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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS**

A25-1220

A25-1221

Housing First Minnesota,
Appellant,

vs.

City of Corcoran,
Respondent (A25-1220).

Housing First Minnesota,
Appellant,

vs.

City of Dayton,
Respondent (A25-1221).

Filed April 13, 2026

Affirmed

Ede, Judge

Hennepin County District Court
File Nos. 27-CV-21-9069, 27-CV-21-9070

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Considered and decided by Ede, Presiding Judge; Bentley, Judge; and Jesson, Judge.*

NONPRECEDENTIAL OPINION

EDE, Judge

These consolidated appeals arise from appellant's lawsuits against respondents, which allege that respondents' schedules of building-permit fees result in their collection of excessive and unlawful revenues. On remand from earlier consolidated appeals concerning the same actions, the district court granted summary judgment for respondents. Appellant challenges the district court's summary-judgment decision, asserting that the court erred in determining that respondents are entitled to judgment as a matter of law because there is no independent cause of action to support appellant's claims for (A) declaratory judgment and (B) injunctive relief. We affirm.¹

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

¹ In addition to arguing that the district court erred in granting summary judgment for respondents based on its determination that appellant's declaratory-judgment and injunctive-relief claims are unsupported by an independent cause of action, appellant contests the court's alternative reasoning—that appellant's claims seek relief that would violate separation-of-powers principles and present a nonjusticiable political question. Because we affirm the district court's summary-judgment decision on the ground that appellant's claims lack a requisite independent cause of action, we need not and do not consider the parties' arguments about separation-of-powers principles and whether a nonjusticiable political question is presented by appellant's claims.

FACTS

The following factual recitation stems from the summary-judgment record before the district court and is presented in the light most favorable to appellant Housing First Minnesota, which was the nonmoving party.²

According to the underlying complaints, Housing First “is a trade association representing the interest of more than 1,000 businesses throughout the State of Minnesota that are engaged in the development, construction, and remodeling of homes and the supply of materials and services to the housing industry.” The complaints—which are similar and which Housing First filed in separate cases against respondents City of Corcoran and City of Dayton (the cities), respectively—allege that the cities “collected building permit fees well in excess of the amount(s) allowed by law.” Each complaint asserts the same four counts, the first three of which seek declaratory judgment that the cities’ building-permit fee ordinances violate: (1) a provision of the Minnesota State Building Code (the code), Minnesota Rule 1300.0160, subpart 2 (2023),³ which states that “[f]ees established by [a]

² See *Cooper v. USA Powerlifting*, 26 N.W.3d 604, 614 (Minn. 2025) (explaining that, on appeal from a district court’s summary-judgment decision, appellate courts “view the evidence in the light most favorable to the nonmoving party and resolve all doubts and factual inferences against the moving party”).

³ Minnesota Statutes sections 326B.101 through 326B.16 (2024) are entitled “State Building Code.” But “[t]he chapters listed in part 1300.0050 [of the Minnesota Rules], including the standards they adopt by reference, are the Minnesota State Building Code and may be cited as or referred to as the ‘code.’” Minn. R. 1300.0020 (2023). And under Minnesota Rule 1300.0050(A) (2023), “[t]he Minnesota State Building Code adopted under Minnesota Statutes, section 326B.106, subdivision 1, includes . . . chapter[] . . . 1300, Minnesota Building Code Administration” We also note that, because “appellate courts [generally] apply the law as it exists at the time they

municipality must be by legal means and must be fair, reasonable, and proportionate to the actual cost of the service for which the fee is imposed” (Count I); (2) the procedural due-process rights of Housing First’s members under the Minnesota and U.S. Constitutions (Count II); and (3) the takings clauses of the Minnesota and U.S. Constitutions (Count III). As relevant here, Count I of each complaint also states that Housing First’s declaratory-judgment “cause of action is brought pursuant to Minn. Stat. § 555.01, *et seq.* and Minn. Stat. § 462.361, *et seq.* for declaratory relief seeking judicial review by [the district] court of the city’s building permit fee schedule.” The fourth count in each complaint requests injunctive relief in the form of an order enjoining the cities from enforcing their building-permit fee ordinances and requiring the cities to “disgorge” all excess revenue from building-permit fees (Count IV).

Housing First and the cities cross-moved for summary judgment. The district court denied summary judgment for Housing First and granted summary judgment for the cities, determining that Housing First lacked standing and had failed to present evidence sufficient to establish the requisite elements to support its declaratory-judgment claims relating to its procedural due-process rights and the takings clauses of the Minnesota and U.S. Constitutions (Counts II and III).

