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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. 1629

March 5, 2007

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The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs

1.1 A bill for an act  
1.2 relating to municipal planning and zoning; clarifying the determination of fair  
1.3 market value in certain dedication proceedings; amending Minnesota Statutes  
1.4 2006, section 462.358, subdivision 2b.

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

1.6 Section 1. Minnesota Statutes 2006, section 462.358, subdivision 2b, is amended to  
1.7 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~~ upon the  
1.22 average fair market value of the undeveloped land that is, no later than at the time of final  
1.23 approval or under the city's adopted comprehensive plan, may be served by municipal  
1.24 sanitary sewer and water service.

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

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

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

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

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

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