

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 1370

(SENATE AUTHORS: PORT and Mitchell)

DATE	D-PG	OFFICIAL STATUS
02/08/2023	733	Introduction and first reading Referred to Housing and Homelessness Prevention
03/22/2023	2199	Comm report: To pass
	2199	Second reading
	11498	Rule 47, returned to Housing and Homelessness Prevention
03/13/2024		Author added Mitchell Comm report: To pass as amended and re-refer to State and Local Government and Veterans

1.1 A bill for an act

1.2 relating to housing; amending provisions relating to building permit processing

1.3 and fees; amending provisions relating to land use and planning; prohibiting

1.4 counties and municipalities from enacting ordinances prohibiting emergency shelter

1.5 facilities; establishing requirements for municipalities to allow multifamily

1.6 residential developments; defining middle housing; requiring permitting middle

1.7 housing types in residential areas; authorizing accessory dwelling units; limiting

1.8 off-street parking requirements for residential development; limiting aesthetic

1.9 mandates on residential project approvals; limiting requirements for homeowners

1.10 associations on residential project approvals; amending Minnesota Statutes 2022,

1.11 sections 15.99, subdivisions 1, 2; 326B.153, by adding a subdivision; 394.25, by

1.12 adding subdivisions; 462.357, by adding a subdivision; proposing coding for new

1.13 law in Minnesota Statutes, chapter 462.

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

1.15 Section 1. Minnesota Statutes 2022, section 15.99, subdivision 1, is amended to read:

1.16 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms shall

1.17 have the meanings given.

1.18 (b) "Agency" means a department, agency, board, commission, or other group in the

1.19 executive branch of state government; a statutory or home rule charter city, county, town,

1.20 or school district; any metropolitan agency or regional entity; and any other political

1.21 subdivision of the state.

1.22 (c) "Request" means a written application for a building permit, or a written application

1.23 related to zoning, septic systems, watershed district review, soil and water conservation

1.24 district review, or the expansion of the metropolitan urban service area, for a permit, license,

1.25 or other governmental approval of an action. A request must be submitted in writing to the

1.26 agency on an application form provided by the agency, if one exists. The agency may reject

2.1 as incomplete a request not on a form of the agency if the request does not include
2.2 information required by the agency. A request not on a form of the agency must clearly
2.3 identify on the first page the specific permit, license, or other governmental approval being
2.4 sought. No request shall be deemed made if not in compliance with this paragraph.

2.5 (d) "Applicant" means a person submitting a request under this section. An applicant
2.6 may designate a person to act on the applicant's behalf regarding a request under this section
2.7 and any action taken by or notice given to the applicant's designee related to the request
2.8 shall be deemed taken by or given to the applicant.

2.9 Sec. 2. Minnesota Statutes 2022, section 15.99, subdivision 2, is amended to read:

2.10 Subd. 2. **Deadline for response.** (a) Except as otherwise provided in this section, section
2.11 462.358, subdivision 3b, or 473.175, or chapter 505, and notwithstanding any other law to
2.12 the contrary, an agency must approve or deny within 60 days a written request for a building
2.13 permit, or a written request relating to zoning, septic systems, watershed district review,
2.14 soil and water conservation district review, or expansion of the metropolitan urban service
2.15 area for a permit, license, or other governmental approval of an action. Failure of an agency
2.16 to deny a request within 60 days is approval of the request. If an agency denies the request,
2.17 it must state in writing the reasons for the denial at the time that it denies the request.

2.18 (b) When a vote on a resolution or properly made motion to approve a request fails for
2.19 any reason, the failure shall constitute a denial of the request provided that those voting
2.20 against the motion state on the record the reasons why they oppose the request. A denial of
2.21 a request because of a failure to approve a resolution or motion does not preclude an
2.22 immediate submission of a same or similar request.

