

CHAPTER 269—H.F.No. 3451

An act relating to municipal planning; providing standards for dedication of land to the public in a proposed development; amending Minnesota Statutes 2004, section 462.358, subdivision 2b.

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

Section 1. Minnesota Statutes 2004, section 462.358, subdivision 2b, is amended to read:

Subd. 2b. **Dedication.** (a) The regulations may require that a reasonable portion of the buildable land, as defined by municipal ordinance, 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, parks, recreational facilities as defined in section 471.191, playgrounds, trails, wetlands, or open space. The requirement must be imposed by ordinance or under the procedures established in section 462.353, subdivision 4a.

~~(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 (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, (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, and may not be used for ongoing operation or maintenance, (3) in establishing the reasonable portion to be 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 (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. (b) If a municipality adopts the ordinance or proceeds under section 462.353, subdivision 4a, as required by paragraph (a), the municipality must adopt a capital improvement budget and have a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan subject to the terms and conditions in this paragraph and paragraphs (c) to (i).~~

(c) The municipality may choose to accept a cash fee as set by ordinance from the applicant for some or all of the new lots created in the subdivision, based on fair market value of the land, no later than at the time of final approval.

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

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

(f) Cash payments received must be placed by the municipality in a special fund to be used only for the purposes for which the money was obtained.

(g) Cash payments received must be used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park systems plan. Cash payments must not be used for ongoing operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or open space.

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

(i) Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then the park dedication or per-lot cash fee must apply only to the net increase of lots.

Sec. 2. **DEDICATION FEE.**

The Minneapolis Park and Recreation Board and the Minneapolis City Council may jointly exercise the powers conferred under Minnesota Statutes, section 462.358, with respect to requiring that a reasonable portion of land be dedicated to the public or imposing a dedication fee on new housing units in the city, wherever located, for public parks, playgrounds, recreational facilities, wetlands, or open space. The dedication of land or dedication fee must be imposed by an ordinance jointly enacted by the park board and the city council. The ordinance may exclude senior housing and affordable housing from paying the fee or the dedication of land. The provisions of Minnesota Statutes, section 462.358, subdivisions 2b, paragraph (b), and 2c, apply to the imposition, application, and use of the dedication of land or the dedication fee.

Sec. 3. **EFFECTIVE DATE.**

Section 2 is effective upon compliance by the Minneapolis Park and Recreation Board and the Minneapolis City Council with Minnesota Statutes, section 645.021.

Presented to the governor May 22, 2006

Signed by the governor May 31, 2006, 10:30 p.m.