

Subject Comprehensive housing affordability act

Authors Elkins

Analyst Chelsea Griffin

Date August 10, 2021

### 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.

### Section Description – Article 1: Impact Fees

---

- 1 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.
- 2 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.
- 3 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.
- 4 Authority.**  
Authorizes a local government to impose impact fees by ordinance.
- 5 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 improvement plan.

**Section Description – Article 1: Impact Fees**

---

**6 Formula; contributions.**

Requires a local impact fee ordinance to specify the formula by which fees will be imposed. The formula must result in fee amounts that are just and equitable, and must provide for credits off-setting some or all of the fees to reflect what the new development may have contributed financially in other ways (e.g. taxes, other fees) toward the purposes for which the impact fee was imposed.

**7 Advisory committee.**

Requires a local government that imposes impact fees to establish an impact fee advisory committee to assist in developing the ordinance.

**8 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.

**9 Refund of unused fees.**

Requires impact fees to be placed in a separate account and used only for qualified projects. Provides that impact fees may accumulate for six years and an impact fee ordinance may provide for a onetime extension of five years. Unused fees must be refunded to the current owners of the property on which the fees were imposed in proportion to the amount paid.

**10 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.

**11 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, 2022.

## **Article 2: Municipal Street Improvement Districts**

Authorizes the establishment of municipal street improvement districts and the imposition of street improvement fees on developed parcels or tracts within the district.

Effective July 1, 2022.

**Section Description – Article 2: Municipal Street Improvement Districts**

---

**1 Municipal street improvement districts.**

Creates a new section 435.39 governing municipal street improvement districts.

**Subd. 1. Definitions.** Defines various terms for the purpose of the section.

**Subd. 2. Authorization.** Authorizes a municipality to impose a street improvement fee by ordinance after providing public notice and holding a public hearing.

**Subd. 3. Street improvement fee.** Requires street improvement fees to be apportioned to all developed parcels in the district. A street improvement district must not include any property located in another street improvement district.

**Subd. 4. Apportionment.** Requires the costs of municipal street improvements and maintenance to be apportioned to developed parcels or tracts of land in the district on the basis of each parcel's or tract's relative share of vehicular trips to and from all developed parcels and tracts in the district during the preceding calendar quarter based on sample data from a certified source.

**Subd. 5. Adoption of plan; notice and hearing.** Requires a municipality to propose and adopt a street improvement plan before establishing a municipal street improvement district or authorizing a street improvement fee. Notice and a public hearing must occur on the plan prior to adoption.

**Subd. 6. Use of fees.** Requires street improvement fee revenue to be placed in a separate account and used only for projects in the street improvement district that are also identified in the municipal street improvement plan.

**Subd. 7. Collection; up to 20 years.** Requires an ordinance imposing a street improvement fee to provide for billing and payment of the fee on a stated, regular basis. The fee may be collected for no more than 20 years. Fees unpaid for at least 30 days may be certified to the county auditor for collection as a special assessment in the following calendar year.

**Subd. 8. Not exclusive means of financing improvements.** Clarifies that a municipality that imposes a street improvement fee may impose other measures under law or home rule charter to pay the costs of local street improvements or maintenance. However, such a municipality must not impose special assessments for projects funded with street improvement fees.

**Subd. 9. Unimproved parcels; fees.** Prohibits a municipality from imposing a street improvement fee on an unimproved parcel in a street improvement district until three years or more after the date of substantial completion of the

**Section Description – Article 2: Municipal Street Improvement Districts**

---

paving of the unimproved street or the date a structure is built and occupied, whichever is later.

**Subd. 10. Institutions of public charity.** Prohibits a municipality from imposing a street improvement fee on any parcel owned by an institution of public charity.

**Subd. 11. Appeal to district court.** Provides that any affected landowner may appeal the street improvement fee to the district court by serving notice on the mayor or municipal clerk.

## **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.

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.

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

**Section Description – Article 3: Planning and Zoning**

---

permitted or required densities and the regulations prohibit all uses that are prohibited by the comprehensive plan.

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.

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.

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.

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 an official control in conflict with a comprehensive plan shall be amended within 60 days of the submission of a development application that is not in conflict with the comprehensive plan.

Applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

## Article 4: Limiting Regulations on Residential Development

Adds duplexes as a permitted use in certain residential areas and creates new limits on residential development regulations.

