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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1813**

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

A bill for an act

relating to planning and zoning; requiring counties to consider natural heritage data in adopting or amending comprehensive plans; requiring comprehensive plans in greater Minnesota to limit development on agricultural, forest, wildlife, and open space land; requiring priority provisions in certain county and city comprehensive plans; requiring certain development to occur in designated priorities; providing a bill title; amending Minnesota Statutes 2006, sections 394.23; 394.232, subdivision 6; 394.24, by adding a subdivision; 394.25, subdivision 2; 462.355, subdivision 1; 462.357, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 394.

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

Section 1. Minnesota Statutes 2006, section 394.23, is amended to read:

394.23 COMPREHENSIVE PLAN.

The board has the power and authority to prepare and adopt by ordinance, a comprehensive plan. A comprehensive plan or plans when adopted by ordinance must be the basis for official controls adopted under the provisions of sections 394.21 to 394.37. When adopting or updating the comprehensive plan, the board must, if the data is available to the county, consider natural heritage data resulting from the county biological survey. The board must consider adopting policies that will protect open space and the environment by adopting the state's livestock production policy.

Sec. 2. [394.231] COMPREHENSIVE PLANS IN GREATER MINNESOTA.

A comprehensive plan adopted in a county outside the metropolitan area, as defined by section 473.121, subdivision 2, must contain priority provisions for the preservation of agricultural, forest, wildlife, and open space land and minimizing development in sensitive shoreland areas that are identified as priority provisions of the comprehensive plan and

2.1 that are consistent with section 40A.05, subdivision 2. At the time of the next updating of
 2.2 the comprehensive plan it must contain the priority provisions, and within three years the
 2.3 county must adopt ordinances as part of the county's official controls that ensure that the
 2.4 goals and objectives of the priority provisions are implemented.

2.5 The goals and objectives shall include:

2.6 (1) minimizing the fragmentation and development of agricultural, forest, wildlife,
 2.7 and open space lands;

2.8 (2) minimizing further development in sensitive shoreland areas;

2.9 (3) minimizing development near wildlife management areas, scientific and natural
 2.10 areas, and nature centers;

2.11 (4) encouraging development within city limits;

2.12 (5) encouraging development close to places of employment, shopping centers,
 2.13 schools, mass transit, and other public and private service centers; and

2.14 (6) encouraging farms, privately owned forest lands, and other privately owned open
 2.15 spaces to stay in business and not sell for development.

2.16 Sec. 3. Minnesota Statutes 2006, section 394.232, subdivision 6, is amended to read:

2.17 Subd. 6. **Plan update.** The county board, or the board of the joint planning district,
 2.18 shall review and update the community-based comprehensive plan periodically, but at
 2.19 least every ten years, and submit the updated plan to the office of strategic and long-range
 2.20 planning for review and comment. When updating the plan, the county board or the board
 2.21 of the joint planning district must consider natural heritage data resulting from the county
 2.22 biological survey. The board must consider adopting policies that will protect open space
 2.23 and the environment by adopting the state's livestock production policy.

2.24 Sec. 4. Minnesota Statutes 2006, section 394.24, is amended by adding a subdivision
 2.25 to read:

2.26 Subd. 4. **Development priority.** In adopting official controls after July 1, 2007,
 2.27 the county must, to the greatest extent practicable, do so with respect to new residential,
 2.28 commercial, and industrial development so that the new development takes place in areas
 2.29 under the following priority sequence:

2.30 (1) the highest priority must be given to new development in a statutory or home
 2.31 rule charter city in which city water and sewer service is currently available but only if the
 2.32 development is consistent with the areas in which development is occurring or likely to
 2.33 occur as identified in section 40A.05, subdivision 2, clause (5);

3.1 (2) the next priority would be in areas immediately adjacent to a city that is zoned
 3.2 for residential, commercial, or industrial development and city water and sewer service
 3.3 is either currently available or is to be made available in the near future but only if the
 3.4 development is consistent with the areas in which development is occurring or likely to
 3.5 occur as identified in section 40A.05, subdivision 2, clause (5);

3.6 (3) the next priority would be in areas in which clustered development is permitted
 3.7 and city water and sewer service is currently available;

3.8 (4) the next priority would be in areas in which clustered development is permitted
 3.9 but city water and sewer service is not currently available;

3.10 (5) the next priority would be for scattered development in which no more than one
 3.11 development or residential unit for each 160 acres would be permitted; and

3.12 (6) the final priority would be for scattered development in which more than one
 3.13 development or residential unit for each 160 acres would be permitted.