In consolidated appeals by Housing First, we affirmed in part, reversed in part, and remanded. *Hous. First Minn. v. City of Corcoran*, No. A23-1049, 2024 WL 1244047, at *1–7 (Minn. App. Mar. 25, 2024), *rev. denied* (Minn. June 26, 2024). More specifically,

rule on a case,” we cite the current versions of statutes and rules referenced in this opinion. *Interstate Power Co. v. Nobles Cnty. Bd. of Comm’rs*, 617 N.W.2d 566, 575 (Minn. 2000).

we affirmed the district court’s decision to grant summary judgment for the cities on Counts II and III. *Id.* at *4–6. At the same time, we reversed the district court’s decision to grant summary judgment for the cities on Counts I and IV—Housing First’s declaratory-judgment claim as to the code and its claim for injunctive relief—because we ruled that the district court had erred in determining that Housing First lacked standing. *Id.* at *3–4.

In particular, we concluded that, “as the trade association for its members, Housing First has associational standing” because its “members have a sufficient economic stake in challenging the allegedly excessive fee schedule to satisfy the requirements of the standing doctrine.” *Id.* at *4 (footnote omitted). Importantly, our standing analysis began with an acknowledgment that “[s]tanding is the requirement that a party has a sufficient stake in a justiciable controversy to seek relief from a court[,]” that “a party [generally] has standing when (1) the party has suffered an injury-in-fact, or (2) the party is the beneficiary of a legislative enactment granting standing,” and that “an organization can assert associational standing on behalf of its members, if its members’ interests are directly at stake or if its members have suffered an injury-in-fact.” *Id.* at *3 (quotations omitted). Thus, while we ruled that Housing First has associational standing based on the sufficiency of its members’ economic stake in the challenged building-permit fees, *id.* at *4, we also expressly noted that Housing First had not pursued on appeal its argument before the district court that “it had statutory standing under the judicial-review provision of the Minnesota [M]unicipal [P]lanning [A]ct, Minn. Stat. § 462.361 (2022),” which “[t]he district court [had] rejected” based on its “conclu[sion] that ‘the section of the [act] relied upon by [Housing First]

relates to land use and municipal planning, and not building construction or building permit fees,” *id.* at *2 n.1.

Moreover, we cautioned that “our conclusion should not be interpreted as meaning that Housing First has a right to seek ‘disgorgement’ as a remedy” and emphasized that our decision was “*only* that Housing First has standing to challenge the building-permit fee ordinances.” *Id.* at *4 n.3 (emphasis added). And “we express[ed] no opinion on the merits” of the cities’ dispute about “whether the Minnesota Declaratory Judgments Act, Minn. Stat. §§ 555.01-.16 (2022), provides an independent cause of action” or “the viability of the defenses asserted by the cities regarding the separation-of-powers and political-question doctrines,” because the district court had not decided those issues in the first instance.⁴ *Id.* at *7, *7 n.4. We therefore remanded to the district court for further proceedings not inconsistent with our opinion. *Id.* at *7.

On remand, the district court again denied summary judgment for Housing First and granted summary judgment for the cities. As to Count I, the district court determined that Minnesota’s Uniform Declaratory Judgments Act, Minn. Stat. §§ 555.01–.16 (2024), “does not establish an independent claim for Housing First to assert and without an independent cause of action its claim must fail.” Because the district court reasoned that Housing First “lacks any private right of action to deem the [cities’] permitting schedule . . . illegal,” the court ruled that Housing First’s declaratory-judgment claim “must fail.” And the district

⁴ We also declined to review the district court’s denial of Housing First’s motion for summary judgment because “the district court did not address the merits of Housing First’s claims for declaratory and injunctive relief, other than its takings and due-process claims.” *Id.* at *6.

court likewise decided as to Count IV that, “[w]ithout an underlying cause of action, [Housing First] does not have a viable claim upon which injunctive relief can be granted.”⁵

Housing First appeals.

DECISION

In challenging the district court’s decision to grant summary judgment for the cities, Housing First contends that the court erred in determining that the cities are entitled to judgment as a matter of law because there is no independent cause of action to support Housing First’s claims for declaratory judgment (Count I) and injunctive relief (Count IV). As explained below, we discern no error in the district court’s summary-judgment decision.

Appellate courts “review a district court’s summary judgment decision de novo.” *Cooper*, 26 N.W.3d at 614. “A district court ‘shall grant summary judgment if the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.’” *Id.* (quoting Minn. R. Civ. P. 56.01). “In reviewing a district court’s summary judgment decision, [appellate courts] examine whether there are any genuine issues of material fact and whether the district court properly applied the law.” *Id.* (quotation omitted). As noted above, appellate courts “view the evidence in the light most favorable to the nonmoving party and resolve all doubts and factual inferences against the moving party.” *Id.*

⁵ As an additional basis for its summary-judgment decision, the district court determined that Housing First’s claims would “have [the] court violate principles of separation of powers by seeking to have it change a policy created by, and delegated to, the legislative and executive branches,” which “creates a request for relief of a nonjusticiable political question.”

