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## OLR Bill Analysis

sHB 6107 (as amended by House "A")\*

### **AN ACT CONCERNING THE REORGANIZATION OF THE ZONING ENABLING ACT AND THE PROMOTION OF MUNICIPAL COMPLIANCE.**

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*Prohibits regulations from (1) prohibiting cottage food operations in a residential zone or (2) establishing minimum floor area requirements for buildings; limits local authority to (1) require the provision of parking spaces or (2) place a cap on the number of dwellings in multifamily, middle, or mixed-use developments*

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**BACKGROUND**

*Information on the Affordable Housing Land Use Appeals Procedure and related bills*

\*House Amendment "A" strikes the underlying bill and replaces it with some provisions that are similar to those in the original bill, with regard to certain changes to the Zoning Enabling Act and affordable housing planning requirement; makes other changes to the Zoning Enabling Act that were not in the underlying bill; and adds the provisions related to accessory apartments, technical consultant fees, zoning enforcement officer certification, biennial training for certain land use officials, water pollution control plans, and the Commission on Connecticut's Development and Future.

**§§ 1, 6, 7 & 10 — AS OF RIGHT ACCESSORY APARTMENTS**

*Requires municipalities that zone under CGS § 8-2 to adopt or amend regulations to allow ADUs as of right on the same lot as single-family homes unless they follow the bill's opt-out process; specifies that these units will not count toward a municipality's base housing stock calculation for purposes of the Affordable Housing Land Use Appeals Procedure (CGS § 8-30g); modifies the definition of ADU for purposes of the appeals procedure; specifies the addition of an ADU on a lot does not make the sewerage system a "community sewerage system"*

**Definitions**

Under the bill, an “accessory apartment” (also referred to as an accessory dwelling unit or “ADU”) means a separate dwelling unit that (1) is located on the same lot as a principal dwelling unit of greater square footage; (2) has cooking facilities; and (3) complies with or is otherwise exempt from any applicable building code, fire code, and health and safety regulations.

The bill specifies that “as of right” means able to be approved without requiring a public hearing; a variance, special permit, or special exception; or other discretionary zoning action, other than a determination that a site plan conforms with applicable zoning regulations.

### ***Regulation Adoption Requirement***

The bill requires municipalities that exercise powers under CGS § 8-2 (the Zoning Enabling Act) to adopt regulations (1) allowing one ADU as of right on each lot that contains a single-family dwelling and (2) designating other areas where ADUs are allowed. But bill also creates an opt-out process, as described below.

The bill specifies that municipalities cannot require as of right ADUs sharing a lot with a single-family home to be preserved for lower-income families.

If a municipality does not opt-out, the bill requires it to amend or adopt ADU zoning regulations by January 1, 2023, and specifies that those that do not must review ADU permit applications in accordance with the bill’s regulation requirements until the regulations are amended or adopted. A municipality may not use or impose additional standards beyond those set forth in the bill. The bill deems noncompliant regulations to be null and void.

### ***Opt-Out Process***

Until January 1, 2023, the bill allows municipalities, by a two-thirds vote of their zoning commission or combined planning and zoning commission, to opt out of the bill's as of right ADU provisions. To do so, the municipality's zoning or combined planning and zoning

commission must:

1. first hold a public hearing on the proposed opt-out, subject to the standard notice and timeframes for such hearings;
2. affirmatively decide to opt out within the statutory time limit (generally within 65 days of the hearing's completion);
3. state in the record the reasons for its decision; and
4. publish notice of the decision within 15 days in a newspaper that has substantial circulation in the municipality.

The bill requires the opt-out to be confirmed by a two-thirds vote of the municipal legislative body (or if it is a town meeting, the board of selectmen).

### ***As of Right Permitting***

The bill requires regulations to establish an as of right permit application and review process for ADUs. The process must require the zoning or planning and zoning commission to decide within 65 days after application unless an applicant approves an extension or extensions of up to 65 days total or withdraws the application.

