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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4009

02/19/2024 Authored by Kraft, Howard, Nash, Elkins, Wolgamott and others
The bill was read for the first time and referred to the Committee on Housing Finance and Policy

1.1 A bill for an act
1.2 relating to local government; establishing minimum allowable densities on
1.3 residential lots in cities; requiring the authorization of middle housing types to be
1.4 built on residential lots; authorizing subdivision of residential lots; limiting parking
1.5 requirements established by cities; requiring the Minnesota Housing Finance
1.6 Agency to create a model ordinance for cities; limiting city aesthetic mandates on
1.7 residential building permits; proposing coding for new law in Minnesota Statutes,
1.8 chapter 462.

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

1.10 Section 1. [462.3575] CITY MINIMUM RESIDENTIAL DENSITIES AND
1.11 ASSOCIATED REQUIREMENTS.

1.12 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.13 the meanings given.

1.14 (b) "Accessory dwelling unit" means any building that contains one dwelling unit used,
1.15 intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or
1.16 occupied for living purposes and is located on the same property as an existing dwelling.
1.17 An accessory dwelling unit may be attached or detached from the existing dwelling.

1.18 (c) "Affordable housing" means a residential dwelling unit affordable to households at
1.19 or below 115 percent of the area median household income, for an owner-occupied unit, or
1.20 at or below 60 percent of the area median household income, for a unit that is leased. The
1.21 deed or declaration for the unit must also contain a restrictive covenant requiring the property
1.22 to remain affordable housing for at least ten years, if the unit is owner-occupied, or at least
1.23 30 years if the unit is leased.

2.1 (d) "All-electric and efficient home" means a residential dwelling unit that utilizes
2.2 electricity as its sole source of energy for heating, hot water heating, cooling, and appliances
2.3 and meets the most current minimum efficiency standards of a zero energy ready home
2.4 under the Zero Energy Ready Home Program administered by United States Department
2.5 of Energy.

2.6 (e) "City" means a home rule charter or statutory city.

2.7 (f) "Cottage housing" means residential dwelling units on a lot with a common open
2.8 space that either:

2.9 (1) is owned in common; or

2.10 (2) has units owned as condominium units with property owned in common and a
2.11 minimum of 20 percent of the lot size as open space.

2.12 (g) "Courtyard apartment" means a building with up to four attached residential dwelling
2.13 units arranged on two or three sides of a yard or garden.

2.14 (h) "Duplex" means a two-family home, classified as an IRC-2 in the State Building
2.15 Code and not meeting the definition of townhouse.

2.16 (i) "Fiveplex" means a building containing five residential dwelling units intended for
2.17 nontransient occupancy and not meeting the definition of townhouse.

2.18 (j) "Fourplex" means a building containing four residential dwelling units intended for
2.19 nontransient occupancy and not meeting the definition of townhouse.

2.20 (k) "Lot" means any contiguous parcel of land in the possession of, owned by, or recorded
2.21 as the property of the same claimant or person.

2.22 (l) "Major transit stop" means a stop or station for a guideway or busway, as the terms
2.23 are defined in section 473.4485, subdivision 1.

2.24 (m) "Middle housing" means buildings that are single-family detached homes and
2.25 residential properties that are compatible in scale, form, and character with single-family
2.26 detached homes. Middle housing includes all of the following housing types:

2.27 (1) duplexes;

2.28 (2) triplexes;

2.29 (3) fourplexes;

2.30 (4) fiveplexes;

2.31 (5) sixplexes;

3.1 (6) townhouses;

3.2 (7) stacked flats;

3.3 (8) courtyard apartments;

3.4 (9) cottage housing; and

3.5 (10) single-family detached homes.

3.6 (n) "Residential dwelling unit" or "unit" means a residential dwelling unit for the use of
3.7 a single owner or tenant and applies to any type of residential structure unless otherwise
3.8 specified.

3.9 (o) "Single-family detached home" means any building that contains one residential
3.10 dwelling unit used, intended, or designed to be built, used, rented, leased, let, or hired out
3.11 to be occupied, or occupied for living purposes that is not attached to another structure.

3.12 (p) "Sixplex" means a building containing six residential dwelling units intended for
3.13 nontransient occupancy and not meeting the definition of townhouse.

