

## CHAPTER 8

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**GOVERNMENT - LOCAL**


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**HOUSE BILL 26-1001**

BY REPRESENTATIVE(S) Boesenecker and Mabrey, Bacon, Camacho, English, Froelich, Garcia, Goldstein, Jackson, Lindsay, Nguyen, Phillips, Rutinel, Sirota, Stewart R., Story, Woodrow, Zokaie, Carter, Joseph, McCormick, Paschal, Rydin, Smith; also SENATOR(S) Exum and Gonzales J., Amabile, Ball, Benavidez, Cutter, Danielson, Hinrichsen, Jodeh, Kipp, Lindstedt, Marchman, Snyder, Weissman, Coleman.

**AN ACT****CONCERNING THE PROMOTION OF RESIDENTIAL DEVELOPMENTS ON QUALIFYING PROPERTIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Short title.** The short title of this act is the "Housing Opportunities Made Easier (HOME) Act".

**SECTION 2.** In Colorado Revised Statutes, 29-35-103, **amend** (2)(a)(I); and **add** (2.5) as follows:

**29-35-103. Definitions.**

(2) (a) "Administrative approval process" means a process in which:

(I) A development ~~proposal~~ APPLICATION for a specified project is approved, approved with conditions, or denied by local government administrative staff based solely on its compliance with objective standards set forth in local laws; and

(2.5) "AIRPORT INFLUENCE AREA" MEANS AN AREA NEARBY AN AIRPORT THAT A LOCAL GOVERNMENT HAS DESIGNATED AS UNSUITABLE FOR RESIDENTIAL DEVELOPMENT BECAUSE:

(a) DEVELOPMENT COULD IMPACT AIRPORT OPERATIONS; OR

(b) AIRPORT NOISE OR SAFETY HAZARDS COULD AFFECT THE AREA.

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

**SECTION 3.** In Colorado Revised Statutes, **add** part 5 to article 35 of title 29 as follows:

**PART 5  
RESIDENTIAL DEVELOPMENT ON  
QUALIFYING PROPERTIES**

**29-35-501. Legislative declaration.**

(1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) COLORADANS ARE OVERWHELMINGLY BURDENED WITH THE COST OF HOUSING. THE NUMBER OF HOUSEHOLDS THAT SPEND MORE THAN THIRTY PERCENT OF THEIR TOTAL INCOME ON RENT OR MORTGAGE PAYMENTS IN COLORADO INCREASED FROM SIX HUNDRED SIXTY-EIGHT THOUSAND ONE HUNDRED IN 2014 TO EIGHT HUNDRED FIFTY THOUSAND EIGHT HUNDRED IN 2024, REPRESENTING THIRTY-FIVE PERCENT OF ALL HOUSEHOLDS.

(b) A CONTRIBUTING FACTOR TO THE INCREASE IN COST-BURDENED HOUSEHOLDS IS THAT POPULATION GROWTH HAS OUTPACED NEW HOUSING DEVELOPMENT, RESULTING IN SUPPLY CONSTRAINTS AND ESCALATING COSTS. BETWEEN 2000 AND 2023, RESIDENTIAL PROPERTY VALUES AND RENTAL RATES INCREASED AT RATES EXCEEDING INCOME GROWTH, THEREBY EXERTING CONSIDERABLE FINANCIAL STRAIN ON MANY RESIDENTS. A 2025 RESEARCH BRIEF PUBLISHED BY THE COLORADO STATE DEMOGRAPHY OFFICE TITLED "COLORADO'S HOUSING SHORTFALL: AN ESTIMATE AND REVIEW OF EXISTING STUDIES" ESTIMATED THAT, AS OF 2023, AN ADDITIONAL ONE HUNDRED SIX THOUSAND HOUSING UNITS WERE NEEDED TO OVERCOME THE HOUSING SHORTFALL, AND THIRTY-FOUR THOUSAND ONE-HUNDRED UNITS NEEDED TO BE BUILT ANNUALLY TO MAINTAIN THE HOUSING SHORTAGE AT ITS 2023 LEVEL.

(c) AS COLORADO GROWS, SO DOES THE CHALLENGE OF PROVIDING AFFORDABLE HOUSING TO RESIDENTS. WHILE LAND THAT IS AVAILABLE FOR NEW HOUSING IN ESTABLISHED COMMUNITIES IS IN SHORT SUPPLY, MANY QUALIFYING ORGANIZATIONS OWN UNDERUTILIZED PROPERTIES WHERE HOUSING COULD BE BUILT.

