

# Comprehensive Housing Affordability Act



**Minnesota  
House of  
Representatives**

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# Flaming Hoops

OPINION EXCHANGE

## Twin Cities housing: The 'flaming hoops' separating builders and cities

How the past brought us to where we are, and how the present will fail to get us to where we need to be.

By STEVE ELKINS | FEBRUARY 14, 2020 — 5:45PM



ILLUSTRATION BY MARTIN GEE FOR THE STAR TRIBUNE

A consensus seems to exist that we're not building enough housing in the Twin Cities, especially the relatively affordable housing we need for a workforce that will keep our economy growing.

By the Metropolitan Council's estimates, the average of 9,500 housing units we've been building per year over the past decade is 30% less than the 14,000 units per year we need to keep up with demand. The affordable housing picture is worse; we're building just one-fifth of what's needed.

- Basic Premise:

Because Cities are not allowed to assess cost-based development impact fees to recover their infrastructure costs, directly, they use a variety of fees and zoning restrictions to slow development and recover their costs, indirectly.

*Cities will not increase property taxes on existing taxpayers to fund new housing development that existing residents don't even want.*

# Guiding Principals

- New Development should “Pay its own way” (But no more!)
  - Existing taxpayers should not have to pay the infrastructure costs for new residents
  - Cities should not use the development process as a “profit center”
- The Zoning process for new homes should be “By Right”
  - The building “entitlement process” must be streamlined to reduce risk and speed the “time to market”.
- The reformed process must result in a housing pipeline which provides enough new and relatively affordable workforce housing to provide shelter to every family in our growing population.

# What the draft bill does NOT require

- Two Things that the draft bill does not do:
  - It does not abolish the Planned Unit Development Process
    - It does require mutual agreement between the city and the developer to enter into the PUD process for a housing development that is code-compliant.
  - It does not require cities to only permit affordable housing to be built
    - It does limit cities from prohibiting the construction of affordable homes
    - The market should decide what gets built

# Tactics Used to Delay Development

- Development Moratoria
- Refusal to extend the “MUSA Line”
  - The MUSA Line is extended upon application to the Metropolitan Council by a city that it runs through
- Requirement to use the Planned Unit Development Process
  - The PUD process was introduced to accommodate building sites with unique site limitations and to facilitate unique development concepts not envisioned by the rest of the zoning code as an alternative to the variance process.
  - Under PUD, everything is negotiable between the city and the developer
  - In many cases, cities and developers enter into voluntary PUD agreements for the right reasons.

# Tactics Used to Recover Infrastructure Costs, Indirectly

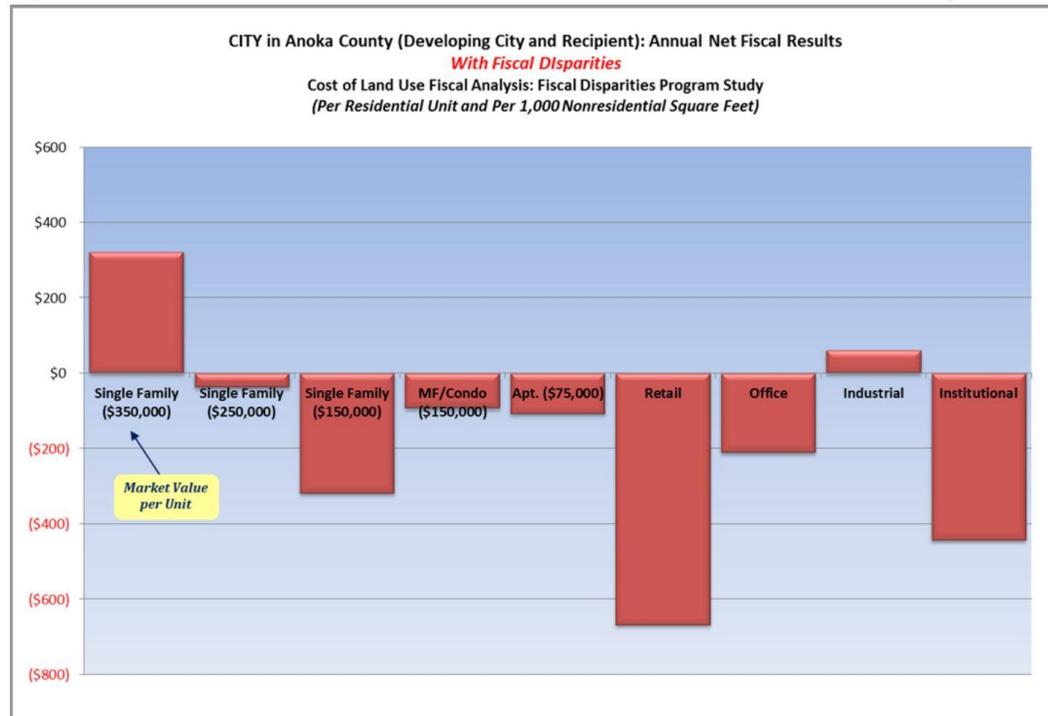
- Overloading other Fees
  - Park Dedication Fees
  - Building Permitting/Inspection Fees
- Requirement to use the Planned Unit Development Process
  - Under the PUD process, everything is negotiable, including the features that the developer must finance.