3.14 (q) "Stacked flat" means a nontransient residential building of no more than three stories
3.15 on a lot zoned for residential development in which each floor is a residential dwelling unit.

3.16 (r) "Townhouse" means a single-family residential dwelling unit constructed in a group
3.17 of three or more attached units in which each unit extends from the foundation to the roof
3.18 and with open space on at least two sides. Each single-family residential dwelling unit shall
3.19 be considered a separate building. Separate building service utilities shall be provided to
3.20 each single-family residential dwelling unit when required by the State Building Code.

3.21 (s) "Triplex" means a building containing three residential dwelling units intended for
3.22 nontransient occupancy and not meeting the definition of townhouse.

3.23 Subd. 2. **Middle housing types permitted.** A city must authorize at least six types of
3.24 middle housing other than single-family detached homes to be built on residential lots in
3.25 the city to achieve the density requirements in this section.

3.26 Subd. 3. **Cities of the first class; required residential densities.** (a) A city of the first
3.27 class must permit the development of at least four residential dwelling units on any residential
3.28 lot that is more than one-half mile from a major transit stop, unless one of the following
3.29 criteria are met:

3.30 (1) if all of the units are all-electric and efficient homes, the city must permit the
3.31 development of at least six residential dwelling units on the lot;

4.1 (2) if at least two of the units are affordable housing, the city must permit the development
4.2 of at least six residential dwelling units on the lot; or

4.3 (3) if all of the units are all-electric and efficient homes and at least two of the units are
4.4 also affordable housing, the city must permit the development of at least eight residential
4.5 dwelling units on the lot.

4.6 (b) A city of the first class must permit the development of at least six residential dwelling
4.7 units on any residential lot that is one-half mile or less from a major transit stop, unless one
4.8 of the following criteria are met:

4.9 (1) if all of the units are all-electric and efficient homes, the city must permit the
4.10 development of at least eight residential dwelling units on the lot;

4.11 (2) if at least two of the units are affordable housing, the city must permit the development
4.12 of at least eight residential dwelling units on the lot; or

4.13 (3) if all of the units are all-electric and efficient homes and at least two of the units are
4.14 also affordable housing, the city must permit the development of at least ten residential
4.15 dwelling units on the lot.

4.16 (c) The requirements of this subdivision apply regardless of the types of middle housing
4.17 authorized by the city under subdivision 2.

4.18 **Subd. 4. Other cities; required residential densities.** (a) A city of the second, third,
4.19 or fourth class must permit the development of at least two residential dwelling units on
4.20 any residential lot that is more than one-half mile from a major transit stop, unless one of
4.21 the following criteria are met:

4.22 (1) if all of the units are all-electric and efficient homes, the city must permit the
4.23 development of at least three residential dwelling units on the lot;

4.24 (2) if at least two of the units are affordable housing, the city must permit the development
4.25 of at least three residential dwelling units on the lot; or

4.26 (3) if all of the units are all-electric and efficient homes and at least two of the units are
4.27 also affordable housing, the city must permit the development of at least four residential
4.28 dwelling units on the lot.

4.29 (b) A city of the second, third, or fourth class must permit the development of at least
4.30 four residential dwelling units on any residential lot that is one-half mile or less from a
4.31 major transit stop, unless one of the following criteria are met:

5.1 (1) if all of the units are all-electric and efficient homes, the city must permit the
5.2 development of at least six residential dwelling units on the lot;

5.3 (2) if at least two of the units are affordable housing, the city must permit the development
5.4 of at least six residential dwelling units on the lot; or

5.5 (3) if all of the units are all-electric and efficient homes and at least two of the units are
5.6 also affordable housing, the city must permit the development of at least eight residential
5.7 dwelling units on the lot.

5.8 (c) The requirements of this subdivision apply regardless of the types of middle housing
5.9 authorized by the city under subdivision 2.

5.10 Subd. 5. **Municipal standards.** (a) Any standards, performance conditions, or
5.11 requirements imposed by a city for residential dwelling units permitted under subdivisions
5.12 3 and 4 must directly relate to protecting public health, safety, and general welfare.

5.13 (b) A city may not use official controls to prohibit the application of this section, including
5.14 imposing performance conditions, standards, requirements, ordinances, fees, exactions, and
5.15 dedications on any residential dwelling unit or development that are more restrictive than
5.16 those in this section or other law or rule.

