



February 20, 2024

Re: City comments on HF 4009 ("Missing Middle Housing")

Dear Chair Howard, Vice Chair Agbaje and Members of the House Housing Finance and Policy Committee:

The League of Minnesota Cities, Coalition of Greater Minnesota Cities, Metro Cities, Minnesota Association of Small Cities, and Municipal Legislative Commission appreciate the opportunity to provide comments in opposition to HF 4009 (Kraft) as amended by the DE amendment. Our organizations and the cities we represent are deeply concerned with provisions in the bill that broadly preempt city zoning and land use authorities, remove public input in the residential development process, ignore long range local comprehensive plans and lack consideration for how cities utilize zoning and land use to ensure the health safety and welfare for residents and scale infrastructure to support new housing density.

Cities across the state have implemented innovative changes at the local level with community engagement to address their individual zoning and land use ordinances, provide local resources to ensure affordability, and create opportunities for new development across the housing spectrum. Zoning is hyper local as is each community's locally identified housing needs, public infrastructure capacity to accommodate new density, and advancing other individual community goals including historic preservation and protection of natural resources. While housing is a statewide issue, addressing housing affordability and availability must continue to be locally driven to account for these nuances.

The Missing Middle Housing bill as currently drafted, unfortunately falls short of policy that supports state-local partnership for residential development. Instead, the bill as written replaces existing zoning and land use authorities with an overly broad and rigid framework that eliminates the ability for all cities to account for nuances and be responsive to local conditions. In addition to the overall breadth of the preemptive nature of the policy proposed in the bill, numerous provisions in the proposed legislation pose serious practical questions for how city operations would function under the bill and either lack clarity or directly conflict with existing statute in ways that would likely result in litigation including:

- Section 1 of the bill creates minimum levels for density on all residential lots, which would force cities of the first class to allow between four and ten residential units and all other cities to accept between two and eight residential units on any residential lot regardless of its size or water and sewer infrastructure capacity or other state and federal requirements including stormwater management, fire and EMS access, and other standards.
- The bill does not consider overall lack of public infrastructure capacity, but forces cities to accept additional density without any consideration for how re-sizing infrastructure will be paid for to support the additional density, which will ultimately be borne by existing residents.
- Section 1 of the bill imposes unreasonable minimum lot size requirements to support the level of density mandated in the bill.
- Both Section 1 of the Missing Middle Housing bill and the DE amendment mandate new administrative review requirements that eliminates a resident's ability to voice concerns over material impacts a project would have on their property by eliminating all public hearing requirements for most residential development projects.

- Section 1 of the bill requires cities without a major transit stop to identify a commercial district in the city where high density development must be accepted despite most cities in Minnesota having neither and in hundreds of cities would result in allowing higher density multifamily buildings on all lots despite being well beyond the capacity of most greater Minnesota cities.
- The bill as amended by the DE amendment would force a city to accept by right up to a 150-foot multifamily building in certain areas of a city on any parcel even if that parcel was next to a single-family owner-occupied home without adequate ability to ensure reasonable setbacks for fire and safety.
- Section 1 of the bill also creates an exhaustive list for city zoning and land use authority, which leaves out significant life safety and public, health, safety, and welfare considerations that are included in longstanding city zoning and land use authority including emergency services access, fire safety, public infrastructure capacity, utility access, etc. The exhaustive list in the Missing Middle Housing bill, which includes height restrictions appear to directly contradict provisions in the DE amendment that prohibit restrictions on height.
- The bill in limiting minimum parking requirements while requiring higher density could result in developers underbuilding parking resulting in spillover onto city streets that were not designed to accommodate dense on street parking.
- The bill also includes contradictions within the bill itself including references that missing middle housing must be "compatible in scale, form, and character" with other housing while also broadly eliminating the ability for cities to impose those standards with the preemption of architectural design standards in section 2, which is overly broad and subjective likely resulting in legal challenges.

