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For distribution by Working Group  
members to stakeholders/interested parties

**COMMISSION ON CONNECTICUT'S  
FUTURE AND DEVELOPMENT**

**REPORT OF THE AFFORDABLE HOUSING  
PLANS WORKING GROUP**

**Note: This document is a draft only. It has not been  
adopted by the Working Group.**

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“The record surge in home prices and rents over the past year exacerbated affordability challenges nationwide. Soaring prices for everyday necessities, on top of high housing costs, have added to the pressure on household budgets, especially among lower-income households and households of color.”

- *The State of the Nation's Housing, 2022*, Joint Center for Housing Studies of Harvard University

“A common myth around affordable housing is that it consists only of higher density apartments. This is not true. Affordable housing can be like any other type of housing and comes in many forms, shapes and sizes ranging from single-family homes to duplexes and from townhomes to apartments. It can be privately owned or rented. It can house seniors, families with children, single individuals, or persons with disabilities. It can also come in a range of architectural styles making it virtually indistinguishable from other housing types. While some affordable housing units are owned and managed by public entities, most are privately owned and managed.”

- Town of Chester, Affordable Housing Plan, adopted May 25, 2022

“Recognize that housing is a social determinant of health outcomes.”

- New London's 2022 §8-30j Report, Goals, p. 40

“We can't take only safe steps that get us to maybe mediocre outcomes.”

- Boston Mayor Michelle Wu, *The New York Times Magazine*, October 23, 2022

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## I. INTRODUCTION.

Many factors that influence the affordability of housing are beyond the direct control of state and local government, such as interest rates, construction costs, population demographics, household income, and household formation. *However, the cost and availability of housing, especially the creation of new or rehabilitated housing units, are shaped substantially by actions of local government.* This is especially true in Connecticut, where our state legislature has delegated significant control over land use to each of our 169 municipalities. Our towns and cities,<sup>1</sup> though governed by the Zoning Enabling Act (General Statutes § 8-2), have considerable discretion to adopt regulations, draft plans of conservation and development, and grant or deny land use permits.

As a result of this governance structure, during the past forty years, our state government has continually wrestled with how much authority municipal land use commissions should exercise over residential development and housing in general and affordable housing in particular, and when the state should intervene to reduce local discretion, impose mandates, or enact prohibitions.<sup>2</sup> This effort began in 1988-89, when a Governor’s Blue Ribbon Commission on Housing identified an intensifying trend during the 1980’s where housing costs were rising quickly, but proposals for new housing, particularly multi-family rental housing for moderate and low income households, were regularly being denied, often for “vague and unsubstantiated reasons.” That Commission’s report, which was issued in the same year as a Connecticut Supreme Court decision that spotlighted exclusionary zoning practices, led to the adoption of General Statutes §8-30g (The Affordable Housing Land Use Appeals Act) in 1989.

In 1991, the legislature further required zoning commissions, in their regulations, to “promote” economic and racial diversity and choice in housing. In 2000, the General Assembly further revised § 8-30g standards, by streamlining and clarifying procedures, and adopting the 8-30g moratorium program. In 2007, the state adopted the Voluntary Incentive Housing Program (General Statutes § 8-

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<sup>1</sup> In this report, we use the word “town” to refer to all types of municipalities.

<sup>2</sup> California has recently taken substantial steps: “One big reason for the chronic housing shortage in America’s most prosperous regions is that state governments have ceded control to local governments that behave like private clubs. In California, the heartland of the housing crisis, the state is starting to take power back.” B. Appelbaum, “California Is Making Progress On Housing,” *The New York Times*, Oct. 5, 2022, p. A23.

13m), though that program’s financial incentive provisions never materialized due to the recession that began in 2008. Meanwhile, through these years, the State administered a variety of programs that provided subsidies and planning and financial assistance to spur both new construction and rehabilitation of lower-cost units.

In 2017, the General Assembly again revised the state-local balance, directing all cities and towns to prepare, at least every five years, a plan for affordable housing development.

In 2021, however, in response to a new, national push for economic and racial diversity and equality in housing,<sup>3</sup> the State mandated that every municipality file an affordable housing plan no later than June 1, 2022, and in the same law made a variety of substantial changes to statewide land use requirements governing affordable housing, such as mandating economic and racial diversity in housing, rather than simply encouraging it.<sup>4</sup>

In addition, in the same 2021 public act, the legislature created the Commission on Connecticut’s Future and Development, and as part of that group, a subcommittee, the Working Group on Affordable Housing Plans. This group was tasked with creating an updated guidance document for municipal land use commissions, focused on how to create an affordable housing plan and what it should contain. This report is that document.<sup>5</sup>

From the outset of its work in March 2022<sup>6</sup>, the Affordable Housing Plans Working Group recognized a potential anomaly in its assigned task: cities and towns had been directed in 2021 to prepare and file their affordable housing plans by June 2022, and thus *while* our Working Group was preparing this statewide guidance. Though the Connecticut Department of Housing, in conjunction with

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<sup>3</sup> A February 2022 article in the Harvard Law Review discussed how housing production would be helped if affordable housing were recognized as a legal right of every citizen. “*Addressing Challenges to Affordable Housing In Land Use Law: Recognizing Affordable Housing as a Right*” 135 Harv. L. Rev. 1104 (Feb. 2022)

<sup>4</sup> As of November 2022, approximately 110 of the 169 municipalities have filed an affordable housing plan since 2017. Links to the plans may be found at <https://ct.planning.org/knowledge-center/resource-library/connecticut-municipal-affordable-housing-plans/>

<sup>5</sup> [Text of Affordable Housing Plans Working Group – Statutory Task]

<sup>6</sup> For a summary of the Working Group’s 2022 meetings, see Appendix H of this report.

the Regional Plan Association, published an “*Affordable Housing Plan and Process Guidebook*” in 2020, that report focused primarily on process, and of course was issued before the 2021 legislative changes.

While recognizing this overlap between town plans and our task, after discussion, our Group decided to embrace the silver lining of the situation, which was that while we were drafting our report, we would be provided, in real time, with more than one hundred municipal reports, and we would be able to review them – the good, and those-in-need-of-improvement – as part of our drafting process. As a result, members of the Working Group have reviewed each and every plan filed as of November 2022<sup>7</sup>, and this report has benefitted from identifying both examples of best practices, as well as misunderstandings and unsupported assumptions that we hope can be rectified or mitigated in the future. Thus, we have chosen to recognize the “timing problem,” but use it to advantage.

We have also reviewed prior guidance documents, both Connecticut-specific and from other states and national sources. In addition to the Connecticut Department of Housing’s 2020 publication, we have reviewed a 2021 report of the Regional Plan Association, and work done in 2021 and 2022 by several Connecticut regional councils of government.

This background, then, raises the question: How is this report different? We believe it improves on past work in three ways. First, this report explains the minimum state law requirements now imposed on each Connecticut municipality with respect to affordable housing. At a minimum, each affordable housing plan must comply with state law. Second, in 2021, in Public Act 21-29 (the same Act that created the Futures Commission and this Working Group), the state amended and clarified state affordable housing law in several substantial ways. *This report is the first to be written since these statutory amendments, and thus is the first to explain how the revised legal requirements should be reflected in municipal affordable housing plans.* Third, this report has had the benefit of reviewing and reacting to the municipal plans prepared and filed in 2022.

In drafting this report, our Working Group reached these points of consensus:

- Creation and maintenance of affordable housing is a critical social, economic, and public health need;

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<sup>7</sup> A list is Appendix A.

- Due to Connecticut’s governance structure, municipalities have a lead role in meeting this need;
- Affordable housing programs need to be balanced with environmental needs such as open space preservation, water quality, and climate change resiliency;
- Affordable housing development should respect and complement existing, surrounding development. While single-family housing is the dominant residential use in our state, housing plans should recognize that multi-family, cluster housing, condominiums, townhomes, middle housing and single-family can be compatible uses;
- Again due to our structure of 169 separate cities and towns, and recognizing our urban, suburban, and rural areas, there is no “one-size-fits-all” program to be imposed or recommended; and
- A report like this one should offer a menu of choices, with observations about best practices, mistakes to avoid, and criteria for evaluation.

We hope that this report fulfills these objectives.

## II. WHAT AFFORDABLE HOUSING IS AND WHY IT’S IMPORTANT

“Affordable” is housing for which a household pays 30 percent or less of its income. “Affordability” is the relationship of households and incomes to housing prices in a town or region.

Affordable housing is generally defined as units being preserved for a period of years at a specified maximum income, such as 80 percent, 60 percent, 50 percent, 30 percent or 25 percent of either the “area median income” or the “statewide median income.” The U.S. Department of Housing and Urban Development publishes these amounts annually. This formula, after being adjusted for household size and multiplied by the assumption that a household can pay 30 percent of its income for housing, results in a maximum annual housing cost, and when divided by 12 months, a “maximum monthly housing payment.” This formula can be adjusted to both rental and ownership (homes or condominiums). Sample, simplified calculations of maximum payments for rental and for sale units that qualify as affordable units are in Appendix B.