With this standard of review in mind, we consider whether the district court erred in granting summary judgment for the cities on (A) Housing First’s declaratory-judgment claim (Count I) and (B) Housing First’s injunctive-relief claim (Count IV).

A. Declaratory Judgment (Count I)

- 1. A party seeking a declaratory judgment must present an independent, underlying cause of action based on a common-law or statutory right.**

Housing First argues that “no cause of action is necessary to seek declaratory relief under the [Uniform Declaratory Judgments] Act” and that the district court erred in granting summary judgment for the cities because “the Act is properly used to test the validity of a municipal ordinance regardless of whether another remedy exists.” These arguments are unavailing.

“Minnesota’s Uniform Declaratory Judgments Act grants courts the power to declare a party’s legal ‘rights, status, and . . . relations’ through the issuance of a declaratory judgment.” *Weavewood, Inc. v. S & P Home Investments, LLC*, 821 N.W.2d 576, 579 (Minn. 2012) (quoting Minn. Stat. § 555.01 (2010)). “A declaratory judgment is a procedural device through which a party’s existing legal rights may be vindicated so long as a justiciable controversy exists.” *Id.* (quotation and citation omitted). “But the applicable substantive law and the basic character of the lawsuit do not change simply because a complainant requests declaratory relief.” *Id.* “To the contrary, a complaint requesting declaratory relief must present a substantive cause of action that would be cognizable in a nondeclaratory suit.” *Id.* (quotation and citation omitted). “Put differently, the underlying

substantive law, including any applicable defenses, forms the foundation for a declaratory judgment action.” *Id.*⁶

Our decision in *Alliance for Metropolitan Stability v. Metropolitan Council* is instructive. 671 N.W.2d 905 (Minn. App. 2003). In that case, the appellants sued the Metropolitan Council, alleging that the council had “violated the Metropolitan Land Use Planning Act (MLUPA)” and “ask[ing] for a declaration of rights under the MLUPA through the Uniform Declaratory Judgments Act.” *Id.* at 910. The council moved to dismiss, which the district court granted because the court determined, among other things, that the “appellants lacked standing” and “relief under the Uniform Declaratory Judgments Act is not available absent an independent cause of action.” *Id.* at 912.

On appeal, we rejected the appellants’ argument “that the district court erred in granting the [c]ouncil’s motion to dismiss for lack of a cause of action” based on their belief “that they have an express cause of action under the Uniform Declaratory Judgments Act.” *Id.* at 915, 918 (footnote omitted).⁷ We explained that “[p]rinciples of judicial restraint preclude [courts] from creating a new statutory cause of action that does not exist

⁶ Based on “[t]he nature of a declaratory judgment action and its reliance on underlying substantive law, including any applicable defenses,” the supreme court concluded in *Weavewood* “that statutes of limitations apply to a declaratory judgment action to the same extent as a nondeclaratory proceeding based on the same cause of action.” *Id.* (quotation omitted).

⁷ We noted that the “[a]ppellants [did] not assert a right of action under the MLUPA because there is no private right of action under MLUPA.” *Id.* at 915 n.8. “We also conclude[d] [that] a private cause of action is not implied through the MLUPA” and that “appellants [did] not have a common-law right to judicial review.” *Id.* at 916–17. In other words, “[w]e conclude[d] that appellants neither [had] an express, an implied, nor a common-law right to judicial review.” *Id.* at 918.

at common law [when] the legislature has not either by [a] statute’s express terms or by implication provided for . . . liability.” *Id.* at 915 (quoting *Bruegger v. Faribault County Sheriff’s Dep’t*, 497 N.W.2d 260, 262 (Minn. 1993)). And we observed that “[a] statute does not give rise to a civil cause of action unless the language of the statute is explicit or it can be determined by clear implication.” *Id.* (quotation omitted); *see also Larson v. Dunn*, 460 N.W.2d 39, 47 n.4 (Minn. 1990) (explaining that “a criminal statute does not automatically give rise to a civil cause of action unless the statute expressly or by clear implication so provides”).

Against this backdrop, we stated that “[a] party seeking a declaratory judgment must have an independent, underlying cause of action based on a common-law or statutory right” and “the Uniform Declaratory Judgments Act cannot create a cause of action that does not otherwise exist.” *All. for Metro. Stability*, 671 N.W.2d at 916 (citations omitted);⁸ *see also Vrieze v. New Century Homes, Inc.*, 542 N.W.2d 62, 67 (Minn. App. 1996) (holding that “some recovery theory must underlie a declaratory judgment demand”). Although “we acknowledge[d] that this [left] appellants’ cause without appropriate avenues for review,” because “the statute limits the review procedures,” we noted that “the only way for this court to be able to review appellants’ cause as stated is for the MLUPA to be amended to allow for a cause of action.” *All. for Metro. Stability*, 671 N.W.2d at 916.

