



**Testimony
Betsy Gara
Executive Director
Connecticut Council of Small Towns
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The Connecticut Council of Small Towns (COST) appreciates the opportunity to comment in ***opposition*** to **SB-1024 - AN ACT CONCERNING ZONING AUTHORITY, CERTAIN DESIGN GUIDELINES, QUALIFICATIONS OF CERTAIN LAND USE OFFICIALS AND CERTAIN SEWAGE DISPOSAL SYSTEMS.**

COST supports efforts to assist municipalities in providing more affordable, more attainable housing opportunities to promote greater economic, racial and ethnic diversity in our communities. ***However, many of our small towns are very concerned about provisions in SB-1024 and other bills before the committee which override local zoning laws to mandate that municipalities permit accessory apartments, middle housing and multifamily housing as-of-right.***

Although we appreciate the efforts that have been undertaken to address concerns regarding a one-size-fits-all approach to affordable housing, the bill continues to override local zoning laws in a way that will have unintended consequences on a town's efforts to guide housing and economic development, protect water and other natural resources, preserve historic districts, manage wastewater, and protect the public health and safety. Moreover, we are concerned that as-of-right provisions undermine the ability of the public to comment in support of or in opposition to issues affecting their community.

In addition, the bill fails to reflect the considerable efforts and progress that the state and municipalities have made in promoting more affordable, more attainable housing in communities throughout Connecticut, including the following programs:

- **Incentive Housing Zones** - Many towns have successfully established or are moving forward with creating Incentive Housing Zones to support mixed-income housing near transit facilities, areas of concentrated development and other areas suitable for development.
- **Transit-Oriented Development** – The state has successfully implemented targeted investment strategies that consider local land use conditions, industrial zones, downtown development and environmental considerations to successfully support TOD development in a number of towns, including North Haven, Old Saybrook, Wallingford, Berlin, Newington, West Hartford, Windsor, Windsor Locks, East Windsor, and Enfield.
- **The Affordable Housing Program “Flex” Program** – This program provides quality, affordable housing for Connecticut residents, promotes and supports homeownership



and mixed income developments, and assists in the revitalization of urban and rural centers.

- **Low-Income Homeownership** – In 2019, the Connecticut Housing Finance Authority (CHFA) issued bonds that raised \$539.6 million in lendable proceeds to finance first-time homebuyer mortgages and \$74.5 million to finance the construction or renovation of affordable multifamily rental housing units.
- **Affordable Housing Funding** - CHFA administered \$10 million in federal 9% Low Income Housing Tax Credits, which generated \$97.6 million in private equity to fund affordable housing.

In addition, under Section 8-30j of the general statutes, municipalities are undertaking affordable housing assessments and developing affordable housing plans which will provide communities with a strong foundation to guide and support the development of housing to meet the needs of their communities and regions. Connecticut should also continue to build on existing affordable housing programs that have proven successful in addressing state and local affordable housing needs.

With respect to the specific provisions included in SB-1024, COST provides the following comments:

ACCESSORY DWELLING UNITS – AS OF RIGHT

Section 5 of the bill requires municipalities to allow one accessory dwelling unit (ADU) as of right on each lot that contains a single-family dwelling. Recognizing that ADUs can provide people with more flexible, less expensive housing choices, 101 municipalities in Connecticut already allow ADUs as of right, requiring only a site plan review, and 55 municipalities allow ADUs as a special permit or exception*. In addition, it is our understanding that several of the remaining municipalities are actively considering zoning changes that will authorize ADUs.

Interestingly, the various ADU proposals introduced this session reference various lot sizes, unit sizes, occupancy requirements, parking, rental and other restrictions. The variety of approaches contemplated under the bills underscores why a one-size-fits-all state-driven ADU mandate is simply not workable.

If a municipality has determined that the best approach in meeting the housing needs of their community is allowing ADUs by special permit or exception, it is unclear why this approach is not adequate. By allowing ADUs by special permit or exception, municipalities preserve the right of the public to comment in support of or in opposition to the proposed ADU. It also preserves the authority of local officials to fully determine whether an ADU meets the requirements of the local zoning laws as well as public safety requirements, state building and public health codes.