# Tactics Used to Increase Home Valuations

- Large Minimum Lot Sizes, setback requirements
  - 1/5 Acre ( or less) was common in central cities and streetcar suburbs
  - ¼ Acre became customary in 2<sup>nd</sup>/3<sup>rd</sup> tier suburbs in the 60's
  - ½ Acre is becoming commonplace in newly developing suburbs
  - 2 ½ Acres is common in exurban areas
- Extensive Open Space dedication, in addition to Park Dedication
- Building Esthetics & Amenities Requirements
  - No Vinyl Siding
  - Multicar Garages
- Requirement to use the Planned Unit Development Process  
(As a means of enforcing the other requirements)

# Fiscal Incentives Drive Municipalities to Favor Expensive Housing

Figure 110. DEVELOPING CITY Annual Net Fiscal Results: CITY Results with Fiscal Disparities



[Source: Study of the Metropolitan Area Fiscal Disparities Program Tischler Bise for the MN Dept of Revenue, 2012, Page 143](#)

- For a growing suburban city, only expensive homes provide a positive net fiscal impact.
- Home value above \$500K is taxed at 1.25 times the rate of home value up to \$500K, providing an extra bonus for especially expensive homes.
- Building Permit Fees are based upon home value.

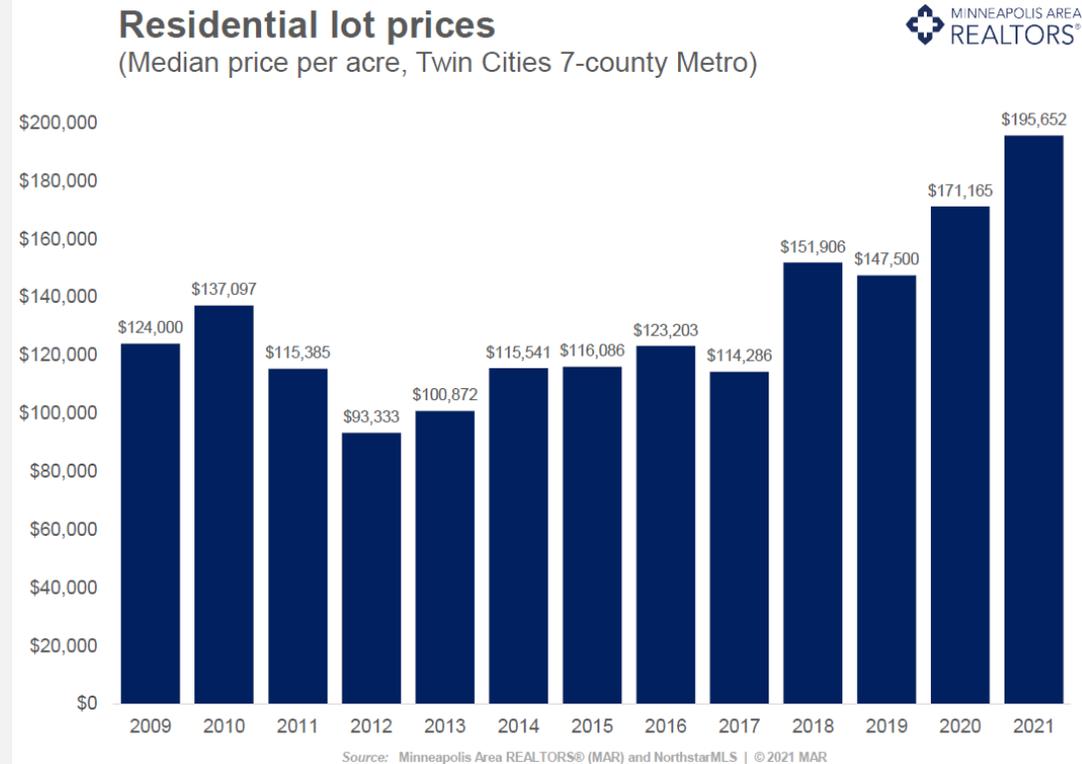
*Many elected local officials are unaware of these incentives, but **all** city managers know this.*