Under the bill, municipalities cannot condition ADU approval on the correction of a nonconforming use, structure, or lot or require fire sprinklers unless they are also required in the principal dwelling or by the fire code.

### ***Regulation Contents***

Under the bill, the ADU zoning regulations must:

1. allow attached and detached ADUs and ADUs contained within the principal dwelling unit;
2. set a maximum net floor area for ADUs that is the lesser of (a) at least 30% of the principal dwelling's net floor area or (b) 1,000 square feet (but regulations may allow a larger net floor area for ADUs);

3. require setbacks, lot size, and building frontage less than or equal to that which is required for the principal dwelling;
4. require lot coverage greater than or equal to that which is required for the principal dwelling; and
5. provide for height, landscaping, and architectural design standards that do not exceed standards applied to single-family dwellings in the municipality.

Regulations cannot require:

1. a passageway between the ADU and principal dwelling;
2. an exterior door for an ADU, except as required by the applicable building or fire code;
3. more than one parking space for the ADU or fees in lieu of parking;
4. a familial, marital, or employment relationship between the principal dwelling unit's occupants and the ADU's occupants;
5. a minimum age for ADU occupants;
6. separate billing of utilities otherwise connected to, or used by, the principal dwelling unit; or
7. periodic ADU permit renewal.

The bill further specifies that it does not supersede applicable building code requirements or other requirements where a well or private sewerage system is being used, so long as approval for any such accessory apartment shall not be unreasonably withheld.

Additionally, the bill prohibits municipalities, special districts, and sewer or water authorities from (1) considering an ADU to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling on the

same lot or (2) requiring the installation of a new or separate utility connection directly to an ADU or imposing a related connection fee or capacity charge.

Under current law, a community sewer system is generally a sewer system service for at least two residences in separate structures that is not connected to a municipal sewer system. The bill specifies that a “community sewerage system” does not include a system serving only a principal dwelling and ADU located on the same lot.

The bill does not prevent municipalities from prohibiting or limiting the use of ADUs for short-term rentals or vacation stays.

***Housing Stock Calculation Under CGS § 8-30g***

By law, the Department of Housing (DOH) must promulgate annually a list identifying the housing stock in each municipality that qualifies as affordable housing under the Affordable Housing Land Use Appeals Procedure (see BACKGROUND). The list, based on Census data, provides this information as a percentage of the total housing stock in the municipality (CGS §§ 8-30g(k) & 8-37qqq(a)(2)(D)). The bill specifies that ADUs built or permitted after January 1, 2022, but are not subject to deed restrictions that qualify them as affordable housing, will not increase a municipality’s base (market-rate) housing stock calculation. Thus, as of right ADUs will not increase the amount of affordable housing that a municipality must have to obtain or maintain an exemption or moratorium from the procedure. (Presumably, municipalities will provide DOH with information on ADUs to be excluded from the base housing stock calculation.)

The bill also aligns the definition of “accessory apartment” under the appeals procedure with bill’s definition of ADU.

EFFECTIVE DATE: January 1, 2022 for the main ADU provisions (§ 6) and October 1, 2021, for the conforming changes (§§ 1, 7 & 10).

**§ 2 — APPLICATION AND TECHNICAL CONSULTANT FEES**

*Limits municipal authority to charge disproportionality higher land use application fees for larger residential projects; authorizes municipalities to charge technical consultant fees*

Current law allows municipalities to set by ordinance reasonable fees for processing applications submitted to the planning, zoning, or planning and zoning commission; the zoning board of appeals; or inland wetlands commission. The bill prohibits adopting a fee schedule that imposes higher fees on developments built following an appeal brought under the Affordable Housing Land Use Appeals Procedure (CGS § 8-30g). It also prohibits using a fee schedule charging more because a residential building has more than four units, including higher fees per unit, per square footage, or per unit of construction cost.

The bill additionally allows municipalities to adopt regulations establishing reasonable technical consultant fees for applications made to the abovementioned boards and commissions. The fees must be used to pay consultants who have expertise in land use to review particular technical aspects of an application (e.g., traffic or stormwater) for the benefit of the commission or board.

