

This Document can be made available in alternative formats upon request

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
02/22/2024 Adoption of Report: Amended and re-referred to the Committee on State and Local Government 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; establishing requirements for multifamily residential
1.8 developments in cities; proposing coding for new law in Minnesota Statutes,
1.9 chapter 462.

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

1.11 Section 1. 462.3571 MULTIFAMILY RESIDENTIAL DEVELOPMENTS.

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

1.14 (b) "Affordable housing development" means a multifamily residential development in
1.15 which:

1.16 (1) at least 20 percent of the residential units are for households whose incomes do not
1.17 exceed 50 percent of the area median income; or

1.18 (2) at least 40 percent of the residential units are for households whose incomes do not
1.19 exceed 60 percent of the area median income.

1.20 The deed or declaration for an affordable residential unit must also contain a restrictive
1.21 covenant requiring the property to remain affordable housing for at least 30 years.

1.22 (c) "City" means a home rule charter or statutory city.

1.23 (d) "Residential unit" means a residential dwelling for the use of a single owner or tenant.

2.1 (e) "Structure" means anything constructed or installed for residential or commercial  
2.2 use which requires a location on a parcel of land.

2.3 Subd. 2. **Multifamily residential developments.** (a) Subject to compliance with all  
2.4 municipal standards, multifamily residential developments are a permitted use in any  
2.5 commercial zoning district. A multifamily residential development may not be constructed  
2.6 on a lot zoned for a single-family home unless otherwise authorized by law, rule, or  
2.7 ordinance.

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

2.10 Subd. 3. **Compliance with comprehensive plan; zoning.** A multifamily residential  
2.11 development must be approved by a city if it is consistent with the comprehensive plan on  
2.12 the date of submission and complies with the requirements of this section and all state and  
2.13 municipal standards.

2.14 Subd. 4. **Applicable zoning standards.** (a) A city may not impose more restrictive  
2.15 standards on a multifamily residential development than those that apply to property zoned  
2.16 for the current use of the parcel.

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

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

2.25 Subd. 5. **Parking requirements limited.** A city may not require more than one off-street  
2.26 parking space per residential unit.

2.27 Subd. 6. **Affordable housing development; height requirements.** (a) An affordable  
2.28 housing development must be permitted to exceed both a maximum height requirement and  
2.29 a maximum floor area ratio limitation imposed by city official controls as provided in  
2.30 paragraphs (b) and (c). The authority in paragraphs (b) and (c) that will produce the tallest  
2.31 development with the most number of affordable housing units on the parcel shall be applied  
2.32 to the affordable housing development.

2.33 (b) An affordable housing development may either:

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

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

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

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

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

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

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

3.12 Subd. 7. **Administrative review process.** (a) Notwithstanding any law, rule, or ordinance  
3.13 to the contrary, a city must establish an administrative review process for building permit  
3.14 applications for multifamily housing development projects. The administrative review  
3.15 process must review and approve or deny such building permit applications based on the  
3.16 application's conformity with the city's comprehensive plan, other applicable zoning  
3.17 requirements, and state law. An application may not be approved contingent on the  
3.18 development being a part of planned unit development, the approval of a conditional use  
3.19 permit, the completion of a study, or other condition that is not related to conformity with  
3.20 the city's comprehensive plan, zoning requirements, and state law.

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

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

3.29 (d) An application subject to the administrative review process under this subdivision  
3.30 must be approved or disapproved within 60 days following the receipt by the city of a  
3.31 completed application by the applicant. If the city fails to approve or disapprove an  
3.32 application within 60 days, the application shall be deemed approved. The city may not  
3.33 request an extension for review of the application from the applicant.

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

4.5 Subd. 8. **Local funds.** Notwithstanding any law, rule, or ordinance to the contrary, a  
4.6 city may not impose requirements on a multifamily housing development that are more  
4.7 restrictive than the requirements in this section if a multifamily housing development is  
4.8 funded in whole, or in part, with local funds or is located in a tax increment financing district  
4.9 or other special district created by the city.