(d) COLORADO URGENTLY NEEDS MORE HOUSING TO MEET THE NEEDS OF A GROWING STATEWIDE POPULATION AND ADDRESS ISSUES DIRECTLY RELATED TO HOUSING, SUCH AS TRANSIT, COMMUTING, THE WORKFORCE, AND THE ENVIRONMENT. PROVIDING OPPORTUNITIES TO CONSTRUCT RESIDENTIAL DEVELOPMENTS ON UNDERUTILIZED LAND IS A MATTER OF MIXED STATEWIDE AND LOCAL CONCERN.

(e) LOCAL ZONING REGULATIONS OFTEN PREVENT HOUSING FROM BEING DEVELOPED ON VACANT PROPERTIES BY PROHIBITING RESIDENTIAL DEVELOPMENT ON QUALIFYING PROPERTIES OR BY REQUIRING EXTENSIVE REZONING PROCESSES THAT ADD COST AND UNCERTAINTY TO AFFORDABLE HOUSING PROJECTS.

(f) THIS HOUSE BILL 26-1001, ENACTED IN 2026, STREAMLINES THE CONSTRUCTION OF AFFORDABLE HOUSING BY PROVIDING A PROCESS THAT ALLOWS RESIDENTIAL DEVELOPMENTS TO BE CONSTRUCTED ON QUALIFYING PROPERTIES AS LONG AS CERTAIN REQUIREMENTS ARE SATISFIED.

(g) ACCORDING TO A 2022 ARTICLE PUBLISHED IN THE JOURNAL OF THE AMERICAN PLANNING ASSOCIATION TITLED "DOES DISCRETION DELAY DEVELOPMENT?", RESIDENTIAL PROJECTS THAT WENT THROUGH ADMINISTRATIVE APPROVAL PROCESSES WERE APPROVED TWENTY-EIGHT PERCENT FASTER THAN RESIDENTIAL PROJECTS THAT WENT THROUGH DISCRETIONARY APPROVAL PROCESSES, AND FASTER APPROVAL TIMES REDUCE DEVELOPER COSTS AND THEREFORE HOUSING COSTS. STUDIES HAVE SHOWN THAT HOMEBUILDERS, INCLUDING AFFORDABLE HOUSING DEVELOPERS, WILL AVOID PARCELS THAT NEED TO GO THROUGH A DISCRETIONARY PROCESS.

(h) A 2022 RESEARCH PAPER PUBLISHED BY THE FEDERAL RESERVE BANK OF BOSTON TITLED "HOW TO INCREASE HOUSING AFFORDABILITY: UNDERSTANDING LOCAL DETERRENTS TO BUILDING MULTIFAMILY HOUSING" FOUND THAT RELAXING DENSITY RESTRICTIONS, EITHER ALONE OR IN COMBINATION WITH RELAXING MAXIMUM HEIGHT RESTRICTIONS, IS THE MOST EFFECTIVE POLICY REFORM FOR INCREASING THE HOUSING SUPPLY AND REDUCING MULTIFAMILY RENTS AND SINGLE-FAMILY HOME PRICES. THIS PAPER ALSO FOUND THAT EVEN IF MULTIFAMILY ZONING IS ALLOWED, MUNICIPALITIES OFTEN LIMIT THE SIZE OR SHAPE OF BUILDINGS WITH HEIGHT RESTRICTIONS.

(i) RESEARCH EXAMINING THREE DECADES OF REZONING DECISIONS IN HENRICO COUNTY, VIRGINIA DEMONSTRATED THAT PUBLIC PARTICIPATION IN RESIDENTIAL REZONING PROCESSES IS OVERWHELMINGLY OPPOSITIONAL, WITH MORE THAN EIGHTY-FIVE PERCENT OF COMMENTERS RAISING CONCERNS ABOUT PERCEIVED NEGATIVE IMPACTS OF NEW DEVELOPMENT RELATED TO DENSITY, SITE DESIGN, AND PARKING. AS A RESULT, LOCAL GOVERNMENTS FREQUENTLY IMPOSE CONDITIONS THAT GO BEYOND BASELINE ZONING STANDARDS TO REDUCE DENSITY. PROHIBITING THE APPLICATION OF THESE MORE RESTRICTIVE STANDARDS TO RESIDENTIAL DEVELOPMENTS ENSURES DEVELOPMENT STANDARDS ARE APPLIED CONSISTENTLY AND OBJECTIVELY, RATHER THAN BEING APPLIED AD HOC IN DISCRETIONARY PROCESSES DRIVEN BY OPPOSITION.

