

(4) completes the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (v) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer;

(5) presents certification by the person who approves the application under clause (4) stating that the applicant has driven a motor vehicle accompanied by and under the supervision of a licensed driver at least 21 years of age, for no less than 30 hours, at least ten of which were nighttime hours; and

(6) pays the fee required in section 171.06, subdivision 2.

(b) For purposes of this section, "moving violation" has the meaning given it in section 171.04, subdivision 1.

(c) Notwithstanding paragraph (a), clause (2), the commissioner shall not issue a provisional license to a person who has ever incurred a conviction for violation of section 169A.20, 169A.33, or 169A.35; a violation of a provision of sections 169A.50 to 169A.53; or a crash-related moving violation, and at the time of the conviction the person did not possess an instruction permit.

Sec. 4. EFFECTIVE DATE.

This act is effective the day following final enactment.

Presented to the governor May 6, 2004

Signed by the governor May 7, 2004, 3:05 p.m.

CHAPTER 178—H.F.No. 2103

An act relating to real property; local planning and zoning; authorizing municipalities to require the dedication of land for public purposes; providing certain terms and conditions for the dedication; amending Minnesota Statutes 2002, section 462.358, subdivision 2b, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 462.353, subdivision 4.

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

Section 1. Minnesota Statutes 2003 Supplement, section 462.353, subdivision 4, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

(4) completes the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (v) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer;

(5) presents certification by the person who approves the application under clause (4) stating that the applicant has driven a motor vehicle accompanied by and under the supervision of a licensed driver at least 21 years of age, for no less than 30 hours, at least ten of which were nighttime hours; and

(6) pays the fee required in section 171.06, subdivision 2.

(b) For purposes of this section, "moving violation" has the meaning given it in section 171.04, subdivision 1.

(c) Notwithstanding paragraph (a), clause (2), the commissioner shall not issue a provisional license to a person who has ever incurred a conviction for violation of section 169A.20, 169A.33, or 169A.35; a violation of a provision of sections 169A.50 to 169A.53; or a crash-related moving violation, and at the time of the conviction the person did not possess an instruction permit.

Sec. 4. EFFECTIVE DATE.

This act is effective the day following final enactment.

Presented to the governor May 6, 2004

Signed by the governor May 7, 2004, 3:05 p.m.

CHAPTER 178—H.F.No. 2103

An act relating to real property; local planning and zoning; authorizing municipalities to require the dedication of land for public purposes; providing certain terms and conditions for the dedication; amending Minnesota Statutes 2002, section 462.358, subdivision 2b, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 462.353, subdivision 4.

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

Section 1. Minnesota Statutes 2003 Supplement, section 462.353, subdivision 4, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **FEES.** (a) A municipality may prescribe fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control established pursuant to sections 462.351 to 462.364 or an application for a permit or other approval required under an official control established pursuant to those sections. Except as provided in subdivision 4a, fees as prescribed must be by ordinance. Fees must be fair, reasonable, and proportionate, and have a nexus to the actual cost of the service for which the fee is imposed.

(b) A municipality shall must adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected. Upon request, a municipality must explain the basis of its fees.

(c) Except as provided in this paragraph, a fee ordinance or amendment to a fee ordinance is effective January 1 after its adoption. A municipality may adopt a fee ordinance or an amendment to a fee ordinance with an effective date other than the next January 1, but the ordinance or amendment does not apply if an application for final approval has been submitted to the municipality.

(d) If a dispute arises over a specific fee imposed by a municipality related to a specific application, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal under section 462.361, provided that the appeal must be brought within 60 days after approval of an application under this section and deposit of the fee into escrow. A municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee. An approved application may proceed as if the fee had been paid, pending a decision on the appeal. This paragraph must not be construed to preclude the municipality from conditioning approval of any proposed subdivision or development on an agreement to waive a challenge to the cost associated with municipally installed improvements of the type described in section 429.021.

Sec. 2. Minnesota Statutes 2002, section 462.358, subdivision 2b, is amended to read:

Subd. 2b. **DEDICATION.** (a) The regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements.

(b) In addition, the regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes or for public use as parks, recreational facilities as defined and outlined in section 471.191, playgrounds, trails, wetlands, or open space; provided that (a) (1) the municipality may choose to accept an equivalent amount in cash from the applicant for part or all of the portion required to be dedicated to such public uses or purposes based on the fair market value of the land no later than at the time of final approval, (b) (2) any cash payments received shall be placed in a special fund by the municipality used only for the purposes for which the money was obtained, (c) and may not be used for ongoing operation or maintenance, (3) in establishing the reasonable portion to be

New language is indicated by underline, deletions by strikeout.

dedicated, the regulations may consider the open space, park, recreational, or common areas and facilities which the applicant proposes to reserve for the subdivision, and (d) (4) the municipality reasonably determines that it will need to acquire that portion of land for the purposes stated in this paragraph as a result of approval of the subdivision. The basis for calculating the amount to be dedicated or preserved must be established by ordinance or pursuant to the procedures established in section 462.353, subdivision 4a.

Sec. 3. Minnesota Statutes 2002, section 462.358, is amended by adding a subdivision to read:

Subd. 2c. **NEXUS.** (a) There must be an essential nexus between the fees or dedication imposed under subdivision 2b and the municipal purpose sought to be achieved by the fee or dedication. The fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development.

(b) If a municipality is given written notice of a dispute over a proposed fee in lieu of dedication before the municipality's final decision on an application, a municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee in lieu of dedication.

(c) An application may proceed as if the fee had been paid, pending a decision on the appeal of a dispute over a proposed fee in lieu of dedication, if (1) the person aggrieved by the fee puts the municipality on written notice of a dispute over a proposed fee in lieu of dedication, (2) prior to the municipality's final decision on the application, the fee in lieu of dedication is deposited in escrow, and (3) the person aggrieved by the fee appeals under section 462.361, within 60 days of the approval of the application. If such an appeal is not filed by the deadline, or if the person aggrieved by the fee does not prevail on the appeal, then the funds paid into escrow must be transferred to the municipality.

Sec. 4. **EFFECTIVE DATE; APPLICATION.**

This act is effective August 1, 2004, and applies to ordinances relating to fees, fee schedules, and dedications adopted or amended on or after August 1, 2004.

Presented to the governor May 7, 2004

Signed by the governor May 10, 2004, 10:30 p.m.

CHAPTER 179—H.F.No. 2005

An act relating to the environment; extending the restriction on phosphorus use in fertilizers; amending Minnesota Statutes 2002, section 18C.60, subdivision 2.

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

New language is indicated by underline, deletions by ~~strikeout~~.