2.23 (c) Except as provided in paragraph (b), if an agency, other than a multimember governing
2.24 body, denies the request, it must state in writing the reasons for the denial at the time that
2.25 it denies the request. If a multimember governing body denies a request, it must state the
2.26 reasons for denial on the record and provide the applicant in writing a statement of the
2.27 reasons for the denial. If the written statement is not adopted at the same time as the denial,
2.28 it must be adopted at the next meeting following the denial of the request but before the
2.29 expiration of the time allowed for making a decision under this section. The written statement
2.30 must be consistent with the reasons stated in the record at the time of the denial. The written
2.31 statement must be provided to the applicant upon adoption.

3.1 Sec. 3. Minnesota Statutes 2022, section 326B.153, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 5. **Valuation.** The commissioner must establish a cost-per-square-foot valuation
3.4 of residential buildings for the purpose of setting building permit fees by municipalities.
3.5 Residential buildings include one- and two-family buildings, townhouse buildings, and
3.6 accessory buildings.

3.7 Sec. 4. Minnesota Statutes 2022, section 394.25, is amended by adding a subdivision to
3.8 read:

3.9 Subd. 11. **Emergency shelter facility.** (a) "Emergency shelter facility" means a facility
3.10 that provides a safe, sanitary, accessible, and suitable emergency shelter for individuals and
3.11 families experiencing homelessness, regardless of whether the facility provides emergency
3.12 shelter during the day, overnight, or both. The emergency shelter facility must conform
3.13 with the State Building Code under chapter 326B and the State Fire Code under chapter
3.14 299F.

3.15 (b) A county shall not enact, amend, or enforce a zoning ordinance that prohibits
3.16 emergency shelter facilities. A county may prohibit an emergency shelter facility in areas
3.17 zoned for residential, agricultural, or heavy industrial uses, or as required by law to conform
3.18 with the State Building Code, State Fire Code, or other state requirements.

3.19 Sec. 5. Minnesota Statutes 2022, section 394.25, is amended by adding a subdivision to
3.20 read:

3.21 Subd. 12. **Homeowners associations.** (a) A county must not condition approval of a
3.22 residential building permit, residential subdivision development, or residential planned unit
3.23 development on the creation of a homeowners association or on the inclusion of any terms
3.24 in a homeowners association bylaws, articles of incorporation, or any other governing
3.25 document that is not required under state law.

3.26 (b) A county must not require that a residential property be part of a homeowners
3.27 association or provide an incentive for such membership. The county must also not require
3.28 or incentivize a homeowners association to adopt terms or conditions not required under
3.29 state law.

4.1 Sec. 6. Minnesota Statutes 2022, section 462.357, is amended by adding a subdivision to
4.2 read:

4.3 Subd. 1j. **Emergency shelter facility.** (a) "Emergency shelter facility" means a facility
4.4 that provides a safe, sanitary, accessible, and suitable emergency shelter for individuals and
4.5 families experiencing homelessness, regardless of whether the facility provides emergency
4.6 shelter during the day, overnight, or both. The emergency shelter facility must conform
4.7 with the State Building Code under chapter 326B and the State Fire Code under chapter
4.8 299F.

4.9 (b) A municipality shall not enact, amend, or enforce a zoning ordinance that prohibits
4.10 emergency shelter facilities. A municipality may prohibit an emergency shelter facility in
4.11 areas zoned for residential, or agricultural, or heavy industrial uses, or as required by law
4.12 to conform with the State Building Code, State Fire Code, or other state requirements.

4.13 Sec. 7. [462.3571] **MULTIFAMILY RESIDENTIAL DEVELOPMENTS.**

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

4.16 (b) "Affordable housing development" means a multifamily residential development in
4.17 which:

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

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

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

4.24 (c) "Municipality" means a home rule charter city, statutory city, or town.

