



December 14, 2021

**Re: City comments on 2SS-CG001-3 (Elkins Draft “Comprehensive Housing Affordability Act”)**

Dear Members of the Legislative Commission on Housing Affordability:

The League of Minnesota Cities, Coalition of Greater Minnesota Cities, Metro Cities, and Municipal Legislative Commission appreciate the opportunity to provide joint comments on the provisions in Articles 3-11 in 2SS-CG001-3 dated 8/09/21, which contains draft language for the “Comprehensive Housing Affordability Act” authored by Rep. Steve Elkins. While there are provisions that only impact cities in the seven-county metropolitan area, our comments focus only on the provisions in Article 3-11 of the draft language that have implications for cities statewide.

Cities continue to innovate and support the diverse array of housing needs across the housing spectrum at the local level with limited resources. While we appreciate legislative efforts to address housing challenges faced by cities in Minnesota, we strongly believe that any comprehensive approach to addressing these challenges must: 1. Address the full housing spectrum rather than primarily addressing single-family new construction 2. Provide state support for local innovation 3. Provide state resources to incentivize change rather than broad preemptive mandates 4. Include community-specific solutions that address the different housing needs in markets across the state. Articles 3-11 in the draft “Comprehensive Housing Affordability Act” language contain concerning preemption language from previous bills that have been long opposed by our member cities and that language in no way guarantees housing affordability. We will continue to support local decision-making authority for land use, zoning, and planning and oppose broad restrictions of these longstanding authorities.

Below are our joint comments on the statewide provisions in Articles 3-11 in the 8/09/21 version of 2SS-CG001-3, which include Articles 3, 4, 5, 8, 9, 10, and 11:

- **Article 3 – Planning and Zoning** – Provisions in article 3 to change the definition between a city’s comprehensive plan and official planning and zoning controls could have serious consequences for cities across the state that use comprehensive plans, land use guide plans, and official zoning controls to assess current and future land use planning and zoning to meet local development goals:
  - **Article 3, Sec. 1** – Requires that all land uses under a city’s comprehensive and land guide use guide plan, which tend to be broader and future looking, be permitted at any density in the comprehensive plan without regard for timing considerations that are typically a part of long-range plans. This change could slow development as cities would have to rezone and reguide land to comply and hinder the ability for cities to guide land for future uses that vary from current uses.
- **Article 4 - Limiting Regulations on Residential Development** – Provisions in this article broadly preempt local zoning and land use authority and have been vetted and opposed by cities across the state. Comprehensive solutions should focus on supporting innovation, not hindering it:
  - **Article 4, Sec. 1** – Requires all cities to allow duplexes in areas zoned as single-family. Creating greater densities in areas designed for single family has a negative impact on

- infrastructure capacity – such as water, sewer, and streets – as they were built only accounting for single family use.
- **Article 4, Sec. 2** – Includes language that cities opposed previously. Tying traditional city authority (such as planned unit developments (PUDs), building permits, and subdivision development) to the State Building Code significantly limits city ability to otherwise address community health, safety, welfare issues such as setbacks, performance standards, etc. because the State Building Code doesn't address these issues and would presumably then be off limits.
  - **Article 5 – Municipal Dedication Fees (and Street Restriction)** – Language in this section severely limits park dedication fees and mandates street width
    - **Article 5, Sec. 1** – Caps park dedication fees at 10% of the fair market value of a development and requires a city to accept donated land or built recreational facilities instead of a fee without any regards to current law, which greatly restricts park dedication funds to only be used for park capital improvement projects. Further restricting this fee will leave cities no choice but to increase taxes to pay for increased need and use of park trails and could force cities to accept undesirable and unusable pieces of land for future parks that residents would be unable to benefit from.
    - **Article 5, Sec. 1** – This section also limits the width of a street to 32 feet, when not a collector or arterial street, which could have public safety implications and could limit considerations for multi-modal transportation within a subdivision.
  - **Article 8 – Low Income Housing Applications** – We seek additional clarification on the provisions in article 8 that seek to limit the ability for cities that provide local resources from obtaining relevant application information and the prohibition of a late application fee, which we are unaware is occurring in any city.
    - **Article 8, Sec. 1** – Requires cities to accept an MHFA for local housing money. Cities provide resources based on their strategic goals, which may be different from MHFA. Not allowing cities to collect information to access if projects meet those goals before awarding funds is problematic.
    - **Article 8, Sec. 2** – Would prohibit cities from fining for a late application for local housing resources. The League is unaware of any cities doing this. Applications received after a deadline would simply not be considered.
  - **Article 9 – Building Permit Fee Deadlines (and Temporary Health Care Dwellings)** – Article 9 contains problematic language that would negatively impact city inspection and review processes and eliminate a key provision that provides flexibility for local units of government to choose whether a community is prepared to offer Temporary Family Health Care Dwellings.
    - **Article 9, Sec. 1-2** – Requires that the 60-day rule requirements apply to a request for building permits, which is unnecessary and could create unintended problems. When building permit applications are complete, city turnaround is well within 60 days. Any delay comes if plan review is needed or if the application is missing information.
    - **Article 9, Sec. 3** – Eliminates the opt-out provisions for Temporary Family Health Care Dwellings. This provision was the result of much negotiation and compromise, balancing allowing this type of dwelling and careful consideration of them in local communities.
  - **Article 10 – Building Permit Fees** – Article 10 requires that building permit fees be based on a cost per square foot rather than what is recommended by the International Code Council, valuation. Basing these fees on cost-per-square-foot oversimplifies the review and inspection process and treats buildings the exact same regardless of their complexity.

- **Article 11 – Energy Code Disclosure and Energy Code Payback Period** – Article 11 requires that no new building codes be adopted unless approved by the legislature and no new energy codes be adopted unless there are net positive savings over 30 years due to the proposed change. Any prohibition of new building or energy codes – which have historically been deliberated and adopted under an existing process with robust stakeholder involvement – inhibits these savings and could hinder the adoption of new energy efficient building technologies.

Thank you for the opportunity to provide comments on the draft “Comprehensive Housing Affordability Act” language. We look forward to continuing our work with the legislature to address housing challenges in cities across the state.

Sincerely,

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