Economically diverse options in housing, across all our regions, cities, towns, neighborhoods, and areas, are important to Connecticut residents and to the state's competitiveness and future vitality because:

- More housing options, especially for people of modest means, can stem the out-migration in younger age cohorts who cannot afford to establish their own households. Millennials are entering their prime earning years, and are forming new households at a rapid rate, and it is in the state's best interest to keep them in Connecticut, close to their families, and to enable them to contribute to Connecticut's competitiveness and economic vitality now and in the future. Twice as many young adults between the ages of 16 to 26 have moved out of Connecticut in recent years than have moved into the State.<sup>8</sup>
- More economic diversity of options in housing in more municipalities can help address the concentrated financial hardship in some of our municipalities that limits access to educational and economic opportunities. Lack of housing choices limits access to opportunity and hampers Connecticut's vitality now and in the future. Progress here can also be key in revitalizing some of our cities.
- Increased economic diversity of options in housing in more municipalities will promote more equity and fairness in how we pay for and deliver public services.
- Many Connecticut employers report that a lack of housing options presents real challenges in recruiting and retaining skilled employees. Availability of housing options is also a factor in where businesses choose to locate or expand their operations.
- A growing number of Connecticut residents are "housing burdened," which means they pay more than 30 percent of their income on rent or a mortgage. According to a report by the Urban Institute, about half of Connecticut

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<sup>8</sup> Willner, C. (2022). "New Census Bureau Data on Young Adult Migration: Connecticut Experiences More Out-Migration than In-Migration of Young Adults, with Rates Varying by Parental Income and Race/Ethnicity – CTData." <https://www.ctdata.org/blog/new-census-bureau-data-on-young-adult-migration>

renters are housing-cost-burdened, and more than a quarter of homeowners are housing cost burdened. The more households pay for housing, the less they can afford to pay for goods and services starting with food and health care.

- Producing more diverse options in housing creates jobs and generates spending for materials and supplies, etc. in local businesses during construction and once families are living in those homes.

*Simply put, it is essential that every group tasked with preparing an affordable housing plan for a municipality understand how economically, racially, and socially segregated Connecticut is; the adverse consequences of this fact for our state; and the difference that promoting development, construction, and occupancy of lower-cost housing can make in mitigating these consequences.* Thus, affordable housing plan drafters should bear in mind these facts:

Connecticut ranks among the nation's most expensive states for housing costs. In Connecticut in 2022, *median* home prices have ranged from \$400,000 to \$550,000, out of reach for most Connecticut households. When families spend more on housing, they have less money to spend on other necessities, to invest in businesses, or to support children or aging family members.

- Household residents are “housing burdened” if they spend more than 30 percent of their annual income on housing costs. Half of all renters and more than one-third of all homeowners in Connecticut are considered housing burdened.
- No one earning the Connecticut minimum wage can afford a median priced home in any town in the state.
- A two-person household in which both people earn the minimum wage can afford a small home in only 21 towns in Connecticut, limiting housing choice and opportunity and creating concentrated pockets of poverty.
- In 36 towns, more than half the residents make insufficient income to afford to buy a house in those towns.
- In only 3 towns can someone making 50 percent of median income afford a median priced home.

- There is less than a two percent vacancy rate in Connecticut’s rentals as of November 2022. Low vacancy rates usually cause higher rental rates, making it more difficult to find affordable housing.

Homeownership is typically the largest store of household wealth for a family. A family’s ability to purchase a home determines wealth and life outcomes across multiple generations. Without the security and resources of generational wealth and homeownership, families spend generations in poverty, with limited housing stability. In Connecticut, people of color are less likely to own a home, contributing to a significant racial wealth gap.

- 67 percent of Hispanic households live in rental housing (i.e., only 33 percent are homeowners).
- 59 percent of Black households live in rental housing (i.e., only 41 percent are homeowners).
- By contrast, only 24 percent of non-Hispanic White households live in rental housing (i.e., 76 percent are homeowners).

The ethnic and racial wealth gap in Connecticut is higher than in the nation’s gap. Concentrated poverty and a lack of access to opportunity are significant contributing factors. Access to stable, safe, affordable housing can help to reduce those wealth gaps.

- Black family income is 55 percent that of non-Hispanic White family income.
- Hispanic family income is 44 percent of non-Hispanic White family income.

The poverty rate and the percentage of households that struggle to make ends meet in Connecticut are highest among families with children. Those families are also referred to as “ALICE” (Asset-Limited, Income-Constrained, Employed) households. In Connecticut, the high cost of living means that many of our children live in poverty, in need of safe and affordable housing.

- 11.5 percent of families with children live in poverty.
- 9.9 percent of all Connecticut residents live in poverty.

- According to the most recent ALICE report on financial hardship in Connecticut, 38 percent of all households in Connecticut are unable to afford life's most basic necessities including housing, food, childcare, transportation, technology, and health care (ALICE Household Survival Budget).
- 63 percent of Hispanic households live below the ALICE Household Survival Budget threshold.
- 57 percent of Black households live below the ALICE Household Survival Budget threshold.
- 47 percent of households headed by people 65 or older live below the ALICE Household Survival Budget threshold.

Connecticut also has an imbalance of single-family and multi-family development and a shortage of housing that can be most cost-effectively addressed by more multi-family development:

- In a third of Connecticut's municipalities, the housing stock is at least 90 percent single-family units.
- More than a quarter of all 5+ unit buildings in Connecticut are in four municipalities: Hartford, Waterbury, New Haven, and Bridgeport.
- Half of all 5+ unit buildings in Connecticut are in 13 municipalities (out of a total of 169 municipalities).

The Dissimilarity Index score (DI) is a commonly used measure of residential segregation. That measure compares the distribution of two different groups (in this case, white and non-white) across census tracts within a state. The DI of a state indicates the percentage of a particular racial group that would have to be relocated to achieve an even distribution. Because life outcomes are determined by the stability and location of housing, Connecticut's high DI (67)<sup>9</sup>, means that people of color have disparate life outcomes compared to non-Hispanic whites.

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<sup>9</sup> See American Health Rankings, [AmericasHealthRankings.org](https://www.americanhealthrankings.org).

- Connecticut has greater racial segregation than 34 other states. Based on the DI score, Connecticut is more racially segregated than Mississippi, West Virginia, and Georgia.
- Three of our metropolitan areas rank in the top 20 percent of all metropolitan areas in the country (total of 366) for this measure of segregation: Bridgeport-Stamford-Norwalk, New Haven-Milford, and Hartford-West Hartford-East Hartford.

Access to affordable housing is also connected to economic development, job and population growth, and a reduced need for social services. Increasing affordable housing will help Connecticut address its existing, systemic segregation and inequality.

### III. ACHIEVING BALANCE: PROMOTING AFFORDABLE HOUSING IS NOT “ONE SIZE FITS ALL.”

Connecticut’s 169 municipalities are urban, suburban, and rural, and vary widely in both their need and market demand for affordable housing, and their ability to provide infrastructure to support it. Some towns have ample professional staff and volunteer citizen help, while others have little of either. More pointedly, housing in Connecticut ranges from towns that are predominantly single-family homes on large lots in stable neighborhoods, to cities with thousands of apartments that in recent years are being purchased in large batches by investors who are then terminating leases, raising rents, and evicting long-term tenants who suddenly have few or no housing alternatives. That is, Connecticut’s housing markets range from quiet rural areas, to stable or growing suburbs, to cities where segments of the housing market are in crisis.

A “one-size-fits-all” housing policy is therefore not appropriate because population density, land characteristics, infrastructure capacity, economic development, and housing demands differ across communities. Given the importance of addressing affordable housing needs and promoting greater economic, racial, and ethnic diversity in our communities, the state must encourage and sometimes direct municipalities to take steps that help achieve these goals, but recognizing that each municipality’s path will be different.

Many municipalities in Connecticut have moved forward with efforts to revise zoning laws and adopt policies to support affordable housing, including repealing exclusionary practices, adopting housing incentive zones, implementing

transit-oriented development projects, and adopting inclusionary policies. At the same time, many municipalities are losing population or are in rural areas whether there is little demand for housing, affordable or otherwise. Some municipalities do not have many buildable lots, given watershed lands and wetlands or other issues. Others may have older housing stock that is considered affordable housing. As such, rigid numerical affordable housing goals for each municipality must acknowledge and consider these variables.

Local and regional housing assessments are, therefore, critical to understanding the need to which a town must respond. In § V, we have identified several templates that can be used for this purpose.