The fees must be accounted for separately and may only be used for technical review costs. The fees cannot be used to pay a consultant who is a salaried employee of the municipality, commission, or board. Leftover amounts, including any interest accrued, must be returned to the applicant within 45 days after the review is complete.

EFFECTIVE DATE: October 1, 2021

### **§§ 3 & 4 — CGS § 8-2: REORGANIZATION AND MINOR CHANGES**

*Reorganizes the Zoning Enabling Act (CGS § 8-2, which applies to municipalities exercising zoning powers under the statutes) and makes minor, technical, and conforming changes*

The bill makes various minor, technical, and conforming changes to the Zoning Enabling Act, which applies to municipalities that exercise zoning powers under the statutes (as opposed to a special act).

Among these, the bill specifies that when a municipality is contiguous to, or on a navigable waterway that drains to, Long Island

Sound, its regulations must consider a proposed development's environmental impact on Long Island Sound's "coastal resources" (as defined in the Coastal Management Act), rather than impacts on Long Island Sound generally. By law, "coastal resources" means coastal waters and their natural resources, related marine and wildlife habitat, and adjacent shorelands (CGS § 22a-93).

The bill specifically authorizes municipalities to use a vehicle's miles traveled and vehicle trips generated standard instead of, or in addition to, a "level of service" traffic calculation when assessing (1) a proposed development's anticipated traffic impact and (2) potential mitigation strategies such as reducing the amount of required parking for a development or requiring public sidewalks, crosswalks, bicycle paths, bicycle racks, or bus shelters (including off-site).

The bill specifies that regulations may provide for floating zones, overlay zones, and planned development districts. (Connecticut courts have held that CGS § 8-2 implicitly grants municipalities the power to use these techniques.)

The bill also makes technical and conforming changes to the temporary health care structure law (§ 3).

EFFECTIVE DATE: October 1, 2021

#### **§ 4 — CGS § 8-2: REQUIRED GOALS AND CONSIDERATIONS**

*Eliminates a requirement that zoning regulations be (1) designed to prevent overcrowding and undue population concentration and (2) made with reasonable consideration as to the "character" of a district; requires regulations provide for varied housing opportunities and affirmatively further the purposes of the federal Fair Housing Act; requires regulations to be designed to protect historic, tribal, cultural, and environmental resources*

##### ***Required Goals***

The bill eliminates the requirement that zoning regulations be designed to prevent the overcrowding of land and avoid undue concentration of population.

The bill requires that regulations be designed to do the following:

1. protect the state's historic, tribal, cultural, and environmental

resources;

2. consider the impact of permitted land uses on contiguous municipalities and the planning region;
3. address significant disparities in housing needs and access to educational, occupational, and other opportunities;
4. affirmatively further the purposes of the federal Fair Housing Act; and
5. promote efficient review of proposals and applications.

### ***Consideration of Character***

Current law requires that zoning regulations be made with (1) reasonable consideration as to the character of the district and its peculiar suitability for particular uses and (2) a view toward conserving the buildings' value and encouraging the most appropriate use of land throughout a municipality. The bill instead requires that regulations be drafted with reasonable consideration as to the physical site characteristics of the district with a view toward encouraging the most appropriate use of land throughout a municipality.

The bill also specifies that regulations cannot be applied to deny a land use application (including site plans, special permits or exceptions, or other zoning approval) based upon:

1. a district's character unless the character is expressly articulated in regulations with clear and explicit physical standards for site work and structures or
2. the immutable characteristics, source of income, or income level of an applicant or end user (other than age or disability, in the case of age-restricted or disability-restricted housing).

### ***Providing Housing Opportunities***

In addition to the housing-related provisions above, the bill requires zoning regulations to provide for, rather than encourage, the development of housing opportunities for all residents of the

municipality and local planning region, including opportunities for multifamily dwellings, consistent with soil types, terrain, and infrastructure capacity.