Notwithstanding our analysis in *Alliance for Metropolitan Stability*, Housing First contends that, under the Minnesota Supreme Court’s decision in *State ex rel. Smith v.*

⁸ We also noted that “[t]here is no private right to enforce the MLUPA.” *Id.*

Haveland, 25 N.W.2d 474 (Minn. 1946), “no cause of action is necessary to seek declaratory relief under the [Uniform Declaratory Judgments] Act.” In *Haveland*, the supreme court explained that “the existence of a genuine conflict in the tangible interests of the opposing litigants” is “[a]mong the essentials necessary to the raising of a justiciable controversy.” 25 N.W.2d at 477. In addressing justiciability, courts consider whether “claims are appropriate for judicial resolution.” *Clapp v. Sayles-Adams*, 15 N.W.3d 648, 652 (Minn. 2025) (citing *Justiciability*, *Black’s Law Dictionary* (12th ed. 2024) (defining justiciability as “[t]he quality, state, or condition of being appropriate or suitable for adjudication by a court”)). “[S]tanding, ripeness, and mootness . . . go to the question of justiciability,” *id.*, as do political questions, *Cruz-Guzman v. State*, 916 N.W.2d 1, 7–10 (Minn. 2018).

In the context of analyzing justiciability, the supreme court in *Haveland* instructed that a “[c]omplainant must prove his possession of a legal interest or right which is capable of and in need of protection from the claims, demands, or objections emanating from a source competent legally to place such legal interest or right in jeopardy.” 25 N.W.2d at 477. While the supreme court observed that a “complainant need not necessarily possess a cause of action (as that term is ordinarily used) as a basis for obtaining declaratory relief,” the court stressed that “nevertheless he must, as a minimum requirement, possess a bona fide legal interest which has been, or with respect to the ripening seeds of a controversy is about to be, affected in a prejudicial manner.” *Id.* (footnote omitted). And the supreme court has since repeatedly explained that “[j]usticiability is separate and distinct from the merits of the case.” *Clapp*, 15 N.W.3d at 652 (citing *Cruz-Guzman*, 916 N.W.2d at 7); *see*

also *McCaughtry v. City of Red Wing*, 831 N.W.2d 518, 524 (Minn. 2013) (*McCaughtry II*) (“Because the issue of justiciability goes to a court’s power to hear a case at all, it is a separate and distinct question from the merits of the suit.”).

The supreme court’s reasoning in *Haveland* as to justiciability does not control here because it does not affect our understanding that, in order to prevail on the merits, a party seeking declaratory relief must have an independent, underlying cause of action. Indeed, our analysis in *Alliance for Metropolitan Stability* distinguished between whether the appellants had standing, 671 N.W.2d at 913–15—a question of justiciability—and reviewing whether the appellants had an independent cause of action supporting their declaratory-judgment claim, 671 N.W.2d at 915–18—a question on the merits. That is to say, our conclusion in *Alliance for Metropolitan Stability* that the appellants had standing, 671 N.W.2d at 914, neither obviated the need for our analysis of whether the court had erred in dismissing appellants’ declaratory-judgment claim nor influenced our ultimate decision to affirm the dismissal of their claim because it was not supported by an independent cause of action based on a common-law or statutory right, 671 N.W.2d at 916.⁹ Consequently, we reject Housing First’s argument that, on the merits of its declaratory-judgment claim, it needs no independent cause of action to seek declaratory relief under the Uniform Declaratory Judgments Act.

⁹ Our opinion in Housing First’s earlier consolidated appeals similarly emphasized that our decision was “*only* that Housing First has standing to challenge the building-permit fee ordinances,” and “we express[ed] no opinion on the merits” of the cities’ dispute about “whether the Minnesota Declaratory Judgments Act . . . provides an independent cause of action” because the district court had not yet decided those issues. *Housing First*, 2024 WL 1244047, at *4 n.3, *7 (emphasis added).

