366.18, the town board may appoint a planning and zoning commission, all of whom shall be landowners. The number of commissioners shall be determined by the board. The planning and zoning commission shall act as an adviser to the town board. The commission may be empowered to employ a civil engineer or city planner as required to establish the districts or zones of any parts of the town.

366.18 EXISTING BUILDINGS NOT CHANGED.

The zoning resolution shall not prohibit the continuance of the use of a building for any trade or industry for which it was used when the resolution took effect or the alteration of or addition to an existing building or structure to carry on a prohibited trade or industry in the zone where it is located.

366.181 VIOLATIONS; PENALTIES.

A person who knowingly violates a provision or rule of zoning regulations adopted by any town board pursuant to sections 366.10 to 366.18, is guilty of a misdemeanor.