**Desegregate CT Data*



TRANSIT-ORIENTED DEVELOPMENT

Many municipalities are embracing efforts to pursue Transit-Oriented Development (TOD) to create more vibrant areas near transit stations that include walkable, bikeable areas, mixed-use commercial and residential buildings, job-accessible housing, and retail shops. In fact, Connecticut has initiated several successful programs to support Transit-Oriented Development, including competitive grant programs that provide funding for municipalities and regional Councils of Government.

Although COST supports efforts to facilitate TOD development, we ***oppose*** Section 6 of SB-1024 which **would mandate that municipalities allow “as-of-right” mixed-use developments and multifamily housing in at least 50% of the area served by water and sewer infrastructure and within a ½ mile radius of a municipality’s primary rail station.**

We appreciate that the bill acknowledges that housing and other development opportunities are very limited in areas that are not served by public water and sewer. However, the bill continues to raise concerns that mandating housing development within a prescribed area may undermine or otherwise discourage TOD efforts by **failing to fully consider an area’s land use conditions, economic development and historic preservation goals and other unique characteristics.**

Moreover, given Connecticut’s significant progress in promoting and facilitating TOD, we question why a state mandated approach is necessary. As part of an incentive-based approach, Connecticut has undertaken comprehensive studies to identify strategies that will spur Transit-Oriented Development, such as the [Hartford Line TOD Action Plan](#) and the [CTFastTrak TOD Capacity Study](#). These plans include detailed assessments regarding the TOD potential of certain sites along transit corridors, including hurdles that TOD faces in certain areas, such as land use conditions, environmental contamination and groundwater issues.

Building on these planning efforts, Connecticut has implemented targeted investment strategies to facilitate municipal TOD projects tailored to address each area’s land use conditions, economic development strategies, historic districts, and development needs. Moreover, these projects have also balanced TOD goals with efforts to promote environmental sustainability, protect water resources and ecological habitats and address climate resiliency issues. This incentive-based approach has been successful in implementing TOD projects in a wide range of municipalities, including North Haven, Old Saybrook, Wallingford, Berlin, Newington, West Hartford, Windsor, Windsor Locks, East Windsor, and Enfield. Other municipalities are poised to move forward with projects. The state Department of Economic and Community Development (DECD) highlights a number of these success stories on its [website](#).



AS OF RIGHT HOUSING IN AREAS OF CONCENTRATED DEVELOPMENT AND MAIN STREETS

COST opposes provisions in Section 6 of SB-1024 which mandate that municipalities allow as of right multifamily housing or middle housing in any municipality with areas of “concentrated development” or a minimum population of 7,500. Such developments would be permitted without benefit of public comment or local considerations in at least 50% of the area within a ¼ mile from at least one main street corridor. In addition, this section prohibits a municipality from requiring certain minimum parking requirements for such dwelling units.

This section is problematic for a number of reasons, including:

1. **Water & Sewer Infrastructure** – The bill fails to recognize that many smaller towns do not have water or sewer infrastructure to support housing development within areas near their main street corridors or in areas of concentrated development. Many of these communities are in “sewer avoidance areas”, designated as such by the state Department of Energy and Environmental Protection due to concerns regarding the impact of sewer overflows on water and environmental resources. Wastewater capacity is a big concern and one that towns have struggled to address. In addition, many smaller communities rely on well water, which may not have sufficient flow or pressure to support dense housing development.
2. **Traffic Considerations** – Many main streets are located in busy thoroughfares or near school districts and may not be able to safely accommodate additional traffic generated from housing developments located within a ¼ mile from the main street.
3. **Historic Districts** - In many towns, main street corridors are within or adjacent to historic districts or village districts in which development of any kind is limited. Historic preservation is widely recognized as vital to protecting Connecticut’s heritage and promoting tourism.
4. **Parking Concerns** - Prohibiting municipalities from requiring minimum parking requirements for housing units may wreak havoc in many communities. Some main street areas are in village districts with narrow streets. Others are on busy state roads that are already trying to address parking challenges.
5. **Economic Development Strategies** – This proposal may undermine investments that municipalities have made in establishing Enterprise Zones, Opportunity Zones, and Incentive Housing Zones and in revitalizing Main Streets and downtowns and other economic development strategies that have proven successful for their communities.