Among the existing land development patterns, development challenges, and competing priorities that will shape a town's affordable housing planning and development are these:

#### A. Single-Family Homes and “Middle Housing”

Single-family homes continue to be the dream of many households. Connecticut should continue to promote homeownership opportunities for low-income residents through low-rate mortgages and down payment assistance programs. In addition, facilitating the development of “middle housing,” Accessory Dwelling Units, small scale multifamily housing, duplexes, and cottage clusters, should be considered as part of a municipality's Affordable Housing Plan.

#### B. Impact of Higher Density Developments

Concerns are sometimes raised about the impact of proposed housing developments on property values, traffic, school crowding, quality of life, environmental resources, and water quality. Local affordable housing plans should assess, realistically, the extent to which low, moderate, and high-density development may affect these issues, both positively and negatively.

For example, analysis conducted by U.S. EPA demonstrated that higher density developments generate less stormwater runoff per house than lower-density developments. EPA's analysis concludes that “[I]ncreasing development densities is one strategy communities can use to minimize regional water quality impacts. To fully protect water resources, communities need to employ a wide range of land use strategies that are based on their local conditions, context, and goals. Such strategies could include building a range of development densities, incorporating

adequate open space, preserving critical ecological and buffer areas, and minimizing land disturbance.”

### C. Water and Wastewater Challenges

Many Connecticut municipalities are not served by public water systems and, instead, rely on wells which generally do not have sufficient flow or pressure to support dense multi-family housing developments. Extending public water supply mains to these areas can be an expensive undertaking.

In addition, some municipalities do not have adequate sewer infrastructure to support higher-density housing developments that cannot be built with community septic systems or “alternative” wastewater treatments. Limited wastewater capacity is, therefore, a concern for housing development in some municipalities.<sup>10</sup>

### D. Open Space and Watershed Lands, Historic Preservation, and Farmland Preservation

Recognizing the importance of protecting open space and watershed lands to protect ecological habitats, water quality and other natural resources, Connecticut provides municipalities with incentives to purchase and preserve open space and watershed lands. In addition, the state supports efforts to preserve farmland and historic structures, which are an important part of Connecticut’s heritage, tourism, and quality of life. These goals should be appropriately balanced with affordable housing development.

### E. Buildable Land – Definition

Affordable housing, like other development projects, should be proposed on “buildable land.” Generally, local zoning laws reference that “buildable land” does not include areas designated as 100-year floodplain on the FEMA Flood Insurance Rate Maps, inland wetlands, watercourses, slopes in excess of 25 percent, or land constrained by easements or use restrictions, such as land preserved as open space, farmland, or public water supply watershed.

### F. Climate Change and Resiliency

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<sup>10</sup> The Commission on Connecticut’s Future and Development has a Sewage Plans Working Group that is specifically focusing on sewage disposal options and will file its own report.

To address climate change, Connecticut has launched several initiatives to promote the use of renewable energy alternatives to improve energy efficiency and reduce carbon emissions. At the same time, climate change is causing rising sea levels, greater storm frequency, and increased flooding. Municipalities, particularly in coastal areas and along tidal wetlands, must consider these issues in making land use decisions and in planning critical infrastructure.

#### G. Transportation and Traffic Safety

Land use planning decisions require assessment of traffic and parking. Traffic management, of course, is both a safety and quality of life issue, as congestion should be avoided or mitigated where possible, which is critical to protecting public safety. While zoning regulations often require excessive and unnecessary parking, which can affect residential density and water quality, adequate parking is essential to controlling off-site impacts.

#### IV. REVIEW OF § 8-30j AFFORDABLE HOUSING PLANS PREPARED AND FILED 2021-2022

In 2021, the General Assembly imposed a June 2022 deadline on its 2017 directive that all towns should file an affordable housing plan every five years. Public Act 21-29, § \_\_\_\_ became General Statutes § 8-30j. By June 2022, more than 100 of Connecticut's 169 towns had filed a report. The filed reports are collected and accessible at the Connecticut Chapter, American Planning Association website, see footnote 4 of this report.

In preparing this report, the Working Group has read all of the reports filed as of November 1, 2022, see Appendix A of this report.<sup>11</sup> As noted earlier, we have viewed the reports as a real-time laboratory for identifying and assessing both best practices, and areas that need improvement.

We reviewed these reports bearing in mind that: (1) the legislature's 2021 direction and timetable were an unfunded mandate; (2) some towns have limited staff to devote to the task, little money to hire a consultant, or both; (3) internally, some towns are divided about, if not opposed to, the need for affordable housing or their obligation to provide more of it; and (4) the towns that proceeded with their

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<sup>11</sup> Some municipalities that have not filed a report have written to OPM asking for an extension. About 50, including those who have contacted OPM have not filed a report, including several of our largest cities.



reports had relatively sparse guidance from the state government about what was expected.

We are pleased to recognize very good sections of municipal reports:

- Most of the reports do a good job of reviewing the town's existing housing stock, prices and rents, existing and projected demographics, "affordable gaps," and identification of "cost-burdened" households;
- Several small and medium-sized towns included specific recommendations for amending their land use regulations, and identified specific locations where higher density and lower cost housing could be pursued (Andover, Bethany, Bozrah, Bristol, Brookfield, Brooklyn, Danbury, Fairfield, Glastonbury, Guilford, Hebron, Killingly, Marlborough, Meriden, Milford, Newington, Weston, Westport, Windham, Woodstock);
- Fairfield's and Canterbury's reports contain cogent statements about the importance of affordable housing;
- Several larger cities produced thoughtful plans about how to maintain already economically diverse housing stock (New London, Meriden, Stamford, Bristol, Groton, Windham);
- A variety of towns took the time to prepare an illuminating chart of their current residential zones and what types of residential uses are allowed in each zone (Danbury, Killingly, Montville, South Windsor, Woodstock);
- One town, Newington, made a specific point of planning for special needs housing; and
- The Town of Suffield's report contains a page with photos of different types of people and households and the varying types of housing that people need during their lifetimes, Appendix E.

The list above is the good news. On the other hand, while many municipalities filed reports that were well researched as to housing need, predominantly the reports were, in a word, frustrating. By way of example:

- Several reports were only a cover placed on a photocopy of the housing section of the town's most recent Plan of Conservation and Development;
- About 30 percent of the reports mainly asserted limitations, such as infrastructure, that were presented as reasons why the town had not developed a substantive plan or action steps, and could not, going forward, promote lower cost housing;
- Several reports noted existing community opposition to affordable housing as their basis for submitting a minimal plan;
- Several towns with thousands of housing units set miniscule goals, such as five to ten units during the next five years;
- One town stated defiantly, "We are committed to remaining a small town," and in effect said that it would take no steps to promote affordable housing; another took the same tack, explaining that, "We have a history of opposition to affordable housing;"
- Several towns asserted that they are "fully built out" and/or that their land is generally "too expensive" to accommodate affordable development;
- A few towns said, in so many words, that our cities contain plenty of affordable housing and the state should not impose on suburban and rural towns;
- More than twenty town reports only contained recommendations that address maintenance of existing single-family housing; and
- Nearly all of the reports written and filed in 2022 contained little or no recognition of the legal obligations with respect to zoning regulations contained in Public Act 21-29 (see section VII of this report).

*However, the predominant characteristic of a vast majority of the 2021-2022 reports is the absence of specific, concrete action steps and deadlines aimed at enabling the actual development, financing, construction, and occupancy of lower*

*cost housing. Recommendations that are vague, non-specific, with little or no detail, and a timetable that is either not specific or several years out, are present in more than 75 percent of the filed reports. As a state in which 169 separate municipalities have not only the authority and ability to enable lower-cost housing, but also now a clear legal obligation to do so, we can and we must do better with our municipal plans, which must review the details of their existing regulations and policies, identify what can be improved or changed, and commit to a timetable for executing the needed steps.*

## V. CREATING AND IMPLEMENTING AN AFFORDABLE HOUSING PLAN<sup>12</sup>

The state Department of Housing provides technical assistance, guidance, and planning grants to assist municipalities in developing and implementing affordable housing plans, including a template for conducting a housing needs assessment.

An Affordable Housing Plan Committee ideally should have between five and ten members who are current residents of the municipality. Expertise in different areas related to housing and community development is essential, including:

- Architect, community planner, engineer;
- Transportation specialist;
- Real estate agent or broker;
- Finance and lending expert;
- Attorney;
- Landlord, experienced property manager, or developer;
- Business owner and economic/workforce development specialist;
- Leaders of non-profit community organizations;

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<sup>12</sup> The state Department of Housing provides technical assistance, guidance, and planning grants to assist municipalities in developing and implementing affordable housing plans, including a template for conducting a housing needs assessment. [specific program?]

- Members of relevant local committees and boards, *e.g.*, Youth Services, Senior Services, Disability Services, Boards of Education, Planning and Zoning, Inland Wetlands; and
- Current and prospective residents of affordable housing, and may include non-residents who are interested in living in the municipality.<sup>13</sup>

The members of an appointing body, such as a local town council or equivalent, can decide which areas of expertise they would like to see utilized. A thorough search process should include outreach through a Chamber of Commerce, local nonprofit networks, the Housing Authority, City distribution lists, and recommendations of local officials.