The bill requires zoning regulations to expressly allow, rather than encourage, housing that meets the needs identified in the state's Consolidated Plan for Housing and Community Development and Plan of Conservation and Development.

EFFECTIVE DATE: October 1, 2021

**§§ 4 & 5 — CGS § 8-2: PROHIBITED PROVISIONS**

*Prohibits regulations from (1) prohibiting cottage food operations in a residential zone or (2) establishing minimum floor area requirements for buildings; limits local authority to (1) require the provision of parking spaces or (2) place a cap on the number of dwellings in multifamily, middle, or mixed-use developments*

The bill prohibits zoning regulations from:

1. prohibiting cottage food operations (i.e., operations in which food products are prepared in a private residential dwelling's home kitchen and for sale directly to the consumer) in a residential zone;
2. establishing minimum floor area requirements for buildings that are greater than those required under applicable building, housing, or other code; or
3. placing a fixed numerical or percentage cap on the number of dwelling units permitted in multifamily housing over four units, middle housing, or mixed-use developments.

Under the bill, "middle housing" refers to duplexes, triplexes, quadplexes, cottage clusters, and townhouses. A "cottage cluster" is a grouping of at least four detached housing units or live work units, per acre, that are located around a common open area. (The bill does not define live work unit.) A "mixed-use development" is a development containing residential and nonresidential uses in a single building. A "townhouse" is a residential building constructed in a grouping of three or more attached units, each of which shares at least one

common wall with an adjacent unit and has exterior walls on at least two sides.

The bill also prohibits regulations from requiring more than one parking space for each studio or one-bedroom dwelling unit or more than two parking spaces for each dwelling unit with two or more bedrooms unless the municipality opts out.

The bill allows municipalities, by a two-thirds vote of their zoning commission or combined planning and zoning commission, to opt out of the bill's parking provision. To do so, the municipality's zoning or combined planning and zoning commission must:

1. first hold a public hearing on the proposed opt-out, subject to the standard notice and timeframes for such hearings;
2. affirmatively decide to opt out within the statutory time limit (generally within 65 days of the hearing's completion);
3. state in the record the reasons for its decision; and
4. publish notice of the decision within 15 days in a newspaper that has substantial circulation in the municipality.

The bill requires the opt-out to be confirmed by a two-thirds vote of the municipal legislative body (or, if it is a town meeting, the board of selectmen).

EFFECTIVE DATE: October 1, 2021

#### **§ 4 — CGS § 8-2: OPTIONS FOR PROMOTING CONSERVATION**

*Expands the energy conservation tools and renewable energy types a municipality can require or promote*

Current law allows zoning regulations to encourage the use of certain energy conservation tools, including solar. The bill instead allows the regulations to require or promote these and expands them to include distributed generation or freestanding wind and combined heat and power.

The bill also expands the conservation tools that municipalities can incentivize developers' use of to include any solar and other renewable forms of energy; combined heat and power; water conservation, including demand offsets; and other energy conservation techniques.

EFFECTIVE DATE: October 1, 2021

**§ 4 — CGS § 8-2: REGULATING MOBILE MANUFACTURED HOMES**

*Prohibits regulations from imposing on mobile manufactured homes and associated lots conditions that are substantially different from those imposed on other residential developments*

The bill prohibits zoning regulations adopted pursuant to CGS § 8-2 from imposing on manufactured homes, including mobile homes, built to federal standards and with a narrowest dimension of 22 feet or more, and associated lots and parks, conditions that are substantially different from those imposed on (1) single-family dwellings and associated lots; (2) multifamily dwellings; or (3) lots with multifamily dwellings, cluster developments, or planned unit developments.

Under current law, manufactured homes and lots cannot be treated substantially differently from single-family dwellings and lots with single-family dwellings. Additionally, manufactured home developments cannot be treated substantially differently from multifamily dwellings or lots with multifamily dwellings, cluster developments, or planned unit developments. The bill removes references to manufactured home developments.