# Tactics Used to Block Multifamily Housing

- Guiding Land for Multifamily Housing (But not zoning for it)
  - To qualify for the Livable Communities grant program administered by the Metropolitan Council, cities must guide a “fair share” of land for the development of multifamily housing in their Comp Plans
  - Under current state law, Cities must conform their Zoning to their Comp Plans within 9 months of adopting a change to their Comp Plan, but there are no consequences for not doing so.
  - When conflicts are exposed, some cities resolve the conflict by changing their Comp Plan to match their Zoning (which is not the intend of State Law).

*My bill effectively bans these practices by requiring cities to resolve the conflict by Rezoning to match the Comp Plan within 9 months of adopting a Comp Plan change, or upon receipt of a Comp Plan conformant development proposal.*

# Cost of Residential Lots is Skyrocketing!



- Restrictions on the supply of buildable lots are the key driver of housing cost inflation.
    - Housing financiers will not finance projects where the cost of “dirt” is more than 25-30% of the final cost of the home.
    - Multiply the cost of the lot by 4 to determine the minimum price of a home that can be built on the lot.
- The cost of building materials and labor will be resolved by the market, over time. The cost of land is institutional and is driven by zoning policy.*

# The Deal

- In exchange for losing their authority to use these tactics, the cities would gain the ability to directly assess Development Impact Fees (new development) and establish Street Improvement Districts (redevelopment) to directly cover the infrastructure costs driven by new development, with constraints:
  - Infrastructure projects must be described in the city's approved Comprehensive Plan and costed out in the city's Capital Improvement Plan, and the project assessment boundaries and basis of assessment must be established in those plans.
  - Affected property owners must be engaged in the development of the plans.
  - Revenues collected must be segregated in a fund for that project.
  - Unused funds must be refunded proportionately to the funding property owners.

# What does an “Affordable” Home Look Like, Today?

- My Legislative Assistant’s New Home:

- 1,578 sq ft home
- 4,792 sq ft lot (1/9th Acre)
- 1 Parking Space (tuck under garage on back alley)
- Vinyl Siding
- Fixer-upper
- Purchased for \$305K

*Why shouldn’t it be legal to build a new home like this, today, in a developing community?*

**Zillow** Edit Save Share

3 bd | 2.5 ba | 1,578 sqft  
4223 Longfellow Ave, Minneapolis, MN 55407

● Sold: **\$305,000** | Sold on 10/12/20 | Zestimate®: **\$338,500**

Est. refi payment: \$1,426/mo [Refinance your loan](#)

Zillow Offers Home value Owner tools [Home details](#) Neighborhood

Easy to get to 62, 94, 35W. Near MOA.

### Facts and features

<b>Type:</b> Single Family	<b>Cooling:</b> None
<b>Year built:</b> 1923	<b>Parking:</b> 1 Parking space
<b>Heating:</b> Forced air, Gas	<b>Lot:</b> 4,792 sqft

# Initial Reactions

- The Cities would like to see Development Impact Fees and Street Improvement Districts allowed, but don't want any limitations on their "Local Control" over zoning and fees.
- The Housing Developers don't want to see Development Impact Fees or Street Improvement Districts allowed, but want all the zoning and fee abuses curtailed.

# The Statutory Framework for Planning & Zoning

- Minnesota is a “Dillon’s Rule” State
  - Cities have the authorities granted to them by the State
- Chapter 462 governs zoning, statewide
- Chapter 473 (The Metropolitan Land Use Planning Act) governs cities in the Metro area.
- These statutes were last subject to a comprehensive update in 1995



**Minnesota House of Representatives**

# Thank You

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