4.25 (d) "Multifamily residential development" means a single residential building with more
4.26 than eight dwelling units or a mixed-use building with commercial use on the ground floor
4.27 and at least half of the usable square footage is for residential uses. Multifamily residential
4.28 development is not middle housing as defined in section 462.3575, subdivision 1.

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

4.30 Subd. 2. **Multifamily residential developments.** (a) Multifamily residential
4.31 developments are a permitted use in any mixed-use, multifamily, or commercial zoning
4.32 district, subject to compliance with all municipal standards.

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

5.3 Subd. 3. **Applicable zoning standards.** (a) A municipality must not impose a height
5.4 requirement on a multifamily residential development that is less than the tallest commercial
5.5 or residential building within a one-quarter mile radius of the parcel on which the
5.6 development will be built or the maximum height permitted under the municipality's official
5.7 controls, whichever is higher.

5.8 (b) A municipality must not impose a setback requirement on a multifamily residential
5.9 development that is more than the smallest minimum setback distance required of a new
5.10 building within a one-quarter mile radius of the parcel on which the development will be
5.11 built.

5.12 Subd. 4. **Parking requirements limited.** A municipality may not require more than one
5.13 off-street parking space per residential unit.

5.14 Subd. 5. **Affordable housing development; height requirements.** (a) Subject to section
5.15 462.358, subdivision 2a, an affordable housing development must be permitted to exceed
5.16 both a maximum height requirement and a maximum floor area ratio limitation imposed by
5.17 municipality official controls as provided in paragraphs (b) and (c). The authority in
5.18 paragraphs (b) and (c) that produces the tallest development with the most number of
5.19 affordable housing units on the parcel shall be applied to the affordable housing development.

5.20 (b) An affordable housing development may either:

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

5.23 (2) match the maximum allowed height in any zoning district within one mile of the
5.24 affordable housing development.

5.25 (c) In addition to all previous allowances, an affordable housing development must be
5.26 permitted to do one of the following, whichever results in the largest development:

5.27 (1) exceed the maximum floor area ratio or dwelling unit count permitted by municipality
5.28 standards or the municipality's comprehensive plan by 30 percent, whichever allows for
5.29 greater density;

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

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

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

6.1 (d) A municipality that does not approve a project under section 462.358, subdivision
 6.2 2a, must provide the applicant with written justification and reasons for the disapproval
 6.3 within seven days of the disapproval. Where insufficient infrastructure is the reason for
 6.4 disapproval, a municipality must include credentialed evidence in the written justification.

6.5 Subd. 6. **State Building Code; State Fire Code.** This section is subject to the
 6.6 requirements under the State Building Code under chapter 326B and the State Fire Code
 6.7 under chapter 299F.

6.8 Sec. 8. **[462.3575] MINIMUM RESIDENTIAL DENSITIES AND ASSOCIATED**
 6.9 **REQUIREMENTS.**

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

6.12 (b) "Accessory dwelling unit" means a smaller, independent residential dwelling unit
 6.13 located on the same lot as a dwelling. An accessory dwelling unit may be attached or detached
 6.14 from the existing dwelling. Accessory dwelling unit does not include sacred communities
 6.15 and micro-unit dwellings under section 327.30 and temporary family health care dwellings
 6.16 under section 462.3593.

6.17 (c) "Affordable housing" means a residential dwelling unit affordable to households at
 6.18 or below 115 percent of the area median household income, for an owner-occupied unit, or
 6.19 at or below 60 percent of the area median household income, for a unit that is leased. The
 6.20 deed or declaration for the unit must also contain a restrictive covenant requiring the property
 6.21 to remain affordable housing for at least ten years if the unit is owner-occupied, or at least
 6.22 30 years if the unit is leased.