(j) HUNDREDS OF THOUSANDS OF COLORADANS HAVE ONE OR MORE DISABILITIES AND THIS NUMBER CONTINUES TO INCREASE AS THE POPULATION AGES. ENSURING FAIR AND ACCESSIBLE HOUSING BENEFITS INDIVIDUALS WITH DISABILITIES AND PROVIDES SAFER WORKING CONDITIONS FOR HOME HEALTH-CARE WORKERS. FEDERAL, STATE, AND LOCAL LAWS THAT PROVIDE ACCESSIBILITY PROTECTIONS SUCH AS THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND THE "COLORADO ANTI-DISCRIMINATION ACT", PARTS 3 THROUGH 8 OF ARTICLE 34 OF TITLE 24, ARE IMPERATIVE TO INCREASING ACCESSIBLE HOUSING OPPORTUNITIES.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) COMMUNITY OPPOSITION AND RESTRICTIVE LOCAL LAND USE POLICIES LIMIT THE HOUSING SUPPLY, IMPACT HOUSING OPTIONS FOR COLORADANS OF LOW AND MODERATE INCOMES, AND RESTRICT THE AVAILABILITY OF WORKFORCE HOUSING, THEREBY AFFECTING EMPLOYMENT GROWTH.

(b) WHEN LOCAL GOVERNMENTS RESTRICT HOUSING DEVELOPMENTS WITHIN

THEIR JURISDICTIONS, THEY IMPACT NEIGHBORING LOCAL GOVERNMENTS. AN INCREASE IN JOB GROWTH IN ONE COMMUNITY WITHOUT A CORRESPONDING GROWTH IN HOUSING LEADS TO A HOUSING SHORTFALL IN THE COMMUNITY. RESEARCH HAS SHOWN THAT REGIONAL IMBALANCES BETWEEN JOBS AND HOUSING HAVE SIGNIFICANT IMPACTS ON VEHICLE MILES TRAVELED AND COMMUTE TIMES ACROSS JURISDICTIONS, ACCORDING TO STUDIES SUCH AS "WHICH REDUCES VEHICLE TRAVEL MORE: JOBS-HOUSING BALANCE OR RETAIL-HOUSING MIXING?", PUBLISHED IN THE JOURNAL OF THE AMERICAN PLANNING ASSOCIATION. WHEN PEOPLE ARE UNABLE TO LIVE NEAR WHERE THEY WORK, WORKERS' ONLY OPTION IS TO SPEND MORE HOURS ON THE ROAD COMMUTING. LONGER COMMUTES INCREASE VEHICLE TRAFFIC, PUT ADDITIONAL STRAIN ON COLORADO'S ROADS, AND INCREASE POLLUTION.

(c) THE AVAILABILITY OF AFFORDABLE HOUSING IS A MATTER OF MIXED STATEWIDE AND LOCAL CONCERN.

(d) COLORADO HAS A LEGITIMATE STATE INTEREST IN MANAGING POPULATION AND DEVELOPMENT GROWTH AND ENSURING A STABLE QUALITY AND QUANTITY OF HOUSING FOR COLORADANS, AS THIS IS AMONG THE MOST PRESSING PROBLEMS CURRENTLY FACING COMMUNITIES THROUGHOUT COLORADO.

(3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THIS HOUSE BILL 26-1001, ENACTED IN 2026, IS INTENDED TO:

(a) STREAMLINE RESIDENTIAL DEVELOPMENT PROCESSES TO REDUCE HOUSING CONSTRUCTION COSTS WHILE ENSURING SUBJECT JURISDICTIONS ARE ABLE TO APPLY ALL RELEVANT PUBLIC HEALTH AND SAFETY CODES THAT TYPICALLY APPLY TO RESIDENTIAL DEVELOPMENT;

(b) ALLOW FLEXIBILITY FOR SUBJECT JURISDICTIONS TO DETERMINE APPROPRIATE SITE DESIGN STANDARDS FOR RESIDENTIAL DEVELOPMENTS BY USING STANDARDS THAT APPLY TO SIMILAR HOUSING PURSUANT TO SECTION 29-35-504 (1)(d). FOR EXAMPLE, IF A SUBJECT JURISDICTION RECEIVES A DEVELOPMENT APPLICATION TO BUILD SINGLE-FAMILY DWELLINGS, THE SUBJECT JURISDICTION MAY APPLY SITE DESIGN STANDARDS THAT ARE CONSISTENT WITH A ZONE DISTRICT THAT ALLOWS SINGLE-FAMILY DWELLINGS BY-RIGHT. IF A SUBJECT JURISDICTION RECEIVES A DEVELOPMENT APPLICATION FOR MULTI-UNIT DWELLINGS, THE SUBJECT JURISDICTION MAY APPLY SITE DESIGN STANDARDS THAT ARE CONSISTENT WITH A ZONE DISTRICT THAT ALLOWS MULTI-UNIT DWELLINGS BY-RIGHT; AND

(c) BUILD UPON RECENT LAWS THAT AUTHORIZE AND ENCOURAGE SCHOOL DISTRICTS AND LOCAL GOVERNMENTS TO PROMOTE AFFORDABLE HOUSING, SUCH AS:

