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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 321

02/04/2013 Authored by Hornstein; Dehn, R.; Kahn; Allen; Mullery and others
The bill was read for the first time and referred to the Committee on Government Operations
02/13/2013 Adoption of Report: Pass as Amended and Read Second Time
02/25/2013 Calendar for the Day
Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act
1.2 relating to local government; defining fair market value for purposes of certain
1.3 development fees; changing the city of Minneapolis and the Minneapolis Park
1.4 and Recreation Board joint dedication fee; amending Minnesota Statutes 2012,
1.5 section 462.358, subdivision 2b; Laws 2006, chapter 269, section 2, as amended.

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

1.7 Section 1. Minnesota Statutes 2012, section 462.358, subdivision 2b, is amended to read:

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

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

1.20 (c) The municipality may choose to accept a cash fee as set by ordinance from the
1.21 applicant for some or all of the new lots created in the subdivision, based on the average
1.22 fair market value of the unplatted land for which park fees have not already been paid that
1.23 is, no later than at the time of final approval or under the city's adopted comprehensive
1.24 plan, to be served by municipal sanitary sewer and water service or community septic and
1.25 private well as authorized by state law. For purposes of redevelopment on developed

2.1 land, the municipality may choose to accept a cash fee based on fair market value of the
 2.2 land no later than the time of final approval. "Fair market value" means the value of the
 2.3 land as determined by the municipality annually based on tax valuation or other relevant
 2.4 data. If the municipality's calculation of valuation is objected to by the applicant, then
 2.5 the value shall be as negotiated between the municipality and the applicant, or based on
 2.6 the market value as determined by the municipality based on an independent appraisal of
 2.7 land in a same or similar land use category.

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

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

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

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

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

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

2.28 Sec. 2. Laws 2006, chapter 269, section 2, as amended by Laws 2008, chapter 331,
 2.29 section 11, and Laws 2008, chapter 366, article 17, section 5, is amended to read:

2.30 Sec. 2. **DEDICATION FEE.**

2.31 The Minneapolis Park and Recreation Board and the Minneapolis City Council may
 2.32 jointly exercise the powers conferred under Minnesota Statutes, section 462.358, with
 2.33 respect to ~~requiring~~ require that a reasonable portion of land be dedicated to the public or
 2.34 ~~imposing~~ impose a dedication fee ~~on~~ in conjunction with the construction permit required
 2.35 for new housing units and new commercial and industrial development in the city,

3.1 wherever located, for public parks, playgrounds, recreational facilities, wetlands, trails, or
3.2 open space. The dedication of land or dedication fee must be imposed by an ordinance
3.3 jointly enacted by the park board and the city council. The cash fee may be set at a flat fee
3.4 rate per net new residential unit. The ordinance may exclude senior housing and affordable
3.5 housing from paying the fee or the dedication of land. The ordinance must exclude from
3.6 paying the fee or making a dedication of land housing owned or constructed by a business
3.7 eligible for designation as a targeted group business under Minnesota Statutes, section
3.8 16C.16, subdivision 5, or as a veteran-owned small business under Minnesota Statutes,
3.9 section 16C.16, subdivision 6a. The provisions of Minnesota Statutes, section 462.358,
3.10 subdivisions 2b, paragraph (b), and 2c, apply to the ~~imposition,~~ application, and use of the
3.11 dedication of land or the dedication fee. Park land acquired or developed with fees paid
3.12 under this section must not be within 1500 feet of the residence of a person designated as a
3.13 risk level III predatory offender under Minnesota Statutes, section 244.052, subdivision 3.

3.14 **EFFECTIVE DATE.** This section is effective the day after the Minneapolis City
3.15 Council and the Minneapolis Park and Recreation Board and their chief clerical officers
3.16 timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions
3.17 2 and 3, and applies to joint dedication fee ordinances adopted or amended by the city of
3.18 Minneapolis and the Minneapolis Park and Recreation Board before, on, or after that date.