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

6.28 (e) "Cottage housing" means residential dwelling units on a lot with a common open
 6.29 space that either:

6.30 (1) is owned in common; or

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

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

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

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

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

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

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

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

7.16 (1) duplexes;

7.17 (2) triplexes;

7.18 (3) fourplexes;

7.19 (4) fiveplexes;

7.20 (5) sixplexes;

7.21 (6) townhouses;

7.22 (7) stacked flats;

7.23 (8) courtyard apartments;

7.24 (9) cottage housing;

7.25 (10) single-family detached homes; and

7.26 (11) twin homes.

7.27 (m) "Municipality" means a home rule charter city, statutory city, or town.

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

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

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

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

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

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

8.15 Subd. 2. **Middle housing types permitted.** A municipality must authorize at least six
8.16 types of middle housing other than single-family detached homes to be built on residential
8.17 lots in single-family zones in the municipality to achieve the density requirements in this
8.18 section.

8.19 Subd. 3. **Cities of the first class; required residential densities.** (a) Subject to section
8.20 462.358, subdivision 2a, a city of the first class must permit the development of at least four
8.21 residential dwelling units on any residential lot that is more than one-half mile from a major
8.22 transit stop, unless one of the following criteria are met:

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

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

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

8.30 (b) Subject to section 472.358, subdivision 2a, a city of the first class must permit the
8.31 development of at least six residential dwelling units on any residential lot that is one-half
8.32 mile or less from a major transit stop, unless one of the following criteria are met:

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

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

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

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

9.10 (d) A municipality that does not approve a project under section 462.358, subdivision
 9.11 2a, must provide the applicant with written justification and reasons for the disapproval
 9.12 within seven days of the disapproval. Where insufficient infrastructure is the reason for
 9.13 disapproval, a municipality must include credentialed evidence in the written justification.

9.14 Subd. 4. **Other cities and towns; required residential densities.** (a) Subject to section
 9.15 462.358, subdivision 2a, a city of the second, third, or fourth class or town must permit the
 9.16 development of at least two residential dwelling units on any residential lot that is more
 9.17 than one-half mile from a major transit stop, unless one of the following criteria are met:

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

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

9.22 (3) if all of the units are all-electric and efficient homes and at least two of the units are
 9.23 also affordable housing, the city or town must permit the development of at least four
 9.24 residential dwelling units on the lot.

9.25 (b) Subject to section 462.358, subdivision 2a, a city of the second, third, or fourth class
 9.26 or town must permit the development of at least four residential dwelling units on any
 9.27 residential lot that is one-half mile or less from a major transit stop, unless one of the
 9.28 following criteria are met:

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

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

10.1 (3) if all of the units are all-electric and efficient homes and at least two of the units are
10.2 also affordable housing, the city or town must permit the development of at least eight
10.3 residential dwelling units on the lot.

10.4 (c) The requirements of this subdivision apply regardless of the types of middle housing
10.5 authorized by the city or town under subdivision 2.

10.6 (d) A municipality that does not approve a project under section 462.358, subdivision
10.7 2a, must provide the applicant with written justification and reasons for the disapproval
10.8 within seven days of the disapproval. Where insufficient infrastructure is the reason for
10.9 disapproval, a municipality must include from a public works director or a similarly qualified
10.10 person evidence in the written justification.

10.11 Subd. 5. **Municipal standards.** (a) Municipal official controls must not impose standards
10.12 that create practical difficulties in the placement or building of residential units on any lot.

10.13 (b) Any standards, performance conditions, or requirements imposed by a municipality
10.14 for residential dwelling units permitted under this section must allow for all missing middle
10.15 types authorized under subdivision 2 to be built.

10.16 (c) Any limits or restrictions on missing middle development must directly relate to
10.17 protecting public health, safety, and general welfare.

10.18 Subd. 6. **Accessory dwelling units authorized.** (a) An accessory dwelling unit may be
10.19 built on any residential lot in a municipality, regardless of total lot size, street frontage,
10.20 connectivity between the accessory dwelling unit and the primary dwelling on the lot, and
10.21 whether the lot is occupied by the property owner.

