



May 15, 2021

Re: City opposition to Senate language preempting local zoning authorities

Dear Members of the Housing Conference Committee on HF 1077:

The League of Minnesota Cities, Metro Cities, Coalition of Greater Minnesota Cities, Minnesota Association of Small Cities, and Municipal Legislative Commission respectfully ask members to oppose language that would preempt city authority for local zoning and other housing-related authorities.

Our associations support local decision-making authority for land use, zoning, and planning and oppose restrictions of those authorities in the Senate bill, HF 1077, the first unofficial engrossment. These fundamental authorities allow local officials the ability to respond to local needs, opportunities, circumstances, and considerations that vary greatly from city to city across the state.

Preemption Provisions: We oppose Article 2, Sections 7 and 8 of the Senate bill that add encouragement language for local comprehensive plans under Minn. Stat. Ch. 462 and limit regulations on residential development, including restrictions on planned unit developments (PUDs) and aesthetic conditions.

Statutory encouragement language in Section 7 is unnecessary and moves the state closer to a statutory statewide zoning mandate, which would put legislators in charge of uniform local land uses in all 853 cities, rather than local officials who are elected to perform these roles. Cities across the state already consider density in their land use and zoning process that responds specifically to locally identified needs. In the metropolitan region, cities are required by the Metropolitan Council to plan for minimum average densities. However, these densities are averaged across a city and are tailored to address a range of development patterns. This existing regional policy recognizes the nuances of each city's current and future built environments, rather than the one-size-fits-all approach in the Senate language that establishes identical requirements for a small, rural city to a large, urban city, and everything in between.

The bill language in Section 8 is titled "Limitations on aesthetic mandates," however, the language reads much more broadly and could implicate both traditional and emerging "performance standards." This is especially the case if the state uses the State Building Code as the floor and ceiling. Aesthetics relate to how things look, but material and design requirements are also deployed for performance or function that are quite apart from aesthetics. The language could also be interpreted to include other buildings beyond single-family homes such as mixed-used development.

PUDs are used to provide flexibility when developing a project that does not meet straight zoning guidelines. Developers request them because they want flexibility specific to their project instead of what is clearly laid out in city zoning ordinances. Contrary to what proponents are claiming, PUDs allow developers to build housing that is more affordable, but does not guarantee that developers sell the homes for less. Developers often receive substantial benefits including increased density, reduced green space requirements, reduced street widths, and offsets in fees. As with any other contractual relationship, cities allow these compromises in PUDs in exchange for some benefit, such as pedestrian trail connections and preserving areas of high-quality woods. Cities include the negotiated agreement

components in the PUD contract, even components initiated by the developer, for clarity and accountability.

It would be much easier for cities to only have development that meets their zoning ordinances. PUDs require much more work and staff follow-up than straight zoning projects. But cities want development and therefore work with developers to meet their needs through PUDs.

City officials are in the best position to address local zoning considerations and plan for growth in partnership with residents and the development community. We have heard from many city officials across the state who shared specific concerns with the preemption language. This includes:

The Minnesota State Building Code is the very minimum standard. It is not a maximum standard. The State Building Code's number one job is safety. It has nothing to do with PUD overlay zoning districts or community identity.

We have historic neighborhoods and a downtown. Exterior building materials are regulated by standards set by ordinance. Community character is maintained by building material requirements to maintain our historic identity. This is what makes our downtown a special place for those who live here and do business here and visit our city. It's the heart of our community.

This proposed legislation will not change the housing market and most likely will leave communities across the state with more questions than answers. When laws have been written like this, they typically leave city officials left scratching their heads and sadly waiting for case law at the expense of taxpayers to provide true interpretation of its meaning after it is adopted.

The PUD process is more efficient than granting numerous variances, as the PUD ordinance adopts the specific plan agreed upon by the city and the developer. It provides flexibility to permit a development that would otherwise not happen on difficult to develop parcels. Our city has used it to successfully facilitate construction of 194 affordable senior housing units, a new grocery store, and a new 32-unit assisted living/memory care project.

Cities are responsible stewards of the local control authority given by the state. Without our PUD authority, we would not have been able to facilitate over \$50 million in development and redevelopment projects over the past five years.

In addition to sections 7 and 8, we also oppose repeal of the rent control exception statute that currently provides for a public process for city action.

Please join us in preserving city authority by opposing the Senate's preemption language.

Sincerely,

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cc:

Office of Governor Tim Walz

Speaker Melissa Hortman

Rep. Ryan Winkler

Rep. Kurt Daudt

Sen. Paul Gazelka

Sen. Susan Kent

Commissioner Jennifer Ho, Minnesota Housing