EFFECTIVE DATE: October 1, 2021

**§ 8 — ZONING ENFORCEMENT OFFICER CERTIFICATION**

*Beginning January 1, 2023, requires all appointed ZEOs to obtain and maintain certification from the state's professional ZEO association*

Beginning January 1, 2023, and annually thereafter, the bill requires zoning enforcement officers (ZEOs) to obtain certification from the Connecticut Association of ZEOs. The requirement applies to existing employees and to newly appointed ZEOs working in municipalities that exercise zoning authority under the statutes. The bill requires ZEOs to maintain certification for the duration of their employment as

ZEOs. (It appears that the bill authorizes un-certified ZEOs to be appointed, but it requires them to obtain certification as soon as practicable. In practice, the Connecticut Association of ZEOs requires an individual to have at least two years' experience before it grants certification, among other requirements.)

By law, each municipality decides how its zoning regulations are enforced. In practice, the zoning or combined planning and zoning commission may reserve the enforcement power to itself, or it may be delegated to a ZEO. ZEOs may be responsible for (1) investigating zoning violations and issuing cease and desist orders and (2) reviewing and providing an advisory opinion on applications for special permits, site plans, subdivisions, and variances.

EFFECTIVE DATE: October 1, 2021

## **§ 9 — BIENNIAL TRAINING FOR CERTAIN LAND USE OFFICIALS**

*Requires local planning and zoning officials to complete at least four hours of training biennially*

Beginning January 1, 2023, the bill requires each member of a local planning commission, zoning commission, planning and zoning commission, or zoning board of appeals, to complete at least four hours of training biennially.

Members serving on a board or commission as of January 1, 2023, must complete their initial training by January 1, 2024. Members not serving on January 1, 2023, must complete the training within one year after being elected or appointed to the board or commission.

The initial and subsequent training must include at least one hour on affordable and fair housing. Training may also cover:

1. process and procedural matters, including the conduct of effective meetings and public hearings and the Freedom of Information Act;
2. the interpretation of site plans, surveys, maps, and architectural conventions; and

3. the impact of zoning on the environment, agriculture, and historic resources.

By January 1, 2022, the bill requires the Office of Policy and Management secretary to establish guidelines for the training in collaboration with land use training providers, including the Connecticut Association of Zoning Enforcement Officials, the Connecticut Conference of Municipalities, the Connecticut Chapter of the American Planning Association, the Land Use Academy at UConn's Center for Land Use Education and Research, the Connecticut Bar Association, regional councils of governments, and other nonprofit or educational institutions that provide land use training. If the secretary fails to establish the guidelines, then land use training providers may create and administer appropriate training.

The bill requires each board or commission, starting by March 1, 2024, to annually submit to its municipal legislative body (or board of selectmen, if a town meeting) a statement affirming its members' compliance with the bill's training requirement.

EFFECTIVE DATE: Upon passage

## **§ 11 — WATER POLLUTION CONTROL PLANS**

*Allows WPCAs to add information about sewer system capacity for certain areas to municipal water pollution control plans*

The bill allows municipal water pollution control authorities (WPCAs) to delineate in the water pollution control plans they create the specific capacity allocations to serve developable areas for residential or mixed-use buildings with at least four dwelling units.

By law, these plans delineate areas such as those (1) served by the municipal sewerage system, (2) where sewerage facilities are planned, and (3) where sewers should be avoided. The plans also describe municipal programs to avoid pollution problems and manage subsurface sewage disposal.

EFFECTIVE DATE: October 1, 2021

## **§ 12 — AFFORDABLE HOUSING PLANNING REQUIREMENT**

*Specifies that municipalities must prepare and adopt their first plans by June 1, 2022; requires plans to be submitted to OPM*

Existing law requires every municipality, at least once every five years, to prepare or amend and adopt an affordable housing plan specifying how the municipality will increase the number of affordable housing developments in its jurisdiction. The bill specifies that municipalities must prepare and adopt their first plans by June 1, 2022. The bill also requires municipalities to post their draft plan or updates online, even if they do not hold a public hearing on the draft plan or updates. It eliminates a requirement that the draft plan or amendment be filed with the town clerk.