(I) HOUSE BILL 21-1117, CONCERNING THE ABILITY OF LOCAL GOVERNMENTS TO PROMOTE THE DEVELOPMENT OF NEW AFFORDABLE HOUSING UNITS PURSUANT TO THEIR EXISTING AUTHORITY TO REGULATE LAND USE WITHIN THEIR TERRITORIAL BOUNDARIES;

(II) SENATE BILL 24-174, CONCERNING STATE SUPPORT FOR SUSTAINABLE AFFORDABLE HOUSING; AND

(III) HOUSE BILL 25-1006, CONCERNING ALLOWING A SCHOOL DISTRICT TO LEASE DISTRICT PROPERTY FOR ANY TERM OF YEARS, WHICH ALLOWS A BOARD OF EDUCATION OF A SCHOOL DISTRICT TO LEASE LAND FOR AFFORDABLE HOUSING FOR ANY TERM OF YEARS IF THE BOARD OF EDUCATION DEVELOPS A POLICY THAT DEFINES AFFORDABLE HOUSING FOR THE PROJECT.

(4) THEREFORE, THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT LOCAL GOVERNMENT POLICIES THAT LIMIT THE CONSTRUCTION OF A DIVERSE RANGE OF HOUSING IN AREAS SERVED BY INFRASTRUCTURE AND THAT EFFECTIVELY CREATE HOUSING SUPPLY SHORTFALLS AND UNSUSTAINABLE DEVELOPMENT PATTERNS, REQUIRE A STATEWIDE SOLUTION.

**29-35-502. Definitions.**

AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DWELLING UNIT" HAS THE MEANING SET FORTH IN SECTION 29-35-402 (8).

(2) "EXEMPT PARCEL" MEANS:

(a) A PARCEL THAT IS:

(I) NOT SERVED BY A DOMESTIC WATER AND SEWAGE TREATMENT SYSTEM, AS DEFINED IN SECTION 24-65.1-104 (5);

(II) SERVED BY A WELL THAT IS NOT CONNECTED TO A WATER DISTRIBUTION SYSTEM, AS DEFINED IN SECTION 25-9-102 (6); OR

(III) SERVED BY A SEPTIC TANK, AS DEFINED IN SECTION 25-10-103 (18);

(b) A PARCEL WHERE RESIDENTIAL USE IS PREVENTED OR LIMITED BY STATE REGULATION, FEDERAL REGULATION, OR DEED RESTRICTION PURSUANT TO:

(I) FEDERAL AVIATION ADMINISTRATION RESTRICTIONS PURSUANT TO 14 CFR 77 OR 49 U.S.C. CHAPTER 471;

(II) AN ENVIRONMENTAL COVENANT PURSUANT TO SECTIONS 25-15-318 TO 25-15-323; OR

(III) FLAMMABLE GAS OVERLAY ZONING DISTRICT RESTRICTIONS;

(c) A PARCEL THAT IS SUBJECT TO A CONSERVATION EASEMENT;

(d) A PARCEL THAT IS ZONED OR USED PRIMARILY FOR INDUSTRIAL USE, WHICH, FOR PURPOSES OF THIS SUBSECTION MEANS A BUSINESS USE OR ACTIVITY AT A SCALE GREATER THAN HOME INDUSTRY INVOLVING MANUFACTURING, FABRICATION, MINERAL OR GRAVEL EXTRACTION, ASSEMBLY, WAREHOUSING, OR STORAGE;

(e) A PARCEL THAT IS SUBJECT TO AN INTERGOVERNMENTAL AGREEMENT OR ANNEXATION AGREEMENT THAT LIMITS RESIDENTIAL DEVELOPMENT;

(f) A PARCEL THAT IS ZONED FOR AGRICULTURAL USE;

(g) A PARCEL THAT IS ZONED FOR FORESTRY, NATURAL RESOURCE PRESERVATION, OR OPEN SPACE;

(h) A PARCEL THAT IS IN A FLOODWAY OR IN A ONE-HUNDRED-YEAR FLOODPLAIN, AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY;

(i) A PARCEL THAT IS LOCATED WITHIN AN AIRPORT INFLUENCE AREA; OR

(j) A HISTORIC PROPERTY THAT IS LOCATED OUTSIDE OF A HISTORIC DISTRICT.

(3) "HISTORIC DISTRICT" HAS THE MEANING SET FORTH IN SECTION 29-35-402 (10).

(4) "HISTORIC PROPERTY" HAS THE MEANING SET FORTH IN SECTION 29-35-402 (11).

(5) "NONPROFIT ORGANIZATION" MEANS AN ORGANIZATION AUTHORIZED TO DO BUSINESS IN THE STATE THAT IS EXEMPT FROM TAXATION PURSUANT TO SECTION 501 (a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 501, AS AMENDED, AND LISTED AS AN EXEMPT ORGANIZATION IN SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 501, AS AMENDED.