3.14 Sec. 5. Minnesota Statutes 2006, section 394.25, subdivision 2, is amended to read:

3.15 Subd. 2. **Districts set by zoning ordinances.** Zoning ordinances establishing
 3.16 districts within which the use of land or the use of water or the surface of water pursuant
 3.17 to section 86B.205 for agriculture, forestry, recreation, residence, industry, trade, soil
 3.18 conservation, water supply conservation, surface water drainage and removal, conservation
 3.19 of shorelands, as defined in sections 103F.201 to 103F.221, and additional uses of land
 3.20 and of the surface of water pursuant to section 86B.205, may be by official controls
 3.21 encouraged, regulated, or prohibited and for such purpose the board may divide the county
 3.22 into districts of such number, shape, and area as may be deemed best suited to carry out
 3.23 the comprehensive plan. Official controls may also be applied to wetlands preservation,
 3.24 open space, parks, sewage disposal, protection of groundwater, protection of floodplains
 3.25 as defined in section 103F.111, protection of wild, scenic, or recreational rivers as defined
 3.26 in sections 103F.311 and 103F.315, protection of slope, soils, unconsolidated materials
 3.27 or bedrock from potentially damaging development, preservation of forests, woodlands
 3.28 and essential wildlife habitat, reclamation of nonmetallic mining lands; protection and
 3.29 encouragement of access to direct sunlight for solar energy systems as defined in section
 3.30 216C.06, subdivision 17; and the preservation of agricultural lands. Official controls
 3.31 adopted after July 1, 2007, applicable to agricultural, forest, wildlife, and open space land
 3.32 must be consistent with section 40A.05, subdivision 3, and must be adopted and applied to
 3.33 ensure to the greatest extent practicable the preservation of agricultural, forest, wildlife,
 3.34 and open space land and to minimize the development of sensitive shoreland areas.
 3.35 Official controls may include provisions for purchase of development rights by the board

4.1 in the form of conservation easements under chapter 84C in areas where preservation is
 4.2 considered by the board to be desirable, and the transfer of development rights from those
 4.3 areas to areas within the urban growth boundary of a statutory or home rule charter city or
 4.4 other areas the board considers more desirable for development.

4.5 Sec. 6. Minnesota Statutes 2006, section 462.355, subdivision 1, is amended to read:

4.6 Subdivision 1. **Preparation and review.** The planning agency shall prepare the
 4.7 comprehensive municipal plan. In discharging this duty the planning agency shall
 4.8 consult with and coordinate the planning activities of other departments and agencies
 4.9 of the municipality to insure conformity with and to assist in the development of the
 4.10 comprehensive municipal plan. In its planning activities the planning agency shall take due
 4.11 cognizance of the planning activities of adjacent units of government and other affected
 4.12 public agencies. The planning agency shall periodically review the plan and recommend
 4.13 amendments whenever necessary. When preparing or recommending amendments to the
 4.14 comprehensive plan, the planning agency must consider adopting policies that will protect
 4.15 open space and the environment by adopting the state's livestock production policy.

4.16 Sec. 7. Minnesota Statutes 2006, section 462.357, is amended by adding a subdivision
 4.17 to read:

4.18 Subd. 1h. **Comprehensive plans in greater Minnesota.** A comprehensive plan
 4.19 adopted in a municipality outside the metropolitan area, as defined in section 473.121,
 4.20 subdivision 2, must contain provisions for the preservation of agricultural, forest, wildlife,
 4.21 and open space land and the minimization of development in sensitive shoreland areas
 4.22 that are identified as priority provisions of the comprehensive plan and that are consistent
 4.23 with section 40A.05, subdivision 2. At the time of the next updating of the comprehensive
 4.24 plan it must contain the priority provisions, and within three years the municipality must
 4.25 adopt ordinances as part of the municipality's official controls that ensure that the goals
 4.26 and objectives of the priority provisions are implemented.

4.27 Sec. 8. Minnesota Statutes 2006, section 462.357, is amended by adding a subdivision
 4.28 to read:

4.29 Subd. 9. **Development priority.** In adopting official controls after July 1, 2007,
 4.30 the municipality must do so with respect to new residential, commercial, and industrial
 4.31 development so that the new development takes place in areas under the following priority
 4.32 sequence:

5.1 (1) the highest priority must be given to new development in a statutory or home
5.2 rule charter city in which city water and sewer service is currently available but only if the
5.3 development is consistent with the areas in which development is occurring or likely to
5.4 occur as identified in section 40A.05, subdivision 2, clause (5);

5.5 (2) the next priority would be in areas immediately adjacent to a city that is zoned
5.6 for residential, commercial, or industrial development and city water and sewer service
5.7 is either currently available or is to be made available in the near future but only if the
5.8 development is consistent with the areas in which development is occurring or likely to
5.9 occur as identified in section 40A.05, subdivision 2, clause (5);

5.10 (3) the next priority would be in areas in which clustered development is permitted
5.11 and city water and sewer service is currently available;

5.12 (4) the next priority would be in areas in which clustered development is permitted
5.13 but city water and sewer service is not currently available;

5.14 (5) the next priority would be for scattered development in which no more than one
5.15 development or residential unit for each 160 acres would be permitted; and

5.16 (6) the final priority would be for scattered development in which more than one
5.17 development or residential unit for each 160 acres would be permitted.

5.18 **Sec. 9. TITLE.**

5.19 Sections 1 to 8 shall be known as the President Theodore Roosevelt Memorial Bill
5.20 to Preserve Agricultural, Forest, Wildlife, and Open Space Land.

5.21 **Sec. 10. EFFECTIVE DATE.**

5.22 Sections 1 to 9 are effective July 1, 2007.