



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,

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