For the same reasons, we are not persuaded by Housing First’s reliance on the Minnesota Supreme Court’s decision in *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 337–38 (Minn. 2011) (*McCaughtry I*), in arguing that the Uniform Declaratory Judgments Act “is properly used to test the validity of a municipal ordinance regardless of whether another remedy exists.” In *McCaughtry I*, the supreme court “granted review to consider the justiciability requirements for declaratory judgment actions” after this court had “affirmed the [district court’s] dismissal of [appellants’] declaratory judgment claims” based on our conclusion “that appellants lack[ed] standing to challenge the constitutionality of the rental inspection process” set forth in the City of Red Wing’s ordinance. 808 N.W.2d at 336. The supreme court narrowly framed the question before it as relating only to justiciability. *Id.* at 336–37 (“At issue here is the justiciability of appellants’ declaratory judgment claims. . . . This appeal involves the justiciability of appellants’ declaratory judgment claims challenging the constitutionality of the Red Wing rental inspection ordinance with respect to administrative warrants.”); *see also Weavewood*, 821 N.W.2d at 579 (citing *McCaughtry I*, 808 N.W.2d at 337, and characterizing that decision as “requiring a declaratory judgment action to present a justiciable controversy”). Addressing the question of justiciability, the supreme court in *McCaughtry I* cited *Haveland* and noted that it has “long held that a declaratory judgment action is proper to test the validity of a municipal ordinance, regardless of whether another remedy exists.” 808 N.W.2d at 337. But the supreme court expressly did not reach the merits of appellants’ declaratory-judgment claim that the Red Wing rental-inspection ordinance violated the Minnesota Constitution. *Id.* at 341. As a result, the supreme court did not address whether the

appellants possessed an independent cause of action based on a common-law or statutory right.

We are equally unconvinced by Housing First’s citation of other decisions addressing justiciability rather than the merits of a declaratory-judgment claim. *See, e.g., State Bd. of Med. Exam’rs v. Olson*, 206 N.W.2d 12, 17 (Minn. 1973) (holding that a medical board had standing to pursue a declaratory judgment claim because “Minn. St[at]. [§] 147.01 [gave] the board power to bring an action to have determined by the court whether a person not licensed to practice medicine is actually engaged in such practice”); *Minn. Laws. Mut. Ins. Co. v. Bradshaw & Bryant L. Off. PLLC*, 19 N.W.3d 206, 210 (Minn. App. 2025) (concluding that an insurance-coverage dispute is justiciable under the Uniform Declaratory Judgments Act), *rev. denied* (Minn. Jun. 17, 2025);¹⁰ *Rice Lake Contracting Corp. v. Rust Env’t & Infrastructure, Inc.*, 549 N.W.2d 96, 99, 101–02 (Minn. App. 1996) (observing that “[t]he only prerequisite for a court’s exercise of jurisdiction in declaratory judgment actions is the presence of a justiciable controversy” and holding that “ripening seeds of conflict between the parties are evident and the court may settle the parties’ uncertainty with respect to their legal positions” (quotations omitted)), *rev. denied* (Minn. Aug. 20, 1996).

¹⁰ In *Bradshaw*, we also affirmed summary judgment declaring that the subject insurance policy did not cover a malpractice claim, but our conclusion on that issue is distinguishable because Housing First’s declaratory-judgment claims in Count I of its complaints against the cities are not based in contract, as was the case in *Bradshaw*. 19 N.W.3d at 210. On that same basis, Housing First’s citation of *Hempel v. Creek House Tr.* is also unconvincing. 743 N.W.2d 305, 314 (Minn. App. 2007) (concluding that “a declaratory judgment was appropriate because the claim of right [was] based in contract”).

In short, the cases cited by Housing First, which address only the justiciability of plaintiffs’ declaratory-judgment claims rather than the merits thereof, are not controlling here. *See Skelly Oil Co. v. Comm’r of Tax’n*, 131 N.W.2d 632, 645 (Minn. 1964) (explaining that opinions must be read in light of “the specific controversy then before [the] court”); *Chapman v. Dorsey*, 41 N.W.2d 438, 443 (Minn. 1950) (holding that appellate decisions are not authority on issues that were “never raised or called to the attention of the court”). Consistent with *Weavewood* and *Alliance for Metropolitan Stability*, we conclude that a party seeking a declaratory judgment must present an independent, underlying cause of action based on a common-law or statutory right.

2. Housing First did not support its declaratory-judgment claim by presenting an independent cause of action under the Uniform Declaratory Judgments Act, the Municipal Planning Act, or Minnesota Rule 1300.0160, subpart 2.

Housing First seeks a declaration that the cities’ building-permit fee ordinances violate the code—specifically, subpart 2 of Minnesota Rule 1300.0160—and asserts its declaratory-judgment claim in Count I of each complaint under the Uniform Declaratory Judgments Act, Minn. Stat. §§ 555.01–.16, and the Municipal Planning Act, Minn. Stat. § 462.361 (2024). None of these bases—which Housing First expressly identified in its complaints against the cities—supply an independent cause of action to support Housing First’s declaratory-judgment claim.