5.17 Subd. 6. **Commercial district designation.** A city that does not have a major transit
5.18 stop within the boundaries of the city must designate the boundaries of at least one
5.19 commercial district in the city. The commercial district must be adjacent to residential
5.20 property. The boundaries of the commercial district must be treated as a major transit stop
5.21 for the purposes of determining properties to which the densities in subdivisions 3 and 4
5.22 apply.

5.23 Subd. 7. **Accessory dwelling units authorized.** (a) An accessory dwelling unit may be
5.24 built on any residential lot in a city, regardless of total lot size, street frontage, connectivity
5.25 between the accessory dwelling unit and the primary dwelling on the lot, and whether the
5.26 lot is occupied by the property owner, so long as the accessory dwelling unit is built in
5.27 conformance with the State Building Code.

5.28 (b) A city may permit more than one accessory dwelling unit to be built on a residential
5.29 lot.

5.30 Subd. 8. **Minimum lot size permitted.** (a) A city may, by ordinance, require a minimum
5.31 lot size in accordance with this subdivision to which the density requirements of subdivisions
5.32 3 and 4 apply.

5.33 (b) A minimum lot size for a city of the first class must not be greater than:

6.1 (1) 2,500 square feet for a single-family detached home, duplex, triplex, fourplex,
 6.2 fiveplex, sixplex, stacked flat, and courtyard apartment; or

6.3 (2) 1,200 square feet for a townhome and cottage housing.

6.4 (c) A minimum lot size for a city of the second, third, or fourth class must not be greater
 6.5 than:

6.6 (1) 4,000 square feet for a single-family detached home, duplex, triplex, fourplex,
 6.7 fiveplex, sixplex, stacked flat, and courtyard apartment; or

6.8 (2) 1,200 square feet for a townhome and cottage housing.

6.9 Subd. 9. **City official controls; limitations.** (a) City official controls establishing,
 6.10 directly or indirectly, the permitted size, scale, or form of a building may only impose the
 6.11 following limitations:

6.12 (1) building height maximums;

6.13 (2) yard or setback requirements;

6.14 (3) maximum lot coverage;

6.15 (4) impervious surface maximums;

6.16 (5) lot width minimums;

6.17 (6) lot area minimums; and

6.18 (7) a maximum number of residential units per lot.

6.19 (b) City official controls must not impose architectural features, minimum square footage,
 6.20 garage square footage, or floor area ratios and must not create practical difficulties in the
 6.21 placement of residential units on any lot.

6.22 (c) City official controls establishing, directly or indirectly, the maximum square footage,
 6.23 gross floor area, or other size standard for residential dwelling units must be increased by
 6.24 at least ten percent per single-family unit built on a lot where multiple single-family units
 6.25 will be developed. A city may opt not to adjust a height standard for single-family units
 6.26 entitled to other standard adjustments under this paragraph.

6.27 (d) A city must reduce a setback standard by at least one foot for an all-electric and
 6.28 efficient home.

6.29 Subd. 10. **Parking requirements limited.** (a) A city may not require off-street parking
 6.30 space for a residential dwelling unit that is one-half mile or less from a major transit stop.

7.1 (b) A city may not require more than one off-street parking space per residential dwelling
7.2 unit that is over one-half mile from a major transit stop.

7.3 Subd. 11. **Affordable housing; replacement required.** Affordable housing on a
7.4 residential lot may only be demolished or remodeled for the construction of middle housing
7.5 if the middle housing development will create at least as many affordable housing units as
7.6 exist in the structure to be demolished or remodeled.

7.7 Subd. 12. **Subdivision of lots permitted; administrative review process established.** (a)
7.8 Notwithstanding any law, rule, or ordinance to the contrary, a city must permit a residential
7.9 lot to which the density requirements of subdivisions 3 and 4 apply to be subdivided in a
7.10 manner that allows all units to be built on the property to be single-family detached homes.

7.11 (b) A residential lot created from the subdivision of property under paragraph (a) that
7.12 is smaller than a minimum lot size required pursuant to subdivision 8 is not subject to the
7.13 density requirements under subdivisions 3 and 4.

7.14 (c) Notwithstanding any law, rule, or ordinance to the contrary, a city must permit units
7.15 on residential lots created from the subdivision process under paragraph (a) to share water,
7.16 wastewater, and sanitary sewer infrastructure.