Thank you for consideration of our concerns. We look forward to continuing to work with Representative Kraft and other legislators to identify incentives-based approaches that support cities in their efforts to address local housing needs. Rigid state-mandated frameworks that remove community-engagement and lack consideration for how cities pay for and plan for infrastructure to support new residential density will create serious consequences for cities across the state.

Sincerely,

Daniel Lightfoot
League of Minnesota Cities

Ania McDonnell
Metro Cities

Elizabeth Wefel
Coalition of Greater Minnesota Cities

Tom Poul
Municipal Legislative Commission

Patricia Nauman
Metro Cities

Cap O'Rourke
Minnesota Association of Small Cities



**LEAGUE of
MINNESOTA
CITIES**



March 7, 2024

Re: City comments on SF 3964 ("Missing Middle Housing") and SF 3980 (Multifamily residential in commercial areas)

Dear Chair Port and Members of the Senate Housing and Preventing Homelessness Committee:

The League of Minnesota Cities, Coalition of Greater Minnesota Cities, Metro Cities, Minnesota Association of Small Cities, and Municipal Legislative Commission appreciate the opportunity to provide comments in opposition to SF 3964 (Mitchell) and SF 3980 (Pha). Our organizations and the cities we represent are deeply concerned with provisions in these bills that broadly preempt city zoning and land use authorities, remove public input in the residential development process, ignore long range local comprehensive plans and lack consideration for how cities utilize zoning and land use to ensure the health safety and welfare for residents and scale infrastructure to support new housing density.

Cities across the state have implemented innovative changes at the local level with community engagement to address their individual zoning and land use ordinances, provide local resources to ensure affordability, and create opportunities for new development across the housing spectrum. Zoning is hyper local as is each community's locally identified housing needs, public infrastructure capacity to accommodate new density, and advancing other individual community goals including historic preservation and protection of natural resources. While housing is a statewide issue, addressing housing affordability and availability must continue to be locally driven to account for these nuances.

SF 3964 and SF 3980 as currently drafted, unfortunately fall short of policy that supports state-local partnership for residential development. Instead, the bills as written replaces existing zoning and land use authorities with an overly broad and rigid framework that eliminates the ability for all cities to account for nuances and be responsive to local conditions. In addition to the overall breadth of the preemptive nature of the policy proposed in the bills, numerous provisions in the proposed legislation pose serious practical questions for how city operations would function under the bill and either lack clarity or directly conflict with existing statute in ways that would likely result in serious unintended consequences including:

- Section 1 of SF 3964 creates minimum levels for density on all residential lots, which would force cities of the first class to allow between four and ten residential units and all other cities to accept between two and eight residential units on any residential lot regardless of its size or water and sewer infrastructure capacity or other state and federal requirements including stormwater management, fire and EMS access, and other standards.
- Neither SF 3964 nor SF 3980 considers overall lack of public infrastructure capacity, but forces cities to accept additional density without any consideration for how re-sizing infrastructure will be paid for to support the additional density, which will ultimately be borne by existing residents.
- Section 1 of SF 3964 imposes unreasonable minimum lot size requirements to support the level of density mandated in the bill.
- Both SF 3964 and SF 3980 mandate new administrative review requirements that eliminates a resident's ability to voice concerns over material impacts a project would have on their property by eliminating all public hearing requirements for most residential development projects.

- Section 1 of SF 3964 requires cities without a major transit stop to identify a commercial district in the city where high density development must be accepted despite most cities in Minnesota having neither and in hundreds of cities would result in allowing higher density multifamily buildings on all lots despite being well beyond the capacity of most greater Minnesota cities.
- SF 3980 would force a city to accept by right up to a 150-foot multifamily building in certain areas of a city on any parcel even if that parcel was next to a single-family owner-occupied home without adequate ability to ensure reasonable setbacks for fire and safety.
- Section 1 of SF 3964 also creates an exhaustive list for city zoning and land use authority, which leaves out significant life safety and public, health, safety, and welfare considerations that are included in longstanding city zoning and land use authority including emergency services access, fire safety, public infrastructure capacity, utility access, etc. The exhaustive list in SF 3964, which includes height restrictions appear to directly contradict provisions in SF 3980 that prohibit restrictions on height for multifamily developments.
- Both SF 3964 and SF 3980 in limiting minimum parking requirements while requiring higher density could result in developers underbuilding parking resulting in spillover onto city streets that were not designed to accommodate dense on street parking.
- SF 3964 also includes contradicting provisions including references that missing middle housing must be "compatible in scale, form, and character" with other housing while also broadly eliminating the ability for cities to impose those standards with the preemption of architectural design standards in section 2, which is overly broad and subjective likely resulting in legal challenges.

