

House Transportation, Housing & Local Government

02/03/2026 Upon Adjournment

HB26-1001 Housing Developments on Qualifying Properties

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Melissa Clemons For themselves	<p>Prepared Testimony on Worker Protections, Rest Days & Housing Stability</p> <p>By: Melissa Clemons</p> <p>Thank you for the opportunity to speak.</p> <p>I am here today not only as a worker, but as a parent, a tenant, and a community member who has experienced firsthand how unstable scheduling, unpredictable income, and insufficient worker protections intersect with housing insecurity.</p> <p>Over the past several years, I have worked in traditional shift-based employment while also relying on gig-based work such as Uber and Instacart to supplement income. Like many workers today, I did not take on gig work by choice—but by necessity. Variable schedules, lack of guaranteed rest days, and unpredictable earnings make it increasingly difficult for workers to meet basic housing costs on a consistent basis.</p> <p>One of the most overlooked issues in workforce policy is how income instability compounds over time. Many jobs do not provide predictable quarterly earnings that realistically align with rent increases, application requirements, or lease renewals. Workers—especially single parents and individuals supporting families—are often forced to juggle two jobs and additional side gigs simply to remain housed. This leaves little room for rest, family time, or physical and mental recovery.</p> <p>I have personally communicated these concerns to housing stability offices, particularly around the growing disconnect between “low-income” housing labels and the financial realities tenants face. Many so-called affordable units still require income thresholds that are unrealistic for workers with fluctuating schedules or gig-based</p>

	<p>earnings. When rent is late or income temporarily drops, tenants are penalized—not supported.</p> <p>This strain does not stop with the worker. I recently spoke with a coworker whose daughter, noticing her mother’s constant exhaustion and absence, asked if they should consider moving out the states. Her mother’s response was simple and heartbreaking: “I have to work in order to provide for you.” That moment captures the broader cost of our current system—children are growing up watching survival replace stability.</p> <p>Worker protections such as guaranteed rest days, clear scheduling practices, and fair notice requirements are not just labor issues—they are public health, housing, and family stability issues. When workers are denied rest, clarity, or consistency, the ripple effects extend into healthcare, housing displacement, and workforce burnout.</p> <p>I am not here to place blame, but to emphasize that lived experience must be included in policy decisions. Workers are not asking for special treatment—we are asking for sustainability. Protections that allow us to work with dignity, rest without fear, and provide for our families without sacrificing our health or presence.</p> <p>I appreciate the work being done to address these challenges and I am committed to continuing this conversation in a constructive and informed way. Thank you for your time and consideration.</p>
<p>Jeany Rush Against themselves</p>	<p>TO: HOUSE COMMITTEE ON TRANSPORTATION, HOUSING, & LOCAL GOVT.</p> <p>RE: HB26-1001 HOUSING DEVELOPMENTS ON QUALIFYING PROPERTIES</p> <p>SPONSORS: BOESENECKER, MABREY, EXUM, GONZALES</p> <p>FROM: JEANY RUSH, COLORADO CONSTITUENT, 2-3-26</p> <p>VOTE: NO</p> <p>In