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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-SEVENTH  
SESSION

**HOUSE FILE No. 389**

February 7, 2011

Authored by Beard, Quam, Urdahl, Nelson and Sanders

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act  
1.2 relating to local government; providing for interim planning ordinances;  
1.3 providing for municipal development contracts; amending Minnesota Statutes  
1.4 2010, sections 394.34; 462.355, subdivision 4; 462.358, subdivision 2a.

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

1.6 Section 1. Minnesota Statutes 2010, section 394.34, is amended to read:

1.7 **394.34 INTERIM ZONING.**

1.8 (a) If a county is conducting or in good faith intends to conduct studies within a  
1.9 reasonable time, or has held or is holding a hearing for the purpose of considering a  
1.10 comprehensive plan or official controls or an amendment, extension, or addition to either,  
1.11 or in the event new territory for which no zoning may have been adopted, may be annexed  
1.12 to a municipality, the board, in order to protect the public health, safety, and general  
1.13 welfare, may adopt as an emergency measure, after public notice and hearing and by a  
1.14 two-thirds vote, a temporary interim zoning map or temporary interim zoning ordinance,  
1.15 the purpose of which shall be is to classify and regulate uses and related matters as  
1.16 constitutes the emergency. Such interim resolution shall be is limited to one year from the  
1.17 date it becomes effective and to one year to renewal thereafter.

1.18 (b) An interim resolution must not halt, delay, or impede consideration of a use,  
1.19 development, or subdivision for which a complete application is pending before the  
1.20 county. The completeness of an application is determined by meeting the requirements of  
1.21 the county ordinance. An application deemed incomplete must be returned to the applicant  
1.22 with an explanation detailing the incomplete portions and providing an opportunity  
1.23 to correct the deficiency.

2.1 Sec. 2. Minnesota Statutes 2010, section 462.355, subdivision 4, is amended to read:

2.2 Subd. 4. **Interim ordinance.** (a) If a municipality is conducting studies or has  
 2.3 authorized a study to be conducted or has held or has scheduled a hearing for the purpose  
 2.4 of considering adoption or amendment of a comprehensive plan or official controls as  
 2.5 defined in section 462.352, subdivision 15, or if new territory for which plans or controls  
 2.6 have not been adopted is annexed to a municipality, the governing body of the municipality  
 2.7 may adopt, after notice and public hearing and by a two-thirds vote, an interim ordinance  
 2.8 applicable to all ~~or part~~ of its jurisdiction for the purpose of protecting the planning  
 2.9 process and the health, safety and welfare of its citizens. The interim ordinance may  
 2.10 regulate, restrict, or prohibit any use, development, or subdivision within the jurisdiction  
 2.11 or a portion thereof for a period not to exceed one year from the date it is effective.

2.12 (b) An interim ordinance must not halt, delay, or impede consideration of a  
 2.13 use, development, or subdivision for which a complete application is pending before  
 2.14 the municipality. The completeness of an application is determined by meeting the  
 2.15 requirements of the municipal ordinance. An application deemed incomplete must be  
 2.16 returned to the applicant with an explanation detailing the incomplete portions and  
 2.17 providing an opportunity to correct the deficiency.

2.18 ~~(b) (c) If a proposed interim ordinance purports to regulate, restrict, or prohibit~~  
 2.19 ~~activities relating to livestock production~~ For purposes of notice and public hearing  
 2.20 required by this section, a public hearing must be held following a ten-day notice given by  
 2.21 publication in a newspaper of general circulation in the municipality before the interim  
 2.22 ordinance takes effect.

2.23 ~~(c)~~ (d) The period of an interim ordinance applicable to an area that is affected by  
 2.24 a city's master plan for a municipal airport may be extended for such additional periods  
 2.25 as the municipality may deem appropriate, not exceeding a total additional period of 18  
 2.26 months. In all other cases, no interim ordinance may halt, delay, or impede a subdivision  
 2.27 that has been given preliminary approval, nor may any interim ordinance extend the  
 2.28 time deadline for agency action set forth in section 15.99 with respect to any application  
 2.29 filed prior to the effective date of the interim ordinance. The governing body of the  
 2.30 municipality may extend the interim ordinance after a public hearing and written findings  
 2.31 have been adopted based upon one or more of the conditions in clause (1), (2), or (3).  
 2.32 The public hearing must be held at least 15 days but not more than 30 days before the  
 2.33 expiration of the interim ordinance, and notice of the hearing must be published at least  
 2.34 ten days before the hearing. The interim ordinance may be extended for the following  
 2.35 conditions and durations, but, except as provided in clause (3), an interim ordinance may  
 2.36 not be extended more than an additional 18 months:

3.1 (1) up to an additional 120 days following the receipt of the final approval or review  
3.2 by a federal, state, or metropolitan agency when the approval is required by law and the  
3.3 review or approval has not been completed and received by the municipality at least 30  
3.4 days before the expiration of the interim ordinance;

3.5 (2) up to an additional 120 days following the completion of any other process  
3.6 required by a state statute, federal law, or court order, when the process is not completed at  
3.7 least 30 days before the expiration of the interim ordinance; or

3.8 (3) up to an additional one year if the municipality has not adopted a comprehensive  
3.9 plan under this section at the time the interim ordinance is enacted.