(6) "NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING" MEANS A NONPROFIT ORGANIZATION THAT, WITHIN THE FIVE YEARS PRECEDING THE NONPROFIT ORGANIZATION'S SUBMISSION OF A DEVELOPMENT APPLICATION, HAS:

(a) DEVELOPED A PROJECT WHICH HAS RECEIVED A FEDERAL LOW-INCOME HOUSING TAX CREDIT OR A STATE AFFORDABLE HOUSING CREDIT;

(b) BEEN AWARDED FUNDING THROUGH THE FEDERAL "HOME INVESTMENT PARTNERSHIPS PROGRAM", 24 CFR 92.1, ET SEQ.;

(c) BEEN AWARDED FUNDING TO SUPPORT THE CREATION, PRESERVATION, OR REHABILITATION OF AFFORDABLE HOUSING FROM THE COLORADO DEPARTMENT OF LOCAL AFFAIRS; THE COLORADO HOUSING AND FINANCE AUTHORITY; THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE; OR A LOCAL GOVERNMENT;

(d) OWNED PROPERTY THAT IS EXEMPT FROM PROPERTY TAXATION PURSUANT TO SECTION 39-3-113.5;

(e) BEEN CERTIFIED AS A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION PURSUANT TO 24 CFR 92.2 AND, TOGETHER WITH THE COLORADO DIVISION OF HOUSING OR A LOCAL GOVERNMENT, IS A PARTY TO A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION OPERATING AGREEMENT;

(f) BEEN APPROVED BY THE COLORADO DIVISION OF HOUSING AS AN "APPROVED NONPROFIT ORGANIZATION" PURSUANT TO SECTION 39-22-548 AND ENGAGED IN THE

DEVELOPMENT OR OPERATIONAL SERVICE OF SUPPORTIVE HOUSING PURSUANT TO SECTION 39-22-548 (2)(h); OR

(g) OWNED PROPERTY FOR WHICH THE ORGANIZATION RECEIVED A CERTIFICATE OF OCCUPANCY FOR LONG-TERM AFFORDABLE HOUSING, AND CAN PRODUCE THAT CERTIFICATE OF OCCUPANCY, A RESTRICTED USE COVENANT, OR A SIMILAR RECORDED AGREEMENT THAT ENSURES AFFORDABILITY.

(7) "QUALIFYING ENTITY" MEANS A:

(a) SCHOOL DISTRICT, AS DEFINED IN SECTION 22-30-103;

(b) STATE COLLEGE OR UNIVERSITY, AS DEFINED IN SECTION 23-2-102;

(c) BOARD OF COOPERATIVE SERVICES, AS DEFINED IN SECTION 22-5-103;

(d) HOUSING AUTHORITY CREATED PURSUANT TO SECTION 29-1-204.5, 29-4-204, 29-4-402, OR 29-4-503;

(e) LOCAL OR REGIONAL TRANSIT DISTRICT OR A REGIONAL TRANSPORTATION AUTHORITY SERVING ONE OR MORE COUNTIES;

(f) NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING; OR

(g) NONPROFIT ORGANIZATION THAT HAS ENTERED INTO AN AGREEMENT WITH ANOTHER NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING, PROVIDED THAT THE AGREEMENT REQUIRES THE NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING, OR ITS SUCCESSOR ORGANIZATION, TO DEVELOP A RESIDENTIAL DEVELOPMENT ON THE PROPERTY.

(8) "QUALIFYING PROPERTY" MEANS REAL PROPERTY THAT CONTAINS NO MORE THAN FIVE ACRES OF LAND AND IS:

(a) OWNED BY A QUALIFYING ENTITY;

(b) NOT ADJACENT TO ANOTHER QUALIFYING PROPERTY CONTAINING FIVE OR LESS ACRES THAT WAS PART OF A SUBDIVISION PROCESS THAT OCCURRED WITHIN THE PAST FIVE YEARS; AND

(c) WITHIN:

(I) A MUNICIPALITY; OR

(II) A PORTION OF A COUNTY THAT IS WITHIN A CENSUS DESIGNATED PLACE WITH A POPULATION OF FIVE THOUSAND OR MORE, AS REPORTED IN THE MOST RECENT DECENNIAL CENSUS, THAT IS ALSO WITHIN A THREE-MILE AREA EXTENDING IN ANY DIRECTION FROM ANY POINT IN A MUNICIPALITY, AS DESCRIBED IN SECTION 31-12-105 (1)(e)(I).

(9) "RESIDENTIAL DEVELOPMENT" MEANS A DEVELOPMENT:

- (a) WITH ONE OR MORE STRUCTURES THAT CONTAIN PERMANENT DWELLING UNITS;
- (b) THAT DOES NOT CONTAIN ANY TEMPORARY HOUSING OR SHELTER SPACE; AND
- (c) THAT HAS A PRIMARY PURPOSE OF RESIDENTIAL USE.