Housing First contends that the Uniform Declaratory Judgments Act “creates a cause of action to challenge a municipal ordinance” and “the Act may in proper circumstances be an independent cause of action.” As discussed above, these contentions

are repudiated by the supreme court’s instruction in *Weavewood* that “a complaint requesting declaratory relief must present a substantive cause of action that would be cognizable in a nondeclaratory suit,” 821 N.W.2d at 579 (quotation and citation omitted), and by our explanation in *Alliance for Metropolitan Stability* that “[a] party seeking a declaratory judgment must have an independent, underlying cause of action based on a common-law or statutory right” and that “the Uniform Declaratory Judgments Act cannot create a cause of action that does not otherwise exist,” 671 N.W.2d at 915–16 (citations omitted).

In addition, Housing First has forfeited any argument that Count I is adequately supported by Minnesota Statutes section 462.361. *See Rued v. Comm’r of Hum. Servs.*, 13 N.W.3d 42, 52 (Minn. 2024) (holding that “the County forfeited appellate review of the district court’s determination regarding personal jurisdiction because it failed to raise that issue before the court of appeals”). Not only has Housing First abstained from advancing such a contention in these consolidated appeals, but it also abandoned that claim in its first consolidated appeals. *See Hous. First*, 2024 WL 1244047, at *2 n.1.¹¹

Housing First’s forfeiture as to the Municipal Planning Act also defeats its citation of *Harstad v. City of Woodbury*, 902 N.W.2d 64 (Minn. App. 2017), *aff’d*, 916 N.W.2d 540 (Minn. 2018), in contending that “a contest to the validity of a municipal ordinance may be brought under the [Uniform Declaratory Judgments] Act.” In *Harstad*, the district

¹¹ We also observe that “[t]he [M]unicipal [P]lanning [A]ct does not govern building construction” and “Minn. Stat. § 462.361, subd. 1 [(2012)], does not permit [a plaintiff] to bring an action in district court to obtain review of the city’s building-permit fees.” *Centra Homes, LLC v. City of Norwood Young Am.*, 834 N.W.2d 581, 586 (Minn. App. 2013).

court granted summary judgment for the plaintiff on his declaratory-judgment claim seeking “a declaration that the [City of Woodbury’s major roadway assessment (MRA)] is unauthorized by Minnesota law and unenforceable” based on the court’s determination “that the MRA was a development ‘impact fee’ and that the city lacked statutory authority under Minn. Stat. § 462.358, subd. 2a [(2016)]”—a provision of the Municipal Planning Act—“to impose the MRA as a condition of approving a developer’s subdivision application.” 902 N.W.2d at 69. On appeal, we held that “the district court did not err in granting [plaintiff] judgment on [his] MRA claim,” reasoning that “the MRA is invalid and unenforceable because the city lacked express or implied authority under Minn. Stat. § 462.358, subd. 2a, to impose the MRA as a condition of approving a developer’s subdivision application.” *Id.* at 75. Housing First’s forfeiture of any reliance on the Municipal Planning Act renders *Harstad* inapposite. *See Hous. First*, 2024 WL 1244047, at *2 n.1.¹²

Finally, the provision of the code that Housing First alleges the cities have violated—Minnesota Rule 1300.0160, subpart 2—does not afford Housing First an independent cause of action to support its declaratory-judgment claim in Count I. That rule provides only that “[f]ees established by the municipality must be by legal means and must be fair, reasonable, and proportionate to the actual cost of the service for which the fee is

¹² By the same token, Housing First’s citation of *Country Joe, Inc. v. City of Eagan*, 560 N.W.2d 681 (Minn. 1997), is likewise unhelpful because that decision also concerns an application of the Municipal Planning Act. *See Harstad*, 902 N.W.2d at 74 (explaining the Minnesota Supreme Court’s decision in *Country Joe*, 560 N.W.2d at 684, under the Municipal Planning Act).

imposed.” Minn. R. 1300.0160, subp. 2. As mentioned above, “a statute does not give rise to a civil cause of action unless the language of the statute is explicit or it can be determined by clear implication.” *Findling v. Grp. Health Plan, Inc.*, 998 N.W.2d 1, 15 (Minn. 2023) (quotation omitted); *accord All. for Metro. Stability*, 671 N.W.2d at 915. Minnesota Rule 1300.0160, subpart 2, neither explicitly nor by clear implication gives rise to an independent civil cause of action for Housing First to challenge the cities’ building-permit fees.