Stakeholders in the local community, particularly those who currently are and will be making use of affordable housing stock, should be included in the process through both representation in the Committee and through surveys, community conversations, and public messaging about the process from before it begins until the report is published. Local stakeholder groups from all sectors (business, nonprofit, community associations, youth) should be invited to present to the Committee about their needs.

#### A. Facilitating Discussion and Process

Facilitation of the group is ideally performed by a neutral person with communication and facilitation experience who is comfortable performing tasks like sending materials electronically, soliciting feedback, synthesizing and reframing members' points, and managing shared documents.

#### B. Conducting a Housing Needs Assessment

A major role of the Committee will be conducting a housing needs assessment and reporting it in an understandable fashion. Helpful data sources will include “fair share” Affordable housing need calculations prepared by the Open Communities Alliance;<sup>14</sup> the American Community

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<sup>13</sup> Committees in suburban or rural towns with low affordable housing stock should consider partnering with Committees in nearby cities to assess this demand and perform outreach.

<sup>14</sup> <https://www.ctoca.org/fairshare>

Survey,<sup>15</sup> United Way A.L.I.C.E. Reports,<sup>16</sup> AdvanceCT Town Profiles,<sup>17</sup> CTdata collaborative<sup>18</sup> the Affordable Housing Appeals Lists published annually by the Connecticut Department of Housing,<sup>19</sup> and new data acquired through surveys and the work of local Housing Authorities.

A needs assessment should report on:

1. Numbers and types of households and housing units. In addition to affordable units that are not deed-restricted, an inventory of government subsidized units, units receiving tenant rental assistance, deed-restricted units, accessory apartments (also called alternative dwelling units), and lower-cost single-family mortgages through the Connecticut Housing Financing Authority (CHFA).
2. Demographic trends and expectations. Income and employment type in each municipality are important to track to determine the scale and speed at which affordable housing is needed. Data about average household size can speak to the need for single-family homes versus middle and other types of housing.
3. A definition and count of “housing-cost-burdened households.” Towns can draw conclusions through income data and survey results, or draw conclusions through Housing Authority wait lists.
4. Utility costs. The working group should quantify utility costs as a part of the overall housing cost burden.
5. Transportation costs. Committee members with expertise in community planning should plan to assess traffic patterns, bus routes, and ridership rates, and how these may change as the affordable housing stock increases.
6. The types of units most needed to achieve affordability and diversity in housing types in the municipality. New developments, new deed

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<sup>15</sup> <https://www.census.gov/programs-surveys/acs/data.html>

<sup>16</sup> <https://alice.ctunitedway.org/meet-alice-2/>

<sup>17</sup> <https://www.advancect.org/site-selection/town-profiles>

<sup>18</sup> <https://www.ctdata.org/housing>

<sup>19</sup> <https://portal.ct.gov/DOH/DOH/Programs/Affordable-Housing-Appeals-Listing>

restrictions, and repurposing existing units all provide different options for actionable plans.

### C. Data Collection

The Affordable Housing Plan should be formulated based on responses to a resident survey on housing conditions. The survey should ask about housing cost burden and satisfaction with current housing, and consider factors like household size, age, race, and disability status.

When collecting data for the Plan, local data should be the priority; as land use regulation is town-by-town, the plan must be formulated and adopted at the municipal level. However, as further described below, Connecticut law requires towns to use zoning to encourage the development of housing opportunities “for all residents of the municipality and the planning region in which the municipality is located.” Local planning must also take into account regional need. Regional Councils of Government can be supportive in providing data for planning regions. Partnerships with regional councils can help with sharing information and recruiting those who might want to live in a particular municipality.

Regional data should not be used to justify towns with little affordable housing absolving themselves of the need to create more. Rural towns or suburbs relying on cities for affordable housing exacerbates segregation.

### D. Timing

Six to 12 months is a reasonable time period for creating a plan. A significant amount of time should be spent on survey creation, distribution, and compilation to ensure that respondents are representative of community sentiment.

Committees should anticipate that existing residents responding to a survey may not understand the need for it or its benefits, and may be simply opposed to change. The Committee uses public input to assess how much community education will be needed to move forward with actionable recommendations.

### E. Relationship to Planning and Zoning Commission

Though it will be a separate body, the Affordable Housing Plan Committee should maintain a relationship with the Planning and Zoning Commission in its municipality, the simplest way being a working relationship through a member of the Planning and Zoning Commission in its ranks. PZC buy-in will be needed in the process, as most strategies in the Plan will need to be carried out through PZC action. PZC partners should work to decide on a reasonable time frame for carrying out the recommendations in the plan.

F. Public Involvement and Education<sup>20</sup>

Beyond conducting a survey and drafting a report, the Committee should work to make its presence known in the local community. Events promoted through the Mayor or First Selectperson can gauge interest and promote turnout.

Committees should consider public education initiatives on § 8-30g, understanding municipal zoning maps, “opportunity maps,” and regional housing needs, and partnering with nonprofit organizations and/or municipal departments (with staffing and more resources) to spread this information.

Survey distribution should be done both online and in-person. In addition to City distribution lists, presence at local events and frequent congregation settings (e.g. public health facilities and libraries), promotion at other municipal meetings, and door-to-door canvassing should be considered by Committee members, who will act as ambassadors of the work.

G. Important to decide early who will ultimately “adopt” the plan, how made available, how and where filed, such as with OPM and/or regional planning council [State law clarification may be needed]

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<sup>20</sup> A key part of public education about affordable housing is identifying and overcoming myths. The most prevalent are that affordable housing lowers the value of nearby properties; affordable housing developments bring crime; and affordable housing generates large numbers of school-aged children, many with special needs. The Partnership For Strong Communities maintains on its website a list of the myths and explains why they are inaccurate. See <https://pschousing.org/news/affordable-housing-land-use-appeals-act-8-30g-factsheets> and <https://pschousing.org/mixed-income-housing-Connecticut>.

- H. Consider online vs. hybrid vs. in person meetings (as allowed by 2022 legislation)
- I. Confirm which meetings are subject to Freedom of Information Act
- J. Start by identifying existing resources and data such as current POCD; U.S. Census; Partnership for Strong Communities.
- K. Focus on actually creating units.
- L. The important of specific steps, with timelines and deadlines.
  - 1. Understand the challenge of identifying specific locations
  - 2. Be willing to be specific, concrete, and prescriptive
- M. Circulate a draft report for public comment
- N. Final report/adoption/filing
- O. After adoption: responsibility for implementation. Recognize that publicizing housing opportunities (sometimes called “affirmative fair marketing”) is essential to achieving diversity
- P. Ongoing review; timing of next revision.

## VI. STATE LAW REQUIREMENTS FOR AFFORDABLE HOUSING

### A. Minimum Legal Requirements for Municipal Affordable Housing Plans

As prefaced earlier, one of the first and important steps that a municipality must take with respect to an affordable housing plan is to review, in cooperation with the town’s planning and zoning commission, the existing zoning regulations to ensure that they are consistent with the requirements of state laws intended to promote affordable housing. Generally speaking, this effort requires each town to take a list of the requirements of General Statutes § 8-2, the Zoning Enabling Act, and then review the existing town regulations to see if they comply.

This exercise has two parts: The first is to examine whether the text of the town’s existing regulations violates an express state law requirement. For example, if a zoning regulation requires that certain single-family homes



contain at least 1,000 square feet of floor area, which would far exceed what the state building code requires, that regulation would violate the prohibition in the Zoning Enabling Act, as revised in 2021, against zoning regulations imposing minimum floor area requirements in excess of the state building code.

The second inquiry will be more subtle. A common zoning requirement is that a residential lot, to be buildable, must have a minimum frontage on a public street. What if that requirement is 400 feet? On paper, nothing in the Zoning Enabling Act prohibits such a regulation, but the requirement does result in a very substantial minimum lot size, and if the requirement applies to most of a town's buildable land, does the regulation promote economic diversity and choice in housing? For a group reviewing the town's regulations, the question is whether the town's minimum street frontage regulation strikes an appropriate balance between single-family residential zoning and making land available for higher density development.

B. Promoting “Housing Opportunities” and “Economic Diversity and Housing Choice”

These phrases were converted in 2021 from an encouragement to a requirement. Towns must provide for the development of housing opportunities “for all residents of the municipality and the planning region in which the municipality is located.” Towns must consider the regional need and their obligation to meet it.

As the words imply, the legislature's direction is that a town's zoning regulations must allow housing across an array of price points. A town whose regulations, in effect, allow only single-family homes or large lots does not comply with this requirement. Economic diversity and housing choice are facilitated by a combination of actions that enable higher density and modify or eliminate rules that have an exclusionary impact.