(10) "SIMILAR HOUSING" MEANS HOUSING THAT IS SIMILAR IN FORM AND NUMBER OF DWELLING UNITS.

(11) "SUBJECT JURISDICTION" MEANS A LOCAL GOVERNMENT THAT HAD A POPULATION GREATER THAN TWO THOUSAND PEOPLE AS OF THE LAST UNITED STATES CENSUS.

(12) "TRANSFERABLE DEVELOPMENT RIGHTS PROGRAM" MEANS AN ENACTED LOCAL LAND USE PROGRAM THAT AUTHORIZES THE TRANSFER OR SALE OF REAL PROPERTY DEVELOPMENT RIGHTS AS PART OF A LAND USE PLANNING STRATEGY THAT AIMS TO ACHIEVE CONSERVATION, GROWTH MANAGEMENT, AFFORDABLE HOUSING, OR OTHER POLICY OBJECTIVES.

**29-35-503. Residential developments on qualifying properties.**

(1) **Residential developments on qualifying properties.** EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, ON OR AFTER DECEMBER 31, 2027, SUBJECT TO AN ADMINISTRATIVE APPROVAL PROCESS AND IN ACCORDANCE WITH THIS PART 5, A SUBJECT JURISDICTION SHALL ALLOW A RESIDENTIAL DEVELOPMENT TO BE CONSTRUCTED ON A QUALIFYING PROPERTY IF THE QUALIFYING PROPERTY DOES NOT CONTAIN AN EXEMPT PARCEL; EXCEPT THAT, IF ON DECEMBER 31, 2027, A SUBJECT JURISDICTION IS ACTIVELY IN THE PROCESS OF UPDATING THE SUBJECT JURISDICTION'S ZONING OR DEVELOPMENT CODE TO COMPLY WITH THE REQUIREMENTS OF THIS PART 5, THE SUBJECT JURISDICTION SHALL COMPLETE THE UPDATES AND SHALL COMPLY WITH ALL REQUIREMENTS OF THIS PART 5 BY JUNE 31, 2028.

(2) **Verification of nonprofit status.** A SUBJECT JURISDICTION MAY REQUEST, AS PART OF AN INITIAL DEVELOPMENT APPLICATION, THAT A NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING PROVIDE DOCUMENTATION THAT IT MEETS ANY ONE OF THE CRITERIA LISTED IN SECTION 29-35-502 (6). THE NONPROFIT ORGANIZATION SHALL PROVIDE THE REQUESTED DOCUMENTATION BUT IS NOT REQUIRED TO PROVIDE DOCUMENTATION OF MORE THAN ONE OF THE CRITERIA LISTED IN SECTION 29-35-502 (6) TO BE VERIFIED BY THE SUBJECT JURISDICTION.

(3) **Subject jurisdiction administrative practices.** NOTHING IN THIS SECTION PREVENTS A SUBJECT JURISDICTION FROM:

- (a) APPLYING AND ENFORCING INFRASTRUCTURE STANDARDS IN LOCAL LAW DURING THE ADMINISTRATIVE APPROVAL PROCESS, INCLUDING STANDARDS RELATED TO UTILITIES, TRANSPORTATION, OR PUBLIC WORKS CODES;

(b) APPLYING AND ENFORCING A LOCALLY ADOPTED LIFE SAFETY CODE, INCLUDING A BUILDING, FIRE, WILDFIRE RESILIENCY, UTILITY, OR STORMWATER CODE;

(c) APPLYING AND ENFORCING REGULATIONS RELATED TO HUMAN AND ENVIRONMENTAL HEALTH AND SAFETY, INCLUDING OIL AND GAS SETBACKS, FLOODPLAIN REGULATIONS, AND AIRPORT INFLUENCE AREAS;

(d) ADOPTING GENERALLY APPLICABLE REQUIREMENTS FOR THE PAYMENT OF IMPACT FEES OR OTHER SIMILAR DEVELOPMENT CHARGES IN ACCORDANCE WITH SECTION 29-20-104.5, OR THE MITIGATION OF IMPACTS IN ACCORDANCE WITH PART 2 OF ARTICLE 20 OF THIS TITLE 29;

(e) REQUIRING A STATEMENT BY A WATER OR WASTEWATER SERVICE PROVIDER REGARDING THE PROVIDER'S CAPACITY TO SERVICE THE PROPERTY AS A CONDITION OF ALLOWING A RESIDENTIAL DEVELOPMENT;