Thank you for consideration of our concerns. We look forward to continuing to work with Senators Mitchell and Pha and other legislators to identify incentives-based approaches that support cities in their efforts to address local housing needs. Rigid state-mandated frameworks that remove community-engagement and lack consideration for how cities pay for and plan for infrastructure to support new residential density will create serious consequences for cities across the state.

Sincerely,

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> Missing Middle Housing Bill Includes Myriad of Statewide Zoning and Land Use Preemption Provisions



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Daniel Lightfoot

IGR Representative & Federal
Relations Manager

(651) 281-1290 or (800) 925-1122

dlightfoot@lmc.org

Missing Middle Housing Bill Includes Myriad of Statewide Zoning and Land Use Preemption Provisions

February 20, 2024

Legislation to be heard Feb. 20 in the House Housing Finance and Policy Committee seeks to broadly preempt city zoning and land use authority and require residential density in many cities.

[HF 11K12](#) the "Missing Middle Housing" bill authored by [Rep. Larry Kraft](#) (DFL-St. Louis Park)/[Sen. Nicole Mitchell](#) (DFL-Woodbury) and [HF 12B11](#) authored by [Rep. Alicja Kozlowski](#) (DFL-Duluth)/[Sen. Susan Pha](#) (DFL-Brooklyn Park) will be considered by the [House Housing Finance and Policy Committee](#).

The bills, which are likely to be combined via an amendment, contain myriad of provisions that broadly preempt city zoning and land use authority and mandate various levels of density on residential and commercial lots regardless of infrastructure capacity while also creating required administrative review processes that eliminate public input.

Details of the proposed legislation

While there are cities in all regions of the state that have adjusted their zoning ordinances over time to accommodate varying degrees of density, these decisions were made at the local level and ensured adequate infrastructure capacity while including public input from community members impacted by these changes. While the amendment clarifies several issues the League has raised and exempts Great Lakes states with populations of 5,000 or less from certain requirements, the Missing Middle Housing bill combined with HF 4010/SF 3900 still eliminates the ability for cities across the state to do either by including the following provisions in the bill language that was introduced:

- Sets a base level for density allowed on any residential lot by right (or without needing to go through a discretionary review processes) regardless of size at 2 units statewide and 4 units in cities of the first class. If certain conditions are met, 8 units are allowed in second-, third-, and fourth-class cities and 10 units may be allowed per lot in cities of the first class.
- Forces administrative approvals of projects that meet the standards in the bill language and prohibits public input in the approval process.
- Limits minimum lot size requirements to no greater than 2,500 square feet for first class cities and 4,000 square feet for all other cities except for Greater Minnesota cities with populations of less than 5,000.
- Requires all cities to accept Accessory Dwelling Units on all residential lots regardless of size and allows property owners to subdivide their lots by right.
- Prohibits off-street parking from being required close to major transit stops and limits off-street parking minimum requirements to 1 spot per unit in other areas.
- Allows multifamily buildings to be built up to 150 feet tall on any lot in a commercial zoning district.
- Broadly prohibits design standards for residential development and eliminates minimum square footage and floor area ratio requirements.

Next steps

The League has been in conversations with the bill authors and will continue to advocate for local control when it comes to local decision-making authority on residential development. Cities are encouraged to reach out to their legislators with concerns regarding this bill.