We add that “[t]he purpose of the code is not to create, establish, or designate a particular class or group of persons who will or should be especially protected or benefited by the terms of the code.” Minn. R. 1300.0030, subp. 1 (2023). Moreover, Minnesota Statutes section 326B.082, subdivision 1 (2024), provides that “[t]he commissioner”—meaning “the commissioner of labor and industry or a duly designated representative of the commissioner who is either an employee of the Department of Labor and Industry or a person working under contract with the department,” Minn. Stat. § 326B.01, subd. 3 (2024)—“may enforce all applicable law under [that] section.” In *Alliance for Metropolitan Stability*, we agreed with the council’s argument that, “when a statute is phrased as a directive to an agency, there is far less reason to infer a private remedy in favor of individual persons.” 671 N.W.2d 905, 916 (quotation and citation omitted); *see also Mut. Serv. Cas. Ins. Co. v. Midway Massage, Inc.*, 695 N.W.2d 138, 142–43 (Minn. App. 2005) (holding that “the district court did not err in concluding that the [the Minnesota Professional Firms Act (MPFA)] does not imply a private cause of action” because, among other things, “the intended remedy for violations of the MPFA is board action through the

state attorney general”), *rev. denied* (Minn. June 14, 2005). This framework underscores our conclusion that subpart 2 of Minnesota Rule 1300.0160 evinces no explicit or clearly implicit cause of action to independently support Housing First’s declaratory-judgment claim.

We therefore conclude that Housing First has not supported its declaratory-judgment claim by presenting an independent cause of action under the Uniform Declaratory Judgments Act, the Municipal Planning Act, or Minnesota Rule 1300.0160, subpart 2.

3. Housing First has forfeited any argument that its declaratory-judgment claim is supported by an independent cause of action for preemption.

Housing First relies on *Builders Association of Minnesota v. City of St. Paul*, 819 N.W.2d 172 (Minn. App. 2012), to argue that “private persons may use the [Uniform Declaratory Judgments Act] to enforce the . . . code.” This assertion does not merit reversal.

In *Builders*, appellant—“a nonprofit trade association whose members [were] involved in the residential construction and remodeling industry”—brought an “action seeking (1) a declaratory judgment recognizing that the state building code preempts the [City of St. Paul’s] egress-window policy, and (2) an injunction prohibiting the city from enforcing the policy.” 819 N.W.2d at 175–76. On appeal from the district court’s grant of summary judgment for the city, we discussed the application of a three-part preemption test established by the Minnesota Supreme Court in *City of Morris v. Sax Investments, Inc.*, 749 N.W.2d 1, 7 (Minn. 2008), and “conclude[d] that the district court erred as a matter of

law in granting summary judgment in favor of the city” because “the state building code preempt[ed] the city’s policy regulating egress window sizes,” which “function[ed] as a building code regulation” and “differ[ed] from the state building code.” *Id.* at 181–82.

Here, though, Housing First did not allege in Count I of each complaint that the code preempts the cities’ building-permit fee ordinances, and the district court therefore did not analyze the application of the three-part *City of Morris* preemption test in deciding whether an independent cause of action for preemption supports Housing First’s declaratory-judgment claim. Thus, Housing First has forfeited any argument that its declaratory-judgment claim is supported by an independent cause of action for preemption by failing to raise it in the district court, and we conclude that *Builders* does not require reversal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (“A reviewing court must generally consider only those issues that the record shows were presented [to] and considered by the [district] court in deciding the matter before it.” (quotation omitted)); *see also Wesser v. State Farm Fire & Cas. Co.*, 989 N.W.2d 294, 301 (Minn. 2023) (citing *Thiele* and concluding that a plaintiff forfeited an argument by, among other things, not raising it before the district court).

4. Housing First has not alleged a constitutional violation to support its declaratory-judgment claim in Count I of its complaints against the cities.

In the first appeal, we affirmed the district court’s decision to grant summary judgment for the cities on Counts II and III—Housing First’s claims seeking declaratory judgment that the cities’ building-permit fee ordinances violate the procedural due-process rights of Housing First’s members under the Minnesota and U.S. Constitutions and the

takings clauses of the Minnesota and U.S. Constitutions. *Hous. First*, 2024 WL 1244047, at *4–6. The Minnesota Supreme Court denied further review of that decision.