(f) APPLYING AND ENFORCING INCLUSIONARY ZONING ORDINANCES, DEED RESTRICTIONS, COMMUNITY BENEFIT AGREEMENTS, DEVELOPMENT AGREEMENTS, OR OTHER AFFORDABLE HOUSING POLICIES OR STANDARDS IN ACCORDANCE WITH SECTION 29-20-104;

(g) APPLYING SITE DESIGN STANDARDS TO ALLOW A RESIDENTIAL DEVELOPMENT TO BE CONSTRUCTED ON A QUALIFYING PROPERTY WHEN SUCH RESIDENTIAL DEVELOPMENT COULD BE DISALLOWED BASED ON THE STANDARDS DESCRIBED IN SECTION 29-35-504 (1), OR OTHERWISE OFFERING AFFORDABLE HOUSING INCENTIVES TO DEVELOPERS;

(h) ENACTING OR APPLYING A LOCAL LAW CONCERNING A SHORT-TERM RENTAL, AS THAT TERM IS DEFINED IN SECTION 29-35-402 (19), OF A DWELLING UNIT ON A QUALIFYING PROPERTY;

(i) ENACTING OR APPLYING A LOCAL LAW THAT REQUIRES NOTIFYING THE PUBLIC REGARDING A DEVELOPMENT APPLICATION OR SOLICITING AND COLLECTING FEEDBACK FROM RESIDENTS OF THE SUBJECT JURISDICTION;

(j) APPLYING LAWS AND POLICIES TO A QUALIFYING PROPERTY PURSUANT TO ACCEPTED HOUSING NEEDS ASSESSMENTS AND ACCEPTED HOUSING ACTION PLANS THAT ENCOURAGE THE DEVELOPMENT OF A RANGE OF HOUSING TYPES IN ACCORDANCE WITH PART 37 OF ARTICLE 32 OF TITLE 24;

(k) OFFERING FUNDING, FINANCING INCENTIVES, OR DEVELOPMENT INCENTIVES THAT MAY REQUIRE APPROVAL IN A PUBLIC HEARING TO A DEVELOPER OF A RESIDENTIAL DEVELOPMENT, IF THE FUNDING OR INCENTIVES WOULD LEAD TO THE DEVELOPMENT OF A GREATER AMOUNT OF AFFORDABLE HOUSING UNITS THAN THE AMOUNT OF AFFORDABLE HOUSING UNITS THAT WOULD BE DEVELOPED IN THE ABSENCE OF THE FUNDING OR INCENTIVES AND THE DEVELOPER OF THE RESIDENTIAL DEVELOPMENT IS NOT REQUIRED TO ACCEPT THE FUNDING OR INCENTIVES;

(l) REQUIRING COMMON LAW OR STATUTORY DEDICATIONS OF INTEREST IN LAND

ASSOCIATED WITH A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY TO BE ACCEPTED BY THE LEGISLATIVE BODY OF A LOCAL GOVERNMENT;

(m) APPLYING AND ENFORCING SUBDIVISION REGULATIONS;

(n) EXERCISING THE SUBJECT JURISDICTION'S RIGHT OF FIRST REFUSAL IN ACCORDANCE WITH SECTION 29-4-1202; OR

(o) APPLYING THE DESIGN STANDARDS AND PROCEDURES OF A HISTORIC DISTRICT TO A QUALIFYING PROPERTY THAT IS LOCATED IN A HISTORIC DISTRICT, INCLUDING A STANDARD OR PROCEDURE RELATED TO DEMOLITION.

(4) **School district administrative practices.** NOTHING IN THIS SECTION PREVENTS A SCHOOL DISTRICT FROM CONSTRUCTING, PURCHASING, OR REMODELING A TEACHERAGE PURSUANT TO SECTION 22-32-110 (1)(d), OR FROM USING ANY OF THE PROCESSES DESCRIBED IN SECTION 22-32-124 REGARDING BUILDINGS AND STRUCTURES.

(5) **Transferable development rights program.** A SUBJECT JURISDICTION IS NOT REQUIRED TO ALLOW A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION IF THE SUBJECT JURISDICTION IMPLEMENTS A TRANSFERABLE DEVELOPMENT RIGHTS PROGRAM ON THE QUALIFYING PROPERTY, AND THE TRANSFERABLE DEVELOPMENT RIGHTS PROGRAM INCLUDES A POLICY FOR AFFORDABLE RESIDENT HOUSING THAT IS RESTRICTED IN OWNERSHIP AND OCCUPANCY IN PERPETUITY BY A DEED RESTRICTION, COVENANT, OR A MECHANISM PROVIDED IN SECTION 29-35-103 (16)(b).