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

4.11 Sec. 2. **[462.3575] CITY MINIMUM RESIDENTIAL DENSITIES AND**  
4.12 **ASSOCIATED REQUIREMENTS.**

4.13 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have  
4.14 the meanings given them.

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

4.19 (c) "Affordable housing" means a residential dwelling unit affordable to households at  
4.20 or below 115 percent of the area median household income, for an owner-occupied unit, or  
4.21 at or below 60 percent of the area median household income, for a unit that is leased. The  
4.22 deed or declaration for the unit must also contain a restrictive covenant requiring the property  
4.23 to remain affordable housing for at least ten years, if the unit is owner-occupied, or at least  
4.24 30 years if the unit is leased.

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

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

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

- 5.1 (1) is owned in common; or
- 5.2 (2) has units owned as condominium units with property owned in common and a  
5.3 minimum of 20 percent of the lot size as open space.
- 5.4 (g) "Courtyard apartment" means a building with up to four attached residential dwelling  
5.5 units arranged on two or three sides of a yard or garden.
- 5.6 (h) "Duplex" means a two family home, classified as an IRC-2 in the State Building  
5.7 Code and not meeting the definition of townhouse.
- 5.8 (i) "Fiveplex" means a building containing five residential dwelling units intended for  
5.9 nontransient occupancy and not meeting the definition of townhouse.
- 5.10 (j) "Fourplex" means a building containing four residential dwelling units intended for  
5.11 nontransient occupancy and not meeting the definition of townhouse.
- 5.12 (k) "Lot" means any contiguous parcel of land in the possession of, owned by, or recorded  
5.13 as the property of the same claimant or person.
- 5.14 (l) "Major transit stop" means a stop or station for a guideway or for a busway, as the  
5.15 terms are defined in section 473.4485, subdivision 1.
- 5.16 (m) "Metropolitan area" has the meaning under section 473.121, subdivision 2.
- 5.17 (n) "Middle housing" means buildings that are single-family detached homes and  
5.18 residential properties that are compatible in scale, form, and character with single-family  
5.19 detached homes. Middle housing includes all of the following housing types:
- 5.20 (1) duplexes;
- 5.21 (2) triplexes;
- 5.22 (3) fourplexes;
- 5.23 (4) fiveplexes;
- 5.24 (5) sixplexes;
- 5.25 (6) townhouses;
- 5.26 (7) stacked flats;
- 5.27 (8) courtyard apartments;
- 5.28 (9) cottage housing; and
- 5.29 (10) single-family detached homes.

6.1 (o) "Residential dwelling unit" or "unit" means a residential dwelling unit for the use of  
6.2 a single owner or tenant, and applies to any type of residential structure unless otherwise  
6.3 specified.

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

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

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

6.11 (s) "Townhouse" means a single-family residential dwelling unit constructed in a group  
6.12 of three or more attached units in which each unit extends from the foundation to the roof  
6.13 and with open space on at least two sides. Each single-family residential dwelling unit shall  
6.14 be considered to be a separate building. Separate building service utilities shall be provided  
6.15 to each single-family residential dwelling unit when required by the Minnesota State Building  
6.16 Code.

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

6.19 Subd. 2. **Middle housing types permitted.** Any city in the metropolitan area and any  
6.20 city outside of the metropolitan area with a population of 10,000 or more must authorize at  
6.21 least six types of middle housing other than single-family detached homes to be built on  
6.22 residential lots in the city to achieve the density requirements in this section.

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

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

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

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

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

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

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

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

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

7.13 Subd. 4. **Greater Minnesota small cities; required residential densities.** A city with  
7.14 a population of less than 10,000 that is located outside of the metropolitan area must permit  
7.15 the development of at least two residential dwelling units on any residential lot.