This requirement does not mean that the same array of housing and density must be allowed uniformly across a town. Rather, it means that a town's regulations should identify locations where higher density and thus lower cost can be achieved in light of the available or potential infrastructure, and deleting regulations that make higher density more difficult, without a valid planning reason for doing so.

C. Allowing Multi-Family Housing

A similar requirement, also made mandatory in 2021, is that regulations allow multi-family housing, which generally means four or more units on one parcel of land, consistent with soil types, terrain, and infrastructure.

Obviously, multi-family is higher density housing, and the more that construction, infrastructure, utility, and occupancy costs can be divided among occupants, the lower the cost on a per unit basis. Thus, a municipal affordability plan should carefully review the town's regulations to ensure that they allow multi-family housing as a permitted use, and that the regulations do not contain requirements that otherwise undermine feasibility.

D. “Affirmatively Furthering” The Purposes of the Federal Fair Housing Act

Public Act 21-29 requires zoning regulations to “affirmatively further” the purposes of the federal Fair Housing Act. The main purposes of the federal Fair Housing Act are to prohibit discrimination in housing on the basis of a tenant's/occupant's/owner's race, ethnicity, gender, age, [full list of FHA criteria]. “Affirmatively furthering” means that the availability of low and moderate housing is publicized in ways that it will come to the attention of economic, racial, and ethnic groups that need such housing but are “least likely to apply” for it, based on living in other towns, or having language barriers or limited transportation. (Thus, for example, “redlining” in housing finance would be the antithesis of affirmatively furthering.)

This is not at all a new concept. State Regulations § 8-37-ee [correct cite] is a longstanding requirement for an affirmative fair housing marketing plan, which must be prepared, filed, and followed in certain state and local housing finance programs, and is also required for § 8-30g developments. However, the 2021 amendment to § 8-2 requires that zoning regulations promote these purposes, and thus affordable housing plans should acknowledge and reflect this new requirement.

E. Racial Segregation

Though not part of § 8-2, it should be noted that the Connecticut Constitution, Article I, § 20, states that, “No person shall . . . be subjected to segregation or discrimination in the exercise or enjoyment of . . . civil or political rights because of religion, race, color, ancestry or national origin.”

This provision, of course, applies to all activities of state and local government, and thus supports the provision of General Statutes § 8-2 regarding housing choice, and is consistent with the federal Fair Housing Act, and requirements to “affirmatively further” housing opportunity.

#### F. Minimum Floor Area Requirements

In 1988, the Connecticut Supreme Court, in *Builders Service Corp. v. East Hampton Planning and Zoning Commission*, invalidated a zoning regulation that required, in several parts of the town, that single-family homes be no less than 1,200 square feet, regardless of the number of intended occupants. The Court held that the regulation constituted economic exclusion, and did not serve a “legitimate purpose of zoning.” Generally speaking, the state building code and the public health code require, for the safety and health of occupants, 320 square feet for a single structure, and 100 square feet for every two occupants.

Since the *Builders Service* decision, however, several dozen towns persisted with non-occupancy based minimum floor area requirements, ranging from about 600 to 1500 square feet. As a result, in the 2021 amendments, the General Assembly outlawed minimums that exceed the building code. (This statute of course, does not prohibit residential units or structures that exceed the applicable codes; it does not allow zoning regulations to require minimums that exceed the codes.)

#### G. Minimum Parking Requirements

Generally speaking, in the past 15-20 years, planners have pointed out the prevalence in municipal zoning regulations nationally of excessive parking requirements. Excessive parking rules result in excessive paving, which creates challenges for stormwater management and water quality. While much of the criticism has been directed at commercial uses (such as shopping malls that are required to provide parking for peak holiday periods, which creates spaces that go unused for the other eleven months), unnecessary minimums are also common for multi-family housing. Rules that assume that each adult occupant of an apartment will have his/her own car is an example. An important reality of this situation is that excessive parking requirements are a recognized tool of exclusionary zoning; the more parking spaces required, the less density can be achieved on a particular lot, in light of parking, buffering, and stormwater management needs.

To address this issue, the 2021 amendments prohibit zoning regulations from requiring more than one parking space for a one-bedroom unit, and 2.0 spaces for a two bedroom unit, with the *proviso* that a town, after a public hearing and vote, may “opt-out” of this program.

Many factors influence parking needs, including the demographics of the intended residents (for example, housing for the elderly generally requires less parking than housing for families); proximity to public transportation, shopping, and services; and most recently, the availability of remote work.

It is important to note that the combination of the bans on excessive minimum floor area and minimum parking rules create a potentially powerful effect: a property owner/developer can create greater density just with smaller units and fewer parking spaces, so attention to these two parameters in an affordable housing plan is an important task.

#### H. Alternative Dwelling Units (“ADU’s”)

So-called “ADUs” are residential units that are created within an existing residential structure or as a free-standing building on the same lot, but are intended to be smaller than and subsidiary to the main residential use. Labels include “accessory apartment” and “in-law apartment.”

The 2021 amendments standardized statewide rules for ADU’s, specifying minimum and maximum standards [examples], requirements [example], and prohibitions [example]. However, the legislature gave towns the power to opt-out of this program also.

ADUs are a recognized way to create affordable housing. While their economic and structural feasibility varies widely, the legislature’s 2021 rule changes provide a set of best practices, along with a few rules prohibiting practices that are exclusionary, with little or no justification.

#### I. Caps on Multi-Family Units

The 2021 amendments also prohibited numerical or percentage limits (“caps”) on multi-family housing, such as a regulation prohibiting more than x units of multi-family housing, or units that would exceed more than x percent of the single-family homes in town. Such limits are arbitrary and exclusionary. Multi-family proposals must be considered based on their specific merits.

Of course, regulations can have the effect of imposing a cap on multi-family units, with no other justification except imposing a limit. Drafters of an affordable housing plan should assess existing regulations individually and in combination for this impact.

J. Preserving Town “Character”

The 1988-89 Blue Ribbon Commission on Housing concluded that too many zoning applications for multi-family and low/moderate income housing, were being denied for “vague and insubstantial reasons.” One such recurring reason was “inconsistency with the character of the town” which expressly or implicitly referred to a town’s predominately high-end or expensive housing.

The 2021 amendments prohibit a town from denying a zoning application on the basis of the character of the town, and allow only reference to physical characteristics. Thus, an existing zoning regulation that states a character of this town as a decision-making criteria on a zoning application contravenes § 8-2 as amended in 2021 unless the regulation is revised to align with the new limitation on this factor.

K. Excessive Application Fees

It has always been the law that towns may only charge application fees to cover their reasonable administrative costs to process an application. Any fee in excess of processing cost is an illegal tax. The 2021 amendments add specific parameters to application fees, by prohibiting excessive fees and specifying rules for so-called “peer review” fees.

L. Public Education and Property Tax Implications

It has long been the law in Connecticut that criteria for municipal review of a residential development zoning application may not include the projected number of school-aged children; effect on the town’s education budget; or property tax collection. Regulations that contain or allow these factors to be considered in reviewing development applications need to be modified.

Again, each of the items above is now a state law requirement, and every municipal affordable housing plan must identify existing regulations that do not comply and propose modification.

## M. Ten Percent Affordable Units Is Not A “Goal”

Several § 8-30j reports discuss the Department of Housing’s § 8-30g Ten Percent List – the list of towns that are exempt from § 8-30g – as “the state’s 10 percent goal.” This is simply inaccurate. The Ten Percent List was established when § 8-30g was enacted in 1989 as a recognition that those municipalities – historically, about 30 of the state’s 169 towns – that are already home to the largest percentage of government subsidized units should not also be subject to § 8-30g. But in no way did the legislature ever say or intend that towns who are above 10 percent have no need for additional lower-cost housing, or that when a town achieves 10 percent, it has met a state standard. One way to understand this is to consider that affordable housing is generally defined as units that are within the economic reach of those earning 80 percent or less of area median income. Roughly speaking, this is 40 percent of the population (80 percent of the 50 percent median). *It is not Connecticut’s housing policy that affordable housing need at the municipal level is satisfied if only 10 percent of a town’s housing is affordable; the need extends to 30 percent more of the population.* These are, of course, approximations, but the point is that achieving 10 percent affordability does not mean that a town has met existing needs at the town or regional level.

## VII. MENU OF LAND USE REGULATIONS TO REVIEW FOR WAYS TO PROMOTE AFFORDABLE UNITS

*An essential task for any group drafting a municipal affordable housing is to carefully review the town’s existing land use regulations and identify what must, or should be, added, amended, clarified, or deleted.* There are likely to be provisions clearly in need of modification, but also items that require a keen eye for exclusionary impacts and effects, especially in combination with other provisions. In § V of this report, we have discussed what type of team is best suited to carry out this analysis.