65-DAY “AS OF RIGHT” REVIEW PROCESS

A 65-day review process may not be sufficient in many instances to address public health, safety and other issues associated with development projects. For example, determining whether soil conditions and groundwater tables are adequate to support a septic system or expansion of a system requires deep hole tests and percolation tests. These tests, which are critical to determining whether soil conditions support waste removal and adequately protect



water resources, may require testing in various months and under various weather conditions. A quick turnaround time may benefit developers to the detriment of other considerations.

In addition, in areas that rely on well water, developers must submit a Certificate of Public Convenience and Necessity to the state Department of Public Health (DPH) for its review and approval to ensure that systems are operated and maintained appropriately. It is unclear how this could be accommodated under a fast track “as-of-right” review process.

NULL & VOID PROVISIONS

COST opposes provisions in the bill which render local zoning laws and regulations “null and void” for failure to adopt or amend regulations in compliance with the mandates set forth in the bill. These provisions undermine the state/local partnership that is critical to Connecticut’s governance structure. Moreover, by rendering local zoning laws and regulations null and void, these provisions will wreak havoc with respect to other zoning processes.

SEWAGE DISPOSAL SYSTEMS

By increasing the maximum capacity of conventional and alternative subsurface sewage disposal systems that may be authorized by DPH, SB-1024 is intended to address concerns that many areas lack sufficient wastewater capacity to support housing and other development. This acknowledges that housing and other development opportunities are very limited in areas where there are no public sewer or public water supplies and inadequate wastewater capacity.

Alternative onsite wastewater treatment systems are designed to address certain site conditions that can be problematic, such as inadequate soils, shallow groundwater tables, or lots that are located along the coast or other water ways. In these areas, conventional septic systems are not adequate because they may create or exacerbate public health and environmental concerns.

Although COST supports efforts to facilitate the use of alternative treatment systems, it is critical that the operation, use and maintenance of such systems be subject to appropriate regulations established by DPH to ensure that such systems do not create or exacerbate existing pollution and sewage disposal issues that will compromise water and environmental resources.

COST also supports efforts to ensure that the state’s Clean Water Fund supports funding for decentralized sewage systems as part of a municipality’s comprehensive sewage system management program. U.S. EPA has recommended support for decentralized sewage systems as an important funding priority.

TRAINING OF LOCAL OFFICIALS

COST supports efforts to ensure that people serving as volunteers on local planning and zoning officials and inland wetland commissions are either experienced in or trained in various housing



laws and regulations, including affordable housing laws. COST is concerned, however, that mandatory training requirements may deter individuals from volunteering to serve on various local planning and zoning boards. In addition, the requirement may be unnecessary for individuals that have experience and expertise in such issues.

In addition, rather than prescribing in statute which organizations are eligible to provide such training, ***COST recommends that the bill be revised to require the state Department of Housing to establish guidelines for training curricula and qualifications for training providers to ensure a wide range of training options available to local officials, including no cost/low cost options.*** This is consistent with how training programs are administered by other state agencies.

REORGANIZATION OF ZONING ENABLING ACT

COST supports efforts to reorganize the Zoning Enabling Act to provide greater clarity and facilitate compliance. In addition to reorganizing the Act, however, SB-1024 eliminates consideration of the “character of a district” and replaces it with “physical site characteristics and architectural context”. COST is reviewing this change with legal counsel to determine whether it would create any unintended consequences for our smaller communities. At a minimum, we believe this language should include a reference to reflect considerations of historic preservation and village districts which are vital to our communities and tourism opportunities.

CONCLUSION

Thank you for the opportunity to testify. Although we have significant concerns with the bill, COST remains committed to supporting efforts to assist our municipalities in promoting more affordable, more attainable housing in their communities. We stand ready to work with lawmakers and other stakeholders to have a meaningful, productive conversation about how to advance these goals.