7.16 Subd. 5. **Other cities; required residential densities.** (a) A city to which the  
7.17 requirements of subdivisions 3 and 4 do not apply must permit the development of at least  
7.18 two residential dwelling units on any residential lot that is more than one-half mile from a  
7.19 major transit stop, unless one of the following criteria are met:

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

7.22 (2) if at least one of the units is affordable housing, the city must permit the development  
7.23 of at least three residential dwelling units on the lot; or

7.24 (3) if all of the units are all-electric and efficient homes and at least one of the units is  
7.25 also affordable housing, the city must permit the development of at least four residential  
7.26 dwelling units on the lot.

7.27 (b) A city subject to this subdivision must permit the development of at least four  
7.28 residential dwelling units on any residential lot that is one-half mile or less from a major  
7.29 transit stop, unless one of the following criteria are met:

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

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

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

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

8.8 Subd. 6. **Municipal standards.** (a) Any standards, performance conditions, or  
8.9 requirements imposed by a city for residential dwelling units permitted under subdivisions  
8.10 3, 4, and 5 must directly relate to protecting public health, safety, and general welfare.

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

8.15 Subd. 7. **Commercial district designation.** A city with a population of 10,000 or more  
8.16 that does not have a major transit stop within the boundaries of the city must designate the  
8.17 boundaries of at least one commercial district in the city. The commercial district must be  
8.18 adjacent to residential property. The boundaries of the commercial district must be treated  
8.19 as a major transit stop for the purposes of determining properties to which the densities in  
8.20 subdivisions 3 and 5 apply.

8.21 Subd. 8. **Accessory dwelling units authorized.** (a) An accessory dwelling unit may be  
8.22 built on any residential lot in a city, regardless of total lot size, street frontage, connectivity  
8.23 between the accessory dwelling unit and the primary dwelling on the lot, and whether the  
8.24 lot is occupied by the property owner, so long as the accessory dwelling unit is built in  
8.25 conformance with the Minnesota State Building Code.

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

8.28 (c) An accessory dwelling unit qualifies as a residential dwelling unit for the purposes  
8.29 of subdivisions 3, 4, and 5.

8.30 Subd. 9. **Minimum lot size permitted.** (a) A city may, by ordinance, require a minimum  
8.31 lot size in accordance with this subdivision to which the density requirements of subdivisions  
8.32 3 and 5 apply.

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

9.1 (1) 2,500 square feet for a single-family detached home, duplex, triplex, fourplex,  
9.2 fiveplex, sixplex, stacked flat, and courtyard apartment; or

9.3 (2) 1,200 square feet for a townhome and cottage housing.

9.4 (c) A minimum lot size for a city subject to subdivision 5 must not be greater than:

9.5 (1) 4,000 square feet for a single-family detached home, duplex, triplex, fourplex,  
9.6 fiveplex, sixplex, stacked flat, and courtyard apartment; or

9.7 (2) 1,200 square feet for a townhome and cottage housing.

9.8 (d) This subdivision does not apply to a city located outside of the metropolitan area  
9.9 with a population of less than 10,000.

9.10 Subd. 10. City official controls; limitations. (a) City official controls establishing,  
9.11 directly or indirectly, the permitted size, scale, or form of a building may only impose the  
9.12 following limitations:

9.13 (1) building height maximums;

9.14 (2) yard or setback requirements;

9.15 (3) maximum lot coverage;

9.16 (4) impervious surface maximums;

9.17 (5) lot width minimums;

9.18 (6) lot area minimums; and

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

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

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

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

10.1 Subd. 11. **Parking requirements limited.** (a) A city may not require off-street parking  
10.2 space for a residential dwelling unit that is one-half mile or less from a major transit stop.

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

10.5 Subd. 12. **Affordable housing; replacement required.** Affordable housing on a  
10.6 residential lot may only be demolished, in whole or in part, for the construction of middle  
10.7 housing if the middle housing development will create at least as many affordable housing  
10.8 units as exist in the structure to be demolished.

10.9 Subd. 13. **Subdivision of lots permitted; administrative review process established.** (a)  
10.10 Notwithstanding any law, rule, or ordinance to the contrary, a city must permit a residential  
10.11 lot to which the density requirements of subdivisions 3, 4, and 5 apply to be subdivided in  
10.12 a manner that allows all units to be built on the property to be single-family detached homes.