7.17 (d) A city shall process an application to subdivide a residential lot in accordance with
7.18 the procedures under subdivision 13.

7.19 Subd. 13. **Administrative design review process established.** (a) Notwithstanding
7.20 section 462.358, subdivision 3b, or any other law, rule, or ordinance to the contrary, a city
7.21 must establish an administrative design review process for building permits for middle
7.22 housing development projects and subdivision applications under subdivision 12. The
7.23 administrative review process must review and approve or deny such building permit and
7.24 subdivision applications based on the application's alignment with the city's comprehensive
7.25 plan and other applicable zoning requirements. The administrative review process shall not
7.26 involve a public hearing unless one is required by state or federal law or the project involves
7.27 or affects a lot located in a historic district under section 138.73. The city may hold a public
7.28 hearing on a building permit or subdivision application under this section for requests for
7.29 variances from city zoning requirements. Except as provided in paragraph (b), an application
7.30 subject to the administrative design review process must be approved or disapproved within
7.31 60 days following the receipt by the city of a completed application by the applicant. If the
7.32 city fails to approve or disapprove an application within 60 days, the application shall be
7.33 deemed approved.

8.1 (b) A city must specify in writing all requirements for an application for a building
8.2 permit for middle housing or for a subdivision to be considered complete. The written
8.3 completion requirements must accompany each application.

8.4 (c) An applicant may direct the city to toll the 60-day review period for an application
8.5 for a building permit for middle housing or for a subdivision application under subdivision
8.6 12. The applicant may also direct the city to begin to run the 60-day time period for an
8.7 application that was previously tolled upon request by the applicant. A request under this
8.8 paragraph must be in writing. A city may not charge a fee to the applicant for a request
8.9 under this paragraph.

8.10 Subd. 14. **Model ordinance.** (a) On or before December 31, 2024, the commissioner of
8.11 the Minnesota Housing Finance Agency must develop and publish a model ordinance for
8.12 adoption by cities that addresses the requirements of this section. On or before July 1, 2025,
8.13 a city must adopt the model ordinance under this subdivision or amend its official controls
8.14 to be consistent with the requirements of this section as part of an alternative density plan
8.15 under subdivision 15.

8.16 (b) The Minnesota Housing Finance Agency must convene an advisory group of
8.17 stakeholders to provide information during the development of the model ordinance. The
8.18 advisory group must represent expertise in city administration, housing affordability, housing
8.19 construction, municipal land use planning and zoning, and any other topics that the agency
8.20 determines are necessary.

8.21 Subd. 15. **Alternative density plans.** A city may develop an alternative density plan
8.22 and submit the plan to the commissioner of the Minnesota Housing Finance Agency for
8.23 approval. The commissioner may approve an alternative density plan under this subdivision
8.24 only if the city demonstrates that the plan will result in an equal or greater amount of middle
8.25 housing production that would occur with the adoption of the model ordinance under
8.26 subdivision 14. The commissioner must approve or disapprove an alternative density plan
8.27 within 120 days of the day of receipt of the plan by the commissioner.

8.28 Subd. 16. **Exception.** This section does not apply to any parcel located in a floodplain.

8.29 Subd. 17. **State Building Code; State Fire Code.** This section does not modify any
8.30 requirement of the State Building Code or State Fire Code.

8.31 **EFFECTIVE DATE.** This section is effective July 1, 2025, except that subdivisions
8.32 1, 14, and 15 are effective July 1, 2024.

9.1 **Sec. 2. [462.3576] LIMITATION ON AESTHETIC MANDATES FOR CITIES.**

9.2 A home rule charter or statutory city must not condition approval of a residential building
9.3 permit, subdivision development, or planned unit development on the use of one or more
9.4 of the following:

9.5 (1) specific materials for aesthetic reasons for property used for a residential purpose as
9.6 defined by the State Building Code;

9.7 (2) minimum square footage or floor area ratios;

9.8 (3) architectural design elements, including but not limited to decks, balconies, porches,
9.9 gables, roof pitch, and elevation design standards;

9.10 (4) garage square footage; or

9.11 (5) common space, pools, or any common property necessitating a homeowner's
9.12 association.

9.13 **EFFECTIVE DATE.** This section is effective July 1, 2024.