3.10 Sec. 3. Minnesota Statutes 2010, section 462.358, subdivision 2a, is amended to read:

3.11 Subd. 2a. **Terms of regulations.** (a) The standards and requirements in the  
3.12 regulations may address without limitation: the size, location, grading, and improvement  
3.13 of lots, structures, public areas, streets, roads, trails, walkways, curbs and gutters,  
3.14 water supply, storm drainage, lighting, sewers, electricity, gas, and other utilities; the  
3.15 planning and design of sites; access to solar energy; and the protection and conservation  
3.16 of flood plains, shore lands, soils, water, vegetation, energy, air quality, and geologic  
3.17 and ecologic features. The regulations shall require that subdivisions be consistent with  
3.18 the municipality's official map if one exists and its zoning ordinance, and may require  
3.19 consistency with other official controls and the comprehensive plan. The regulations may  
3.20 prohibit certain classes or kinds of subdivisions in areas where prohibition is consistent  
3.21 with the comprehensive plan and the purposes of this section, particularly the preservation  
3.22 of agricultural lands. The regulations may prohibit, restrict or control development for  
3.23 the purpose of protecting and assuring access to direct sunlight for solar energy systems.  
3.24 The regulations may prohibit the issuance of permits or approvals for any tracts, lots, or  
3.25 parcels for which required subdivision approval has not been obtained.

3.26 (b) The regulations may permit the municipality to condition its approval on  
3.27 the construction and installation of sewers, streets, electric, gas, drainage, and water  
3.28 facilities, and similar utilities and improvements or, in lieu thereof, on the receipt by the  
3.29 municipality of a cash deposit, certified check, irrevocable letter of credit, bond, or other  
3.30 financial security in an amount and with surety and conditions sufficient to assure the  
3.31 municipality that the utilities and improvements will be constructed or installed according  
3.32 to the specifications of the municipality. Sections 471.345 and 574.26 do not apply to  
3.33 improvements made by a subdivider or a subdivider's contractor.

3.34 (c) A municipality may require that an applicant establish an escrow account or  
3.35 other financial security for the purpose of reimbursing the municipality for direct costs

4.1 relating to professional services provided during the review, approval and inspection of  
4.2 the project. A municipality may only charge the applicant a rate equal to the value of the  
4.3 service to the municipality. Services provided by municipal staff or contract professionals  
4.4 must be billed at an established rate.

4.5 (d) When the applicant vouches, by certified letter to the municipality, that the  
4.6 conditions required by the municipality for approval under this subdivision have been  
4.7 satisfied, the municipality has 30 days to release and return to the applicant any and all  
4.8 financial securities tied to the requirements. If the municipality fails to release and return  
4.9 the letters of credit within the 30-day period, any interest accrued will be paid to the  
4.10 applicant. If the municipality determines that the conditions required for approval under  
4.11 this subdivision have not been satisfied, the municipality must send written notice within  
4.12 seven business days upon receipt of the certified letter indicating to the applicant which  
4.13 specific conditions have not been met. The municipality shall require a maintenance  
4.14 or performance bond from any subcontractor that has not yet completed all remaining  
4.15 requirements of the municipality.

4.16 (e) The regulations may permit the municipality to condition its approval on  
4.17 compliance with other requirements reasonably related to the provisions of the regulations  
4.18 and to execute development contracts embodying the terms and conditions of approval.  
4.19 The municipality may not require conditions in the development contract that are not  
4.20 authorized by statute or mutually agreed upon by all parties to the development contract.  
4.21 In addition, the amount of financial security for work authorized under the development  
4.22 contract must have a direct and proportionate relationship to the work to be completed  
4.23 by the subdivider or subdivider's contractor. At least three days before approval, the  
4.24 municipality must provide a copy of the complete development contract, including all  
4.25 exhibits, to the subdivider or contractor. The municipality may enforce such agreements  
4.26 and conditions by appropriate legal and equitable remedies.