10.13 (b) A residential lot created from the subdivision of property under paragraph (a) that  
10.14 is smaller than a minimum lot size required pursuant to subdivision 9 is not subject to the  
10.15 density requirements under subdivisions 3, 4, and 5.

10.16 (c) A city shall process an application to subdivide a residential lot in accordance with  
10.17 the procedures under subdivision 14.

10.18 Subd. 14. **Administrative design review process established.** (a) Notwithstanding  
10.19 section 462.358, subdivision 3b, or any other law, rule, or ordinance to the contrary, a city  
10.20 must establish an administrative design review process for building permits for middle  
10.21 housing development projects and subdivision applications under subdivision 13. The  
10.22 administrative review process must review and approve or deny such building permit and  
10.23 subdivision applications based on the application's alignment with the city's comprehensive  
10.24 plan and other applicable zoning requirements. The administrative review process shall not  
10.25 involve a public hearing unless one is required by state or federal law or the project involves  
10.26 or affects a lot located in a historic district under section 138.73. The city may hold a public  
10.27 hearing on a building permit or subdivision application under this section for requests for  
10.28 variances from city zoning requirements. Except as provided in paragraph (b), an application  
10.29 subject to the administrative design review process under this paragraph must be approved  
10.30 or disapproved within 60 days following the receipt by the city of a completed application  
10.31 by the applicant. If the city fails to approve or disapprove an application within 60 days,  
10.32 the application shall be deemed approved.

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

11.4 (c) An applicant may direct the city to toll the 60-day review period for an application  
11.5 for a building permit for middle housing or for a subdivision application under subdivision  
11.6 13. The applicant may also direct the city to begin to run the 60-day time period for an  
11.7 application that was previously tolled upon request by the applicant. A request under this  
11.8 paragraph must be in writing. A city may not charge a fee to the applicant for a request  
11.9 under this paragraph.

11.10 Subd. 15. **Model ordinance.** (a) On or before December 31, 2024, the commissioner of  
11.11 the Minnesota Housing Finance Agency must develop and publish a model ordinance for  
11.12 adoption by cities that addresses the requirements of this section. On or before July 1, 2025,  
11.13 a city must adopt the model ordinance under this subdivision or amend its official controls  
11.14 to be consistent with the requirements of this section as part of an alternative density plan  
11.15 under subdivision 16.

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

11.21 Subd. 16. **Alternative density plans.** A city may develop an alternative density plan  
11.22 and submit the plan to the commissioner of the Minnesota Housing Finance Agency for  
11.23 approval. The commissioner may approve an alternative density plan under this subdivision  
11.24 only if the city demonstrates that the plan will result in an equal or greater amount of middle  
11.25 housing production that would occur with the adoption of the model ordinance under  
11.26 subdivision 15. The commissioner must approve or disapprove an alternative density plan  
11.27 within 120 days of the day of receipt of the plan by the commissioner.

11.28 Subd. 17. **Exception.** Nothing in this section authorizes a residential dwelling unit that  
11.29 is prohibited by state or federal law, or an ordinance adopted pursuant to such a state or  
11.30 federal law, that protects floodplains, areas of critical concern, wild and scenic rivers, or  
11.31 that otherwise restrict residential dwelling units to protect the environment or scenic areas.

11.32 Subd. 18. **State Building Code; State Fire Code.** This section does not modify any  
11.33 requirement of the State Building Code or State Fire Code.

12.1 **EFFECTIVE DATE.** This section is effective July 1, 2025, except that subdivisions  
12.2 1, 15, and 16 are effective July 1, 2024, and that subdivisions 4 and 5 are effective July 1,  
12.3 2026.

12.4 Sec. 3. **[462.3576] LIMITATION ON AESTHETIC MANDATES FOR CITIES.**

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

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

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

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

12.13 (4) garage square footage; or

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

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