The bill requires municipalities to submit their plans to OPM for posting on its website. Under current law, if a municipality does not comply with plan amendment deadlines, it must submit a letter to the housing commissioner explaining why. The bill instead requires them to submit the letter to OPM and, in providing this explanation, specify a date by which the plan will be amended.

The bill also authorizes municipalities to submit their affordable housing plans as part of their local plan of conservation and development (POCD). Those doing so may submit their affordable housing plan early in order to coincide with a POCD submission, so long as their next submission is five years later. (POCDs are due only every 10 years.)

EFFECTIVE DATE: Upon passage

## **§ 13 — COMMISSION ON CONNECTICUT'S DEVELOPMENT AND FUTURE**

*Establishes a commission within the Legislative Department to evaluate policies related to land use, conservation, housing affordability, and infrastructure*

The bill establishes a Commission on Connecticut's Development and Future within the Legislative Department to evaluate policies related to land use, conservation, housing affordability, and infrastructure.

The bill specifies the commission may accept administrative support and technical and research assistance from outside organizations and employees of the Joint Committee on Legislative Management. The co-chairpersons may establish working groups consisting of commission members and nonmembers and may designate a chairperson of each working group.

### **Membership**

The commission consists of the following members:

1. two appointed by the House speaker, one who is a legislator and one who is a representative of a municipal advocacy organization;
2. two appointed by the Senate president pro tempore, one who is a legislator and one who has expertise in state or local planning;
3. two appointed by the House majority leader, one who has expertise in state affordable housing policy and one who represents a town with a population over 30,000 but less than 75,000;
4. two appointed by the Senate majority leader, one who has expertise in zoning policy and one with expertise in community development policy;
5. two appointed by the House minority leader, one who has expertise in environmental policy and one who represents a municipal advocacy organization;
6. two appointed by the Senate minority leader, one who represents the Connecticut Association of Councils of Governments and one with expertise in homebuilding;
7. two appointed by the governor, one who is an attorney with expertise in planning and zoning and one who has expertise in fair housing;
8. the chairs and ranking members of the Planning and

Development, Environment, Housing, and Transportation committees;

9. the administrative services, economic and community development, energy and environmental protection, housing, and transportation commissioners, or their designees; and
10. the OPM secretary.

The House speaker and Senate president pro tempore cannot appoint as their legislative appointees a chair or ranking member of the Planning and Development, Environment, Housing, or Transportation committee. The bill requires appointing authorities, in cooperation with one another, to make a good faith effort to ensure that, to the extent possible, the commission's membership closely reflects Connecticut's gender and racial diversity.

Members serve without compensation, except for necessary expenses incurred in the performance of their duties. Appointing authorities must fill any vacancy.

The House speaker and Senate president pro tempore must jointly select one of their legislative appointments to serve as one of the chairpersons. The OPM secretary serves as the other chairperson. The chairpersons are responsible for scheduling the first commission meeting.

### ***Responsibilities***

By January 1, 2022, and again by January 1, 2023, the commission must submit a report to the planning and development, environment, housing, and transportation committees and to the OPM secretary regarding:

1. recommendations for statutory changes concerning the process for developing, adopting, and implementing the state plan of conservation and development and state's consolidated plan for housing and community development;