It is important to bear in mind that requirements that may impede affordable housing may be located in municipal ordinances, meaning rules adopted by the city or town legislative body as opposed to the land use commissions. Examples include road and driveway width rules and stormwater management policies.

As also stated above, the list below is a menu, and what each town needs to order and deliver will be different. Urban, suburban, and rural will hone in on

different options, and population and political reality will undoubtedly be factors in the process.

The items in this section of the report are discretionary in the sense that the previous section identified legal mandates – what state law now requires of every town – while this section deals with regulations that each town shapes and drafts. In other words, in this section, it is mainly the impact of the regulation rather than its facial legality, that warrants your attention.

Our suggested menu is as follows:

A. Density

Because it is a reality that allowing more units on a parcel of land decreases the cost per unit and thus the price or rent, a starting point for regulation review is maximum allowable density. This involves minimum lot size for a single-family home, which results in how many homes can be built in a subdivision or planned unit development; units per acre, which defines both “middle housing” (duplex/triplex/quadruplex), and multi-family housing.

Too often, zoning commission members and the public focus on density as a number. Land use professionals often hear commissioners say, “We’ve never allowed more than four units per acre.” But professional planners and architects know that the key to density is design: a site plan showing two units per acre can look overly dense – trying to fit ten pounds in a five pound bag – while twenty units per acre can fit nicely. It depends on lot shape, topography, slope, adjacent uses, architecture, screening and similar factors. So an important consideration in density regulation is: Don’t get hung up with numbers *per se*.

With these caveats in mind, an affordable housing plan should identify where existing maximum residential density rules can be modified.

B. “Buildable Land”

A similar characteristic to density is the definition of buildable land. This is sometimes done by specifying a minimum amount of square footage that must be present on a lot, and then subtracting defined characteristics such as wetlands, slopes above a certain percentage [what else?]. In subdivisions, regulations often require a percentage of a parcel to be preserved as open space, and some go further in specifying that the percentage cannot include

wetlands, steep slopes, etc. In other words, these types of regulations can have the effect, whether intended or not, of allowing residential units only on unnecessarily large lots, all of which drives up the cost of housing.

Yet another variety is “open space cluster” regulations, which allow, or sometimes require, a greater number of smaller subdivided lots, but with more open space than a conventional subdivision. While such regulations can be beneficial in avoiding “sprawl” and creating larger, more ecologically connected open space, they can also push up housing prices.

#### C. Single-Family vs. Middle Housing v. Multi-Family

Simply put, to ensure economic diversity and housing choice, each town’s zoning regulations should allow, in at least several places within its borders, single-family, middle housing, and multi-family housing. A review of the town’s regulations should include making sure that each type is realistically enabled, and that the regulations as a whole do not exclude, but achieve balance.

#### D. Rehabilitation vs. New Construction

It is important to recognize that affordable housing can be new construction; repair of existing residential units, and conversion of existing non-residential uses (hotels and motels, for example). The third category may be particularly viable due to existing infrastructure. So identifying all three methods as part of affordable housing creation is part of the menu.

#### E. Profit vs. Non-Profit vs. Governmental

Obviously, who takes the lead in creating affordable housing is a critical factor, as planning and financial resources available to private, for-profit developers, non-profit entities, and government agencies are different. However, it is not uncommon for municipal regulations to specify *who* may develop certain types of housing. For example, some regulations provide that multi-family housing is allowed as a use but only if it will be sponsored/financed/built/operated by a government agency. Such a regulation recognizes that multi-family residential use is appropriate in a particular zone, but cuts off private-sector initiations and public-private partnerships. These types of limits should be carefully scrutinized for whether there is a compelling reason for the limitation.



## F. Most Needed Unit Types

Among needed “affordable” housing units, some types are needed more than others, mainly because they are more expensive to build, or require some form of government subsidy, or are the type of unit most often identified – or stereotyped – as needing the most services from the city or town.

Housing for the disabled, families with children, and the lowest household incomes (generally, with annual income of 30 percent or less of median income). In other words, while affordable housing plans should address middle housing, workforce housing, and alternative dwelling units, and such units can often be built without subsidies, the most compelling need in the region is often for units for those least able to afford housing. A good plan will address this need.

## G. Design Standards

A common concern about affordable housing is that when built, it will look “cheap” or poorly built, or simply not consistent with neighboring homes or units. Several considerations apply here: First, good design is the key to making less expensive housing units look attractive. While a review of site layout, site design, and architectural techniques is beyond the scope of this report, those drafting an affordable housing plan or revised regulations should not assume that lower cost housing will look inferior.

Connecticut towns have authority, within limits, to review design and architecture. While color is generally off limits, towns may specify bulk massing, and building materials, especially in special districts such as village districts or downtown streets. Architectural review boards, acting in an advisory capacity, are common, and affordable housing proposals can benefit from reviews.

This said, specifying building materials can be a tool of exclusionary zoning. Requiring particular types of siding, such as wood, can increase building costs unnecessarily, because there are less expensive options that achieve essentially the same appearance.

An affordable housing plan, therefore, should be based on recognition that higher density can be shaped and improved by design to achieve a high quality appearance; and review of existing regulations to ensure that they do not impose extra, unnecessary costs on housing production.

## H. “Look Under The Hood”

Many towns have a zone or zones labeled as providing affordable housing, and tout these zones in their plans. But the issue is whether these zones are actually workable. For example, are the uses as-of-right or subject to discretionary controls such as a special permit? Are these requirements or conditions that make the zone applicable only to a small number of parcels? Review of existing zones for actual utility is an important part of regulatory review.

## I. Unnecessary Procedural Requirements

One of the most important tasks of an affordable housing plan is to review the procedural requirements imposed on higher density or lower cost housing and ask if the rules are necessary, or can be eliminated or streamlined. Simply put, excessive and unnecessary procedures are a common tool of exclusionary zoning in Connecticut.

Perhaps the most frequent procedure that is unnecessarily applied to affordable housing is that it be approved as a special permit, instead of “as-of-right.” Special permit uses allow zoning and planning boards much more discretion to approve, deny, or approve with conditions than uses allowed by the filing of a site plan. Site plan reviews are intended to be objective and less expensive. Generally, a special permit application requires a public hearing, while a site plan does not. So, affordable housing planners should be on the lookout for regulations that, for example, allow all single-family homes to be approved with nothing more than a zoning permit (which might be approved by town staff and not even brought before the zoning commission), but require a special permit, public hearing, and much more detailed information for a duplex or triplex, even if these structures will be built under the same maximum structure rules and minimum setbacks as the single-family home.

## J. Non-Residential Zones

One of the primary purposes of zoning is to separate incompatible land uses, the most common being heavy industrial, which generates noise and environmental impacts, from housing. However, planners should bear in mind that multi-family residential, middle housing, and single-family residential uses are all residential, and should not be considered

incompatible uses; and office, commercial, institutional (schools, places of worship, government buildings, etc.) and even “light industrial” (uses that involve manufacturing but occur entirely within a building, with no external impacts) may be well-suited to residential development, either as a stand-alone or as a mixed use. Thus, affordable housing planners should not assume that non-residential zones are off-limits for housing; all zones should be reviewed for housing opportunities, except perhaps heavy industrial or major traffic generators.

#### K. “Middle Housing”

This term refers to developments that have two, three, or four units per building (five and above being “multi-family”). Simply put, middle housing promotes affordability by dividing infrastructure among a higher number of units. Impacts of middle housing should be considered comparable to single-family homes. *Middle housing can often be built on a community septic system or alternative on-site treatment system, without need of sewer.*

Thus, an affordable housing plan should include a town-wide review of where regulations can be amended to facilitate middle housing (on an as-of-right/site plan basis). Regulations to review in this regard include minimum lot size, setbacks, density, floor area rules, parking ratios, and open-space requirements.

#### L. Transit-Oriented Development

Housing near public transportation facilities – rail, bus, airport – have been recognized in recent years as a highly efficient land use, because “transit-oriented development” reduces dependence on cars, and is often close to necessary infrastructure. In fact, it may be that the highest density housing in most municipalities should be land that has necessary utility infrastructure and is proximate to existing or planned public transportation.

It should also be remembered that bus lines can be altered. Just because a parcel of land is not on a bus line today does not mean that it cannot ever be. Transportation planners will adjust routes to where population is.

#### M. Financial Steps

Many of the 2021-2022 town reports include what might be called “Financial steps,” such as:

- Promoting awareness of lower-cost CHFA (Connecticut Housing Finance Authority)<sup>21</sup> and USDA (U.S. Department of Agriculture) lower interest rate mortgages for the purchase of single-family homes or condominiums;
- Property tax relief and/or utility bill assistance, mainly for senior citizens or those with disabilities;
- Establishing an affordable housing trust fund, sometimes in conjunction with an inclusionary zoning ordinance, to raise money that can be used in several different ways to subsidize lower cost units
- Making information to these programs available on the town's website; and
- Tasking a town staff person as a resource for information about affordable housing.