Although Count I of Housing First’s complaints against the cities does not assert a constitutional basis for Housing First’s remaining declaratory-judgment claim, Housing First cites several inapposite decisions in which declaratory-judgment actions were premised on alleged constitutional violations. *See, e.g., McCaughtry I*, 808 N.W.2d at 333 (“This appeal concerns the justiciability of appellants’ declaratory judgment action seeking to have the rental inspection ordinance declared unconstitutional.”); *Hassler v. Engberg*, 48 N.W.2d 343, 349 (Minn. 1951) (considering whether there was a “justiciable controversy presented within the meaning of the [U]niform [D]eclaratory [J]udgments [A]ct, [Minn. Stat.] §§ 555.01 to 555.16, because [Minn. Stat.] § 69.54 does not impose a tax or surcharge upon plaintiff and that, even if it did, he is not in a position to challenge the constitutionality of the act under the circumstances”); *Haveland*, 25 N.W.2d at 476 (“[U]pon relator’s motion, the petition and writ were amended to include, in addition to relief in mandamus, a prayer for a declaratory judgment adjudicating the aforesaid exemption statutes to be unconstitutional and declaring relator to be subject to assessment for his moneys and credits.”); *Barron v. City of Minneapolis*, 4 N.W.2d 622, 623 (Minn. 1942) (“Plaintiff’s attack is based on constitutional grounds.”); *Crescent Oil v. City of Minneapolis*, 225 N.W. 904, 904–06 (Minn. 1929) (citing *State v. Bartles Oil Co.*, 155 N.W. 1035 (Minn. 1916)—which observed that “[t]he amount of [fees for inspecting oil and gasoline under a statute] is primarily with the Legislature” and that the “statute [would] not be held unconstitutional as providing for an excessive charge unless it [was] so

unreasonable and disproportionate to the service rendered as to attack the good faith of the law,” *Bartles*, 155 N.W. at 1036–37—and holding that “an ordinance relating to regulating and licensing gasoline filling stations and wholesale gasoline and oil storage plants” was “invalid” because “the license fee imposed under the ordinance” was “manifestly unreasonable and excessive”).¹³ Because Housing First has not alleged a constitutional violation to support the declaratory-judgment claim asserted in Count I of its complaints against the cities, we discern no basis for reversal arising from Housing First’s reliance on the above opinions.

In sum, we conclude that the district court did not err in granting summary judgment for the cities on Housing First’s declaratory-judgment claim (Count I).

¹³ We respectfully disagree with Housing First’s assertion that the Minnesota Supreme Court in *Crescent Oil* “recognized a common law action to challenge a municipal fee as an unlawful revenue raising device,” particularly given the lack of express language in the opinion to that effect and the dearth of subsequent decisions by the supreme court construing *Crescent Oil* as having done so. See *Alonzo v. Menholt*, 9 N.W.3d 148, 154 (Minn. 2024) (noting that the Minnesota Supreme Court has “the power to recognize and abolish common law doctrines and to define common law torts and their defenses,” and discussing the application of a four-factor test that “inform[s] [the supreme court’s] decision to recognize a common law tort” (quotations omitted)); see also *Halva v. Minnesota State Colls. & Univs.*, 953 N.W.2d 496, 506 (Minn. 2021) (“Under the principle of judicial restraint, [the Minnesota Supreme Court is] . . . generally reluctant to recognize a new common-law right or remedy . . . because determining public policy is a job better performed by the legislature.” (quotations omitted)); *White Bear Lake Restoration Ass’n ex rel. State v. Minnesota Dep’t of Nat. Res.*, 946 N.W.2d 373, 386 (Minn. 2020) (stating that the Minnesota Supreme Court is “generally reluctant to extend the common law unless there is a compelling reason to do so” and that the supreme court “tend[s] to proceed cautiously when a subject is extensively regulated by statutes and rules” (citation omitted)); *SVAP III Riverdale Commons LLC v. Coon Rapids Gyms, LLC*, 967 N.W.2d 81, 86 (Minn. App. 2021) (observing that “the task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court” (quotation and citation omitted)).

B. Injunctive Relief (Count IV)

Housing First contends that the district court erred in granting summary judgment for the cities on Housing First’s injunctive-relief claim based on its determination that this claim is untethered to an independent cause of action.

“Injunctive relief is a remedy and not, in itself, a cause of action, and a cause of action must exist before injunctive relief may be granted.” *Ryan v. Hennepin County*, 29 N.W.2d 385, 387 (Minn. 1947) (quotation omitted); *see also Johnson v. Paynesville Farmers Union Coop. Oil Co.*, 817 N.W.2d 693, 713 (Minn. 2012) (citing *Ryan* for this principle). Because we have concluded that the district court did not err in granting summary judgment for the cities on Housing First’s declaratory-judgment claim in Count I of its complaints against the cities—which was Housing First’s only other remaining claim—Housing First’s injunctive-relief claim also fails. *See Ryan*, 29 N.W.2d at 387. Accordingly, we conclude that the district court did not err in granting summary judgment for the cities on Housing First’s injunctive-relief claim (Count IV).

As in *Alliance for Metropolitan Stability*, we acknowledge that our decision may leave Housing First without an appropriate avenue for judicial review of the cities’ building-permit fees. 671 N.W.2d at 916. But we cannot afford appellate relief because the district court did not err in determining that Housing First’s claims are fatally deficient absent an independent, underlying cause of action.

Affirmed.