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> Senate Housing Committee to Act on Omnibus Zoning Package Includes Language That Would Restrict City Authority



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Daniel Lightfoot

IGR Representative & Federal
Relations Manager

(651) 281-1295 or (800) 925-1122

dlightfoot@lmc.org

Senate Housing Committee to Act on Omnibus Zoning Package, Includes Language That Would Restrict City Authority

March 11, 2024

The omnibus zoning package will be advanced to the Senate State and Local Government and Veterans Committee for consideration.

On March 7, the [Senate Housing and Homelessness Prevention Committee](#) heard three bills including the problematic "Missing Middle Housing Bill" and laid all three over for possible inclusion in an omnibus bill.

The bills considered by the committee were:

- [SE.3261](#), the "Missing Middle Housing Bill" authored by [Nicole Mitchell](#) (DFL-Woodbury).
- [SF.3964](#) authored by [Susan Pha](#) (DFL-Brooklyn Park) that would allow multifamily buildings by right in commercial areas.
- [SE.1001](#) authored by [Liz Boldon](#) (DFL-Rochester), which would prohibit cities from zoning out emergency housing facilities in commercial or industrial areas.

The three bills could be combined to create an omnibus zoning package during a second hearing by the Senate Housing and Homelessness Prevention Committee on March 12. The package is likely to advance to the [Senate State and Local Government and Veterans Committee](#) for consideration.

The League of Minnesota Cities along with other city organizations provided written testimony citing concerns with SF 3964 and SF 3980. Prior Lake City Manager Jason Wedel and Cambridge City Administrator Evan Vogel provided testimony before the committee on behalf of the League. The League also submitted written testimony citing concerns with SF 4601.

- [View the written testimony regarding SF.3964 and SF.3980.](#)
- [View the written testimony regarding SF.4601.](#)

Cities, especially cities represented by lawmakers on the [Senate State and Local Government and Veterans Committee](#), are encouraged to reach out to their legislators with concerns regarding these three bills.

[Read more news articles.](#)



**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 3980

(SENATE AUTHORS: PHA)

DATE	D-PG	OFFICIAL STATUS
02/19/2024	II 658	Introduction and first reading
		Referred to State and Local Government and Veterans
03/07/2024	12068	Withdrawn and re-referred to Housing and Homelessness Prevention

- 11 A bill for an act
- 12 relating to local government; establishing requirements for multifamily residential
- 13 developments in cities; proposing coding for new law in Minnesota Statutes,
- 14 chapter 462.
- 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 16 Section 1. **[462.3571] MULTIFAMILY RESIDENTIAL DEVELOPMENTS.**
- 17 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
- 18 the meanings given.
- 19 (b) "Affordable housing development" means a multifamily residential development in
- 1.10 which:
- 1.11 (1) at least 20 percent of the residential units are for households whose incomes do not
- 1.12 exceed 50 percent of the area median income; or
- 1.13 (2) at least 40 percent of the residential units are for households whose incomes do not
- 1.14 exceed 60 percent of the area median income.
- 1.15 The deed or declaration for an affordable residential unit must also contain a restrictive
- 1.16 covenant requiring the property to remain affordable housing for at least 30 years.
- 1.17 (c) "City" means a home rule charter or statutory city.
- 1.18 (d) "Residential unit" means a residential dwelling for the use of a single owner or tenant.
- 1.19 Subd. 2. **Multifamily residential developments.** (a) Multifamily residential
- 1.20 developments are a permitted use in any zoning district that is not zoned as industrial or
- 1.21 agricultural, subject to compliance with all municipal standards.

21 (b) A multifamily residential development may be mixed use so long as at least 50
22 percent of the square footage of the development is dedicated to residential use.

23 Subd. 3. **Proximity to certain transportation infrastructure.** A multifamily residential
24 development must not be located less than 500 feet from a federal interstate highway, airport,
25 or rail line. The limitation under this subdivision does not apply to a state trunk highway,
26 county state-aid highway, or other local road.

27 Subd. 4. **Compliance with comprehensive plan; zoning.** A multifamily residential
28 development must be approved by a city if it is consistent with the comprehensive plan on
29 the date of submission and complies with all state and municipal standards.