#### N. Quick(er) Fixes vs. Longer Term Solutions

When drafting this report, our Working Group recognized the reality that many of the action recommendations in this report are longer-term steps that at best will create more affordable housing over a period of years, but such plans are of little help to households that, for whatever reason, need housing within their economic reach as soon as possible. Thus, yet additional criteria for drafting and prioritizing action steps in an affordable housing plan are (1) ensuring that households in crisis are informed about where and how to get help with finding new housing or obtaining financial help (such as home heating assistance) for a shorter-term or seasonal challenge; and (2) renovating or rehabilitating existing units if doing so will be a more cost-effective effort than relocation.

#### O. Inclusionary Zoning: Proceed with Caution

Inclusionary zoning – meaning a municipal-level program in which owners of multi-family properties are required to preserve a percentage of units (generally rental) for a period of years at a maximum monthly payment – is

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<sup>21</sup> CHFA mortgages are counted by the Department of Housing on the 8-30g Ten Percent List.

recognized in General Statutes § 8-2i, and has been adopted as a voluntary or mandatory program in a handful of Connecticut towns. About one third of the § 8-30j plans mention consideration of inclusionary zoning. It is beyond the scope of this report to engage in a review of the pros and cons of such programs, but the Working Group would note these cautions:

Inclusionary zoning can be a deterrent to multi-family development, because it is an added cost and a price control on housing. That is, inclusionary zoning, across the nation, has only worked where the demand for housing is so strong that developers are willing and able to absorb the cost while moving forward with their plans. Arguably, there are regions in Connecticut where these conditions exist. In addition, because housing markets are cyclical, inclusionary zoning can be an inflexible tool that appears acceptable in a rising market, but can handcuff a property owner in a downturn. Inclusionary programs are also difficult to draft and administer, and a well-intended but confusing dysfunctional program can drive development away. Thus, any municipality that adopts an inclusionary program in a region where developers can simply focus on a nearby town without inclusionary rules, economic rationality will likely direct them elsewhere. And, of course, it would be a misuse of regulatory authority to adopt an inclusionary zoning program for the unstated purpose of deterring potential development.

#### P. Examine Nonconforming Uses

A nonconforming use is one that was legal when built but now is not a permitted use. Generally speaking, nonconforming uses cannot be expanded or substantially rehabilitated. One method of reviewing existing regulations and zoning maps is to identify parcels that can be rezoned from non-conforming to permitted uses, making them eligible for substantial rehabilitation or expansion.

#### Q. “Fair Share” Housing Goals

How many housing units should each municipality add to meet local and regional need? One approach is what is called “fair share.” While the details of “fair share” housing goals are beyond the purview of this report, affordable housing planners should bear in mind that there is a recognized methodology for calculating a total of needed housing units, and

organizations in Connecticut such as the Open Communities Alliance are willing and able to work with cities and towns to estimate local need.

#### R. Zoning Is Not a “Promise”

At land use public hearings, members of the public sometimes voice two misconceptions: that “zoning is a promise,” and existing uses have a right to make abutting uses invisible to them.

Zoning, as noted, is intended to separate incompatible uses, and zoning regulations and plans of conservation and development are essential tools to ensuring compatibility, peaceful enjoyment of residential uses, and property values. But property owners who claim that “I bought my property in reliance on the zoning next to me” are incorrect if they are asserting a legal right to maintain the existing zone of abutting land. Thus, when identifying opportunities to modify zones, or use or dimensional standards, affordable housing planners should consider development patterns and impacts, but not be concerned that they may be violating legal rights.

Similarly, while setbacks, screening, and buffering are important, unless a property owner has paid for and recorded a legally-binding “new easement” guaranteeing that no structure, or no structure above a certain height or bulk, will be built on adjoining land, no one “owns a view.” Planners should not disqualify land from affordable housing development because the structure will be visible from nearby properties.

#### S. Residency Preferences

Some towns have tried, in their affordable housing programs, to reserve or prioritize affordable units for “existing residents.” Historically, such restrictions have been at least frowned upon by the federal government as potentially preserving racially segregated housing patterns. However, the legislature’s 2021 requirement that zoning regulations “affirmatively further” fair housing goals – mandate geographic outreach – would appear to be a clearer statement that residency preferences in affordable housing programs are not valid.

#### T. Subdivision and Wetlands Regulations

Zoning regulations determine allowable land uses, including types of housing, and then subdivision regulations establish more objective rules for

how land should be developed when the result will be separate, privately owned lots. Wetland regulations, mainly dictated by state law, impose rules to avoid water pollution. Thus, while regulations that can impede affordable housing are mostly found in the zoning code, subdivision and wetlands regulations should be reviewed for modifications that will mitigate per-unit costs.

In subdivision rules, the regulations to review include open space requirements, road widths, maximum cul-de-sac lengths, and [what else?]

In wetlands applications, regulations that exceed state requirements without justification, and excessive application fees (such as those based on number of units rather than review of potential impacts) warrant reconsideration.

#### U. Plans of Conservation and Development

POCD's are important municipal planning exercises, but are less applicable to affordable housing plans because they are only advisory as to zoning actions. They are also revised only once every ten years. However, all proposed zone changes, in theory, need to be "consistent" with a town's POCD, and thus an endorsement in a POCD of a municipal group's affordable housing plan as a town goal will be a helpful, though perhaps not essential, step.

#### V. CHFA/Low Income Housing Tax Credit Points

The Connecticut Housing Finance Authority (CHFA) in 2022 made a programmatic change that provides an incentive for municipal affordable housing plans to identify specific locations. CHFA allocates tax credits, in amounts specified by the federal government for the Low Income Housing Tax Credit program. Tax credit allocations are done through a competitive, points-driven application. CHFA will now award up to these points for a proposed development that is identified in a § 8-30g municipal affordable housing plan.

#### W. Lowering Development and Construction Cost

Not to be forgotten on promoting lower cost housing are accepted methods for lowering costs: reducing or waiving permit fees, and utility connection charges; "value engineering"; reducing labor costs; and streamlining or expediting approval processes.

## VIII. SUMMARY OF SECTION VI AND VII RECOMMENDATIONS

1. Appoint a committee to update the town's 2021-2022 plan, or draft its initial plan.
2. Appoint 5-10 people to serve, drawing on the areas of expertise recommended in § V.
3. Conduct a housing needs assessment.
4. Collect demographic and similar data aimed at identifying local and regional need for affordable housing.
5. While collecting data, assemble and distribute public education information about why affordable housing and an updated plan are important.
6. Focus on specific steps, specific areas or locations, and specific timetables and responsible parties.
7. Try to avoid verbs such as facilitate, consider, examine, review, and other non-specific words as "action items." Use concrete, specific words and timetables.
8. Bring the town's zoning regulations and plan of conservation and development into conformance with General Statutes § 8-2, as amended by Public Act 21-29. Specifically:
  - a. Promote economic diversity and housing choice.
  - b. Allow multi-family housing.
  - c. Adhere to the "affirmatively further" requirements of the federal Fair Housing Act.
  - d. Ensure the regulations do not intentionally or indirectly maintain or promote racial segregation.
  - e. Eliminate minimum floor area requirements in excess of the public health and building code.
  - f. Eliminate excessive parking requirements.



- g. Conform to state law regarding alternative-dwelling units, or if opting out, adopt regulations that promote ADUs.
  - h. Eliminate caps on the number or percentage of multi-family units.
  - i. Eliminate “town character” or similar phrases as a zoning approval criterion.
  - j. Eliminate excessive application fees.
  - k. Eliminate zoning approval criteria that refer to public school impact or property tax revenues.
- 9. Review all zones for what, if any, residential uses are allowed, and revise regulations that unnecessarily exclude residential.
  - 10. Review all residential zones for roles that unnecessarily limit density.
  - 11. Review the definition of “buildable land” and eliminate or reduce requirements.
  - 12. Ensure that the zoning regulations provide for “middle housing,” noting that such housing (generally 2-3-4 attached unit structures) does not always require public sewer.
  - 13. Review town rules on rehabilitation of existing structures and eliminate unnecessary restrictions.
  - 14. Ensure that town regulations allow affordable housing to be proposed and pursued by for-profit in addition to non-profit and governmental entities.
  - 15. Be sure the affordable housing plan identifies and promotes the most needed unit types, for the elderly, disabled, and lowest income households.
  - 16. If the town imposes design standards on residential construction, review them for unnecessary added costs.
  - 17. Review the town’s procedural requirements that go beyond state law and eliminate or mitigate those that add unnecessary time or cost.
  - 18. Revise existing residential zones to ensure they are practical and available for property owners and developers.