**29-35-504. Qualifying property requirements for a subject jurisdiction - allowable uses.**

(1) A SUBJECT JURISDICTION SHALL NOT:

(a) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY ON THE BASIS OF HEIGHT IF THE TALLEST STRUCTURE IN THE RESIDENTIAL DEVELOPMENT IS NO MORE THAN THREE STORIES OR THIRTY-EIGHT FEET TALL, UNLESS:

(I) THE SUBJECT JURISDICTION IS SERVED BY A FIRE PROTECTION DISTRICT, FIRE DEPARTMENT, OR FIRE AUTHORITY WHOSE AERIAL APPARATUS IS UNABLE TO SERVE A STRUCTURE THAT IS THREE STORIES TALL; OR

(II) THE QUALIFYING PROPERTY IS LOCATED IN A HISTORIC DISTRICT THAT DOES NOT ALLOW RESIDENTIAL STRUCTURES THAT ARE THREE STORIES TALL;

(b) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY ON THE BASIS OF HEIGHT IF THE TALLEST STRUCTURE IN THE RESIDENTIAL DEVELOPMENT COMPLIES WITH THE HEIGHT REQUIREMENTS:

(I) OF THE ZONING DISTRICT IN WHICH THE RESIDENTIAL DEVELOPMENT WILL BE BUILT; OR

(II) THAT APPLY TO ANY PARCEL ZONED TO ALLOW FOR RESIDENTIAL DEVELOPMENT THAT IS CONTIGUOUS TO THE QUALIFYING PROPERTY ON WHICH THE RESIDENTIAL DEVELOPMENT WILL BE BUILT;

(c) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY BASED ON THE NUMBER OF DWELLING UNITS THE RESIDENTIAL DEVELOPMENT WILL CONTAIN, EXCEPT IN ACCORDANCE WITH ONE OF THE STANDARDS LISTED IN SUBSECTION (1)(d) OF THIS SECTION; OR

(d) APPLY SITE DESIGN STANDARDS TO A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY THAT ARE MORE RESTRICTIVE THAN THE SITE DESIGN STANDARDS THAT THE SUBJECT JURISDICTION APPLIES TO SIMILAR HOUSING CONSTRUCTED WITHIN THE SUBJECT JURISDICTION, INCLUDING SITE DESIGN STANDARDS RELATED TO:

(I) STRUCTURE SETBACKS FROM PROPERTY LINES;

(II) LOT COVERAGE OR OPEN SPACE;

(III) ON-SITE PARKING REQUIREMENTS;

(IV) NUMBERS OF BEDROOMS IN A MULTIFAMILY RESIDENTIAL DEVELOPMENT;

(V) ON-SITE LANDSCAPING, SCREENING, AND BUFFERING REQUIREMENTS;

(VI) SOLAR ACCESS;

(VII) MINIMUM DWELLING UNITS PER ACRE; OR

(VIII) OTHER OBJECTIVE SETBACK STANDARDS THAT APPLY TO RESIDENTIAL DWELLINGS, INCLUDING SETBACKS FROM OIL AND GAS FACILITIES, OIL AND GAS OPERATIONS, STREAM CORRIDORS, RIPARIAN AREAS, WETLANDS, AND SENSITIVE WILDLIFE HABITATS.

(2) PROVIDED THAT THE USES ARE ALLOWED CONDITIONALLY OR BY RIGHT WITHIN THE ZONING DISTRICT IN WHICH A QUALIFYING PROPERTY IS LOCATED, A SUBJECT JURISDICTION SHALL ALLOW THE FOLLOWING USES IN A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY:

(a) CHILD CARE; AND

(b) THE PROVISION OF RECREATIONAL, SOCIAL, OR EDUCATIONAL SERVICES PROVIDED BY COMMUNITY ORGANIZATIONS FOR USE BY THE RESIDENTS OF THE RESIDENTIAL DEVELOPMENT AND THE SURROUNDING COMMUNITY.

**29-35-505. Authority of institutions of higher education preserved.**

NOTHING IN THIS PART 5 IS INTENDED TO ABROGATE OR LIMIT THE AUTHORITY OF AN INSTITUTION OF HIGHER EDUCATION TO MAKE DECISIONS REGARDING THE USE OF OR DISPOSITION OF THE INSTITUTION'S PROPERTY, OR TO CREATE ADDITIONAL

BUILDING CODE COMPLIANCE OBLIGATIONS FOR AN INSTITUTION OF HIGHER EDUCATION BEYOND THOSE ALREADY REQUIRED BY SECTION 24-30-1303.

**29-35-506. Published guidance in verification of nonprofit status.**

ON OR BEFORE DECEMBER 31, 2027, THE DEPARTMENT OF LOCAL AFFAIRS SHALL PUBLISH GUIDANCE TO ASSIST SUBJECT JURISDICTIONS IN VERIFYING THE STATUS OF A NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING IN ACCORDANCE WITH SECTION 29-35-503 (2).

**SECTION 4. Safety clause.** The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: March 25, 2026