10.22 (b) A municipality may permit more than one accessory dwelling unit to be built on a
10.23 residential lot.

10.24 Subd. 7. **Minimum lot size permitted.** (a) A municipality may, by ordinance, require
10.25 a minimum lot size in accordance with this subdivision to which the density requirements
10.26 of subdivisions 3 and 4 apply.

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

10.28 (1) 2,500 square feet for a single-family detached home, duplex, triplex, fourplex,
10.29 fiveplex, sixplex, stacked flat, and courtyard apartment; or

10.30 (2) 1,200 square feet for a townhome and cottage housing.

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

11.1 (1) 4,000 square feet for a single-family detached home, duplex, triplex, fourplex,
 11.2 fiveplex, sixplex, stacked flat, and courtyard apartment; or

11.3 (2) 1,200 square feet for a townhome and cottage housing.

11.4 Subd. 8. **Parking requirements limited.** (a) A municipality may not require an off-street
 11.5 parking space for a residential dwelling unit that is one-half mile or less from a major transit
 11.6 stop. A municipality may require that disability parking spaces be provided in compliance
 11.7 with the Americans with Disabilities Act.

11.8 (b) A municipality may not require more than one off-street parking space per residential
 11.9 dwelling unit that is over one-half mile from a major transit stop, except that additional
 11.10 disability parking spaces may be required to meet the requirements of the Americans with
 11.11 Disabilities Act.

11.12 Subd. 9. **Affordable housing; replacement required.** For cities of the first class,
 11.13 affordable housing on a residential lot may only be demolished or remodeled for the
 11.14 construction of middle housing if the middle housing development will create at least as
 11.15 many affordable housing units as exist in the structure to be demolished or remodeled. This
 11.16 subdivision does not apply to housing in a blighted area defined under section 469.002,
 11.17 subdivision 11.

11.18 Subd. 10. **Alternative density plans.** A municipality that adopts zoning controls prior
 11.19 to June 30, 2025, that would allow for residential construction leading to an increase in
 11.20 density of more than 100 percent in single family zones as permitted uses is not subject to
 11.21 the requirements in this section.

11.22 Subd. 11. **Exception.** This section does not apply to any parcel located in a floodplain.

11.23 Subd. 12. **State Building Code; State Fire Code.** This section is subject to the
 11.24 requirements under the State Building Code under chapter 326B and the State Fire Code
 11.25 under chapter 299F.

11.26 Sec. 9. **[462.3576] LIMITATION ON AESTHETIC MANDATES FOR CITIES.**

11.27 A municipality must not condition approval of a residential building permit, residential
 11.28 subdivision development, or residential planned unit development on the use of one or more
 11.29 of the following, unless to conform with state and local historic district requirements, the
 11.30 State Building Code in chapter 326B, and the State Fire Code in chapter 299F:

11.31 (1) specific materials for aesthetic reasons;

12.1 (2) residential building or accessory structure to a residential building minimum square
12.2 footage or floor area ratios;

12.3 (3) design elements for aesthetic reasons including, but not limited to, decks, balconies,
12.4 porches, gables, roof pitch, and elevation design standards;

12.5 (4) garage square footage; or

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

12.8 Sec. 10. **[462.3577] MUNICIPALITIES; HOMEOWNERS ASSOCIATIONS.**

12.9 (a) A municipality must not condition approval of a residential building permit, residential
12.10 subdivision development, or residential planned unit development on the creation of a
12.11 homeowners association or on the inclusion of any terms in a homeowners association
12.12 bylaws, articles of incorporation, or any other governing document that is not required under
12.13 state law.

12.14 (b) A municipality must not require that a residential property be part of a homeowners
12.15 association or provide an incentive for such membership. The municipality must also not
12.16 require or incentivize a homeowners association to adopt terms or conditions not required
12.17 under state law.

12.18 Sec. 11. **EFFECTIVE DATE.**

12.19 This act is effective July 1, 2025.