210 Subd. 5. **Applicable zoning standards.** (a) A city may not impose more restrictive
211 standards to a multifamily residential development than those that apply to property zoned
212 for the current use of the parcel.

213 (b) A city must not impose a height requirement on a multifamily residential development
214 that is less than the tallest structure within a one-quarter mile radius of the parcel on which
215 the development will be built or the maximum height permitted under the city's official
216 controls, whichever is higher, so long as the maximum height of the development is no
217 more than 150 feet.

218 (c) A city must not impose a setback requirement on a multifamily residential
219 development that is less than the smallest minimum setback distance required of a structure
220 within a one-quarter mile radius of the parcel on which the development will be built.

221 Subd. 6. **Parking requirements limited.** A city may not require more than one off-street
222 parking space per residential unit.

223 Subd. 7. **Affordable housing development; height requirements.** (a) An affordable
224 housing development must be permitted to exceed both a maximum height requirement and
225 a maximum floor area ratio limitation imposed by city official controls as provided in
226 paragraphs (b) and (c). The authority in paragraphs (b) and (c) that produces the tallest
227 development with the most number of affordable housing units on the parcel shall be applied
228 to the affordable housing development.

229 (b) An affordable housing development may either:

230 (1) exceed the height requirement for the zoning district where the affordable housing
231 development will be located by 35 feet in height; or

232 (2) match the maximum allowed height in any zoning district within one mile of the
233 affordable housing development, so long as the maximum height is no more than 150 feet.

3.1 (c) An affordable housing development must be permitted to do one of the following,
3.2 whichever results in the largest development:

3.3 (1) exceed the maximum density as permitted by city standards or the city's
3.4 comprehensive plan by 30 percent;

3.5 (2) exceed the lot coverage ratio by 30 percent;

3.6 (3) exceed the floor area ratio by 30 percent; or

3.7 (4) exceed the maximum impervious lot coverage area by 30 percent.

3.8 Subd. 8. **Administrative review process.** (a) Notwithstanding any law, rule, or ordinance
3.9 to the contrary, a city must establish an administrative review process for building permit
3.10 applications for multifamily residential development projects. The administrative review
3.11 process must review and approve or deny such building permit applications based on the
3.12 application's conformity with the city's comprehensive plan, other applicable zoning
3.13 requirements, and state law. An application may not be approved contingent on the
3.14 development being a part of planned unit development, the approval of a conditional use
3.15 permit, the completion of a study, or other condition that is not related to conformity with
3.16 the city's comprehensive plan, zoning requirements, and state law.

3.17 (b) An application denial must be in writing and must describe the reasons for denial
3.18 and the ways the application or development design can be amended to receive approval at
3.19 a future date. Nothing in this subdivision prevents an applicant who received a denial from
3.20 submitting a new application for the same multifamily residential development, which shall
3.21 be treated by the city as a new submission.

3.22 (c) The administrative review process shall not involve a public hearing unless one is
3.23 required by state or federal law. Approval or denial of an application does not require
3.24 approval by the city council or a subcommittee of the council.

3.25 (d) An application subject to the administrative review process under this subdivision
3.26 must be approved or denied within 60 days following the receipt by the city of a completed
3.27 application by the applicant. If the city fails to approve or deny an application within 60
3.28 days, the application shall be deemed approved. The city may not request an extension for
3.29 review of the application from the applicant.

3.30 (e) A city may request that an applicant incorporate certain design elements into the
3.31 development that go beyond the criteria in state law and city official controls. The applicant
3.32 may incorporate those elements in the design of the development but is not required to do
3.33 so.

4.1 Subd. 9. **Local funds.** Notwithstanding any law, rule, or ordinance to the contrary, a
4.2 city may not inlpose requirements on a multifamily residential development that are more
4.3 restrictive than the requirements in this section if a multifamily residential development is
4.4 funded in whole, or in part, with local funds or is located in a tax increment financing district
4.5 or other special district created by the city.

4.6 **EFFECTIVE DATE.** This section is effective January 1, 2025.