19. Review all non-residential zones to determine if residential or mixed use can be adopted.
20. Identify land proximate to public transportation and consider its suitability as higher-density transit oriented zoning.
21. Review the town's "fair share" housing calculation, and consider it in assessing local and regional need.
22. Review the town's subdivision and wetlands regulations for unnecessary requirements that exceed state law and add unnecessary expense or delay.
23. Revise the town plan of conservation and development to be consistent with Public Act 21-29, and to ensure that at least its housing element is consistent with the Town's affordable housing plan.
24. Review town ordinances and budget for direct financial assistance that can make existing residences more affordable.
25. Circulate a draft report for robust public comment.
26. Confirm who adopts the final plan.
27. After adoption, set a timetable for implementation and periodic review.

#### IX. POTENTIAL CHANGES/CLARIFICATIONS TO STATE LAW TO ASSIST WITH AFFORDABLE HOUSING PLANS

The General Assembly should consider the following as amendments to General Statute § 8-30j:

1. Directing all towns, within two years, to revise their 2021-2022 plans in light of the guidance stated in this report.
2. Specify which board/agency/commission has the responsibility to approve and administer the plan.
3. Add to the direct specific details, drawn from this report, regarding adopting specific action steps and timetables.
4. Mandate that each updated report contain a checklist, based on § VIII of this report, as a compliance check.

## Appendices

- A. List of § 8-30j Reports reviewed for this report
- B. Sample Affordable Housing Rental or Sales Calculation
- C. Tables/Charts/Graphs supporting Section II.
- D. Connecticut General Statutes 8-2, as revised by Public Act 21-29
- E. Excerpt, Suffield § 8-30j Report, p.5
- F. Illustration of Chart of residential zones and uses (from Danbury and Killingly Reports)
- G. Summary of Affordable Housing Plan Working Group Meetings and Topics, March – September 2022

March 17: Presentation about Connecticut General Statutes § 8-2, the Zoning Enabling Act; §8-30g, the Affordable Housing Land Use Appeals Act; presentation by Dara Kovel of Beacon Communities about Connecticut’s Consolidated Plan for housing and community development; presentation by Bruce Wittchen of OPM (and Working Group Member) about Connecticut’s State Plan of Conservation and Development.

March 31: Presentation by Glenn Chadler, a Planning Consultant; Jocelyn Ayer, a planning consultant; Don Poland, planning consultant and Group Member; and Jeremy Ginsberg, Town Planner of Darien, regarding their experiences with affordable housing plans.

April 4: Presentation by Open Communities Alliance about “fair share” housing obligations

In May 2022, the Group began to formulate an outline for this report, and in June 2022, began to assign the drafting of report sections to Group Members.

The Group kept the other Working Groups and the full Commission apprised of its focus, plan, timetable, progress, and target deadline during this time period. During the Summer of 2022, the Group completed a first draft and began to circulate it to the other Working Groups, the full Commission, and stakeholders statewide.

**Appendix A**  
**Section 8-30j Reports Reviewed By The Working Group For This Report**

Andover	Fairfield	Plainville
Avon	Farmington	Portland
Berlin	Glastonbury	Preston
Bethany	Granby	Roxbury
Bethel	Greenwich	Salem
Bolton	Groton, Town	Salisbury
Bozrah	Guilford	Sharon
Branford	Haddam	Southbury
Bridgewater	Hampton	Southington
Bristol	Harwinton	South Windsor
Brookfield	Hebron	Sprague
Brooklyn	Kent	Stafford
Burlington	Killingly	Stamford
Canaan	Killingworth	Stonington
Canterbury	Lebanon	Stratford
Canton	Lisbon	Suffield
Chaplin	Litchfield	Torrington
Cheshire	Lyme	Union
Chester	Madison	Vernon
Clinton	Mansfield	Voluntown
Colchester	Marlborough	Wallingford
Colebrook	Meriden	Waterbury
Columbia	Middlefield	Waterford
Cornwall	Middletown	Westbrook
Cromwell	Milford	West Haven
Danbury	Monroe	Weston
Darien	Montville	Westport
Deep River	New Canaan	Wilton
Durham	New Fairfield	Windham
Eastford	Newington	Windsor
East Granby	New London	Windsor Locks
East Haddam	Newtown	Woodbridge
East Hampton	North Branford	Woodstock
East Lyme	Norwich	Groton, City of
Easton	Old Saybrook	Fenwick, Borough of
Essex	Orange	

## APPENDIX E

### SUFFIELD'S REPORT



**Younger Singles**



**Younger Families**



**Recent Graduates**



**Moderate Income Workers**



**Moderate Income Workers**



**Moderate Income Workers**



**Single Adults**



**Single Parents**



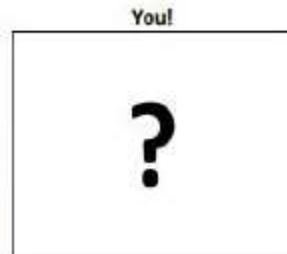
**Veterans**



**Multi-Generation Household**



**Parents**



**You!**

**Appendix F**  
**Chart of Residential Zones and Uses**  
**(From Danbury and Killingly Reports)**

Zoning Summary: Attached, Multi-Unit, Age Restricted, and Incentive Based Housing by District																			
Housing or Development Type	RA-8	RA-20	RA-40	RA-80	RMF-4	RMF-6	RMF-10	R-3	RH-3	RR-10	R-O	PND	CG-20	CA-80	LCI-40	CL-10	C-CBD	CRP	IL-40
2 or 3 Family Dwellings					✓	✓	✓	✓	✓		✓	✓			✓		✓	✓	
Rowhouse or Townhouse					✓	✓	✓		✓	✓		✓					✓	✓	
Garden Apartments or Apartments					✓	✓	✓		✓	✓		✓					✓	✓	
Age-Restricted												✓							
Congregate Housing					✓	✓	✓	✓	✓			✓	✓	✓		✓	✓		✓
Continuing Care					✓	✓	✓	✓	✓			✓	✓	✓		✓	✓		✓
Nursing Home or Assisted Living					✓	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓		
Cluster Development		✓	✓	✓			✓												
Housing Incentive Option					✓	✓													
Housing Redevelopment Option					✓				✓										

Town of Killingly ZONING REGULATIONS	SINGLE FAMILY	TWO- FAMILY	MULTI- FAMILY	SECONDARY DWELLING	PLANNED RESIDENTIAL	CLUSTER FLEX DEV	LETTING OF ROOMS	CONVALES ELDERLY	LIVE / WORK SPACE
<b>RURAL DEVELOPMENT</b>	ALL	ALL	NO	ALL	SP	SP	NO	NO	
<b>LOW DENSITY</b>	ALL	ALL	SP	ALL	SP	SP	SP	SP	
<b>MEDIUM DENSITY</b>	ALL	ALL	SP	ALL	SP	SP	SP	NO	
<b>PROF. &amp; BUS. OFFICE</b>	ALL*	ALL	NO	NO	NO	NO	NO	NO	
<b>VILLAGE COMMERCIAL</b>	ALL*	NO	NO	NO	NO	SP*	NO	NO	
<b>GENERAL COMMERCIAL</b>	NO	NO	NO	NO	NO	SP*	NO	NO	
<b>INDUSTRIAL DISTRICT</b>	NO	NO	NO	NO	NO	SP*	NO	NO	
<b>LIGHT INDUSTRIAL</b>	NO	NO	NO	NO	NO	SP*	NO	NO	
<b>MIX USE INTERCHANGE</b>	NO	NO	NO	NO	NO	NO	NO	NO	
<b>BUSINESS PARK DIST</b>	NO	NO	NO	NO	NO	NO	NO	NO	
<b>FLOOD HAZARD DIST</b>	SP*	NO	NO	NO	NO	NO	NO	NO	
<b>MILL MIXED USE DIST</b>	ALL	ALL	ALL	NO	NO	NO	NO	SP	ALL

Borough of Danielson ZONING REGULATIONS	SINGLE FAMILY	TWO- FAMILY	MULTI- FAMILY	SECONDARY DWELLING	PLANNED RESIDENTIAL	CLUSTER FLEX DEV	LETTING OF ROOMS	CONVALES ELDERLY	LIVE / WORK SPACE
<b>RESIDENTIAL MEDIUM</b>	ALL	ALL	NO	NO	NO	SP	NO	NO	NO
<b>RESIDENTIAL HIGH</b>	ALL	ALL	ALL	NO	NO	SP	SP	SP	NO
<b>GENERAL COMMERCIAL</b>	ALL*	NO	NO	NO	NO	SP	NO	NO	NO
<b>CENTRAL BUS. DIST</b>	ALL*	NO	ALL	NO	NO	NO	NO	NO	NO
<b>INDUSTRIAL ZONE</b>	NO	NO	NO	NO	NO	SP*	NO	NO	NO
<b>FLOOD HAZARD DIST</b>	SP*	NO	NO	NO	NO	NO	NO	NO	NO

Legend:

ALL – Allowed

SP – Special Permit

NO – Not Allowed

\* – Special Requirements must be met.