2. recommendations for guidelines and incentives for compliance with the law's (a) affordable housing planning requirement (see above, § 11) and (b) requirement under the Zoning Enabling Act that zoning regulations provide opportunities for developing varied housing opportunities, promote housing choice and economic diversity in housing, and expressly allow for housing to be developed that meets the needs identified in the state's consolidated plan for housing and community development and plan of conservation and development;
3. recommendations as to how such compliance should be determined, as well as the form and manner in which evidence of such compliance should be demonstrated;
4. (a) existing categories of discharge that constitute alternative on-site sewage treatment systems, subsurface community sewerage systems, and decentralized systems; (b) current administrative jurisdiction to issue or deny permits and approvals for such systems (with reference to daily capacities of such systems); and (c) the potential impacts of increasing the daily capacities of such systems, including changes in administrative jurisdiction over such systems and the timeframe for adopting regulations to implement these changes; and
5. development of (a) model design guidelines for both buildings and context-appropriate streets that municipalities may adopt, in whole or in part, as part of their zoning or subdivision regulations as described below and (b) and implementation by the regional councils of governments of an education and training program for delivering the model design guidelines.

Under the bill, the report on model design guidelines must provide guidelines that:

1. identify common architectural and site design features of building types used throughout Connecticut;
2. create a catalogue of common building types, particularly those

typically associated with housing;

3. establish reasonable and cost-effective design review standards for approval of common building types, accounting for topography, geology, climate change, and infrastructure capacity;
4. establish procedures for expediting the approval of buildings or streets that satisfy these design review standards, whether for zoning or subdivision regulations; and
5. create a design manual for context-appropriate streets that complements common building types.

The bill specifies that the provision requiring the commission to provide recommendations for ensuring compliance with the state's affordable housing planning requirement should not be construed to change municipalities' obligation to adopt or amend their plans on-time.

If the commission is unable to meet the first reporting deadline (January 1, 2022), the co-chairpersons must request an extension from the House speaker and Senate president pro tempore and shall submit an interim report. The commission terminates when it submits its final report, or January 1, 2023, whichever is later.

EFFECTIVE DATE: Upon passage

## **BACKGROUND**

*Information on the Affordable Housing Land Use Appeals Procedure and related bills*

### ***Affordable Housing Land Use Appeals Procedure (CGS § 8-30g)***

The procedure requires municipal planning and zoning agencies ("municipalities") to defend their decisions to reject affordable housing development applications or approve them with costly conditions. In traditional land use appeals, the developer must convince the court that the municipality acted illegally, arbitrarily, or abused its discretion. The procedure instead places the burden of proof on municipalities.

With limited exceptions, developers can use the appeals procedure to contest a municipality's decision on an affordable housing development application submitted to a municipality if (1) fewer than 10% of the municipality's housing units are affordable, based on certain statutory criteria, and (2) the municipality has not qualified for a moratorium (i.e., a temporary suspension of procedure following a relatively rapid increase in affordable housing stock).

By law, DOH annually publishes a list of housing stock in each municipality that qualifies as affordable housing.

***Related Bills***

sSB 87 (File 181), favorably reported by the Housing Committee, makes many of the same technical changes to the Zoning Enabling Act and also prohibits regulations from (1) treating licensed group child care homes located in a residence differently than single or multifamily properties and (2) requiring a special permit or exception to operate either a family or group child care home located in a residence within a residential zone.

sSB 961 (File 558), favorably reported by the Planning and Development Committee, shifts, from DEEP to DPH, regulatory authority over (1) alternative on-site sewage treatment systems with daily capacities of between 5,000 and 7,500 gallons and (2) small community sewage systems with daily capacities of up to 10,000 gallons.

sSB 1024 (File 560), favorably reported by the Planning and Development Committee, makes many of the same changes to the Zoning Enabling Act, but it makes other changes as well (e.g., allowing for the amortization of nonconforming uses).

sSB 1026 (File 561), favorably reported by the Planning and Development Committee, requires each member of a local planning commission, zoning commission, planning and zoning commission, or zoning board of appeals to complete at least five hours of training within one year after being elected or appointed to the board or

commission.

sHB 6570 (File 414), favorably reported by the Transportation Committee, similarly requires municipalities to adopt their first affordable housing plan by July 1, 2022, but also requires their plans to identify all parcels in the municipality that are state- or municipally-owned and are located within a half-mile radius of a passenger rail or bus rapid transit station.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 17 Nay 9 (03/31/2021)