---

<b>Section</b>	<b>Description – Article 4: Limiting Regulations on Residential Development</b>
----------------	---

---

**1 Duplex is a permitted use.**

Provides that a duplex is a permitted use in all areas zoned for single-family residential use and in any residential subdivision development.

**2 Limiting 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. Also prohibits a municipality from requiring planned unit development agreement conditions that exceed the State Building Code requirements. Planned unit development agreements must be available to the public 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, design, amenities, and other aesthetics that are not required by the State Building Code.

**Subd. 4. Garages.** Prohibits a municipality from requiring more than one garage 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.

---

<b>Section</b>	<b>Description – Article 5: Municipal Dedication Fees</b>
----------------	---

---

**1 Dedication.**

Adds sidewalks to uses of dedicated land. Caps the park fee at ten percent of the fair market value of the development. Allows for certain in-kind contributions for fee payment. Provides that the value of any portion dedicated or preserved for parks or trails must be deducted from any cash fee. Requires a municipality to maintain records detailing the purposes for which money was obtained and the manner in

**Section Description – Article 5: Municipal Dedication Fees**

---

which it was spent to further those purposes. Prohibits a municipality from requiring a dedication of land for certain streets.

## **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 related official controls for certain areas must provide for a density of residential development of at least five units per acre or no more than one unit per ten acres if intended to remain rural.

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 three SAC units per acre without regard to the actual number of connections.

Applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington and is effective January 1, 2023.

## **Article 8: Low Income Housing Applications**

Adds provisions related to applications for local housing money.

**Section Description – Article 8: Low Income Housing Applications**

---

- 1      **Applications allowed.**  
Requires a city as defined under chapter 462C to accept an application to the Minnesota Housing Finance Agency for a project as the city’s application for local housing money for the same project.
  
- 2      **Late fines prohibited.**  
Prohibits a city as defined under chapter 462C from fining certain nonprofits for turning in a late application for local housing money.

**Article 9: Building Permit Deadlines**

Adds building permits to agency action deadline statute and prohibits local government opt outs from the temporary family health care dwelling requirements.

**Section Description – Article 9: 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.
  
- 3 to 4      **Opt-out.**  
Prohibits local governments from opting out of temporary family health care dwelling requirements.  
  
Effective retroactively from September 1, 2016.

**Article 10: Building Permit Fees**

Requires building permit fees to be based on a cost per square foot starting in 2022.

**Section Description – Article 10: Building Permit Fees**

---

- 1      **Building permit fees; municipalities.**  
Requires fees for building permits adopted by a municipality to be based on a cost per square foot as of January 1, 2022. Fees must be publicly available.

## **Article 11: Energy Cost Disclosure and Energy Code Payback Period**

Contains amendments to model building code adoption requirements and creates a new requirement for disclosure of utility costs for residential real property.

---

### **Section Description – Article 11: Energy Cost Disclosure and Energy Code Payback Period**

---

**1 Adoption of code.**

Requires the commissioner of the Department of Labor and Industry to review and adopt model building codes within two years of the published edition date no sooner than 2026 unless provided by law. The commissioner may not adopt new energy codes unless the commissioner determines that any cost to residential construction or remodeling per unit would be no more than the net present value of the projected energy savings over 30 years due to the proposed changes. The limitations on adoption of new codes do not apply to code changes necessary to protect the immediate health, safety, and welfare of the public.

Effective retroactively from January 1, 2021, and applies to rules proposed or adopted but not yet effective as of January 1, 2021.

**2 Energy cost disclosure requirement.**

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.

## **Article 12: 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 12: Construction and Development Fee Report**

---

**1 Annual report.**

Changes the threshold for construction and development-related fee collections in municipal annual reports to the Department of Labor and Industry to fees collected in excess of \$7,000. Adds requirements for increased specificity in such reports. Requires a municipality with less than \$7,000 in collections to submit a report stating this fact. Requires the department to include certain definitions when developing the reporting form.

## Article 13: Oak Grove, Nowthen Land Use Exceptions Repealed

### Section Description – Article 13: Oak Grove, Nowthen Land Use Exceptions Repealed

---

**1 Metropolitan Council.**

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.

Effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

**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.



**MN HOUSE  
RESEARCH**

*Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.*

[www.house.mn/hrd](http://www.house.mn/hrd) | 651-296-6753 | 155 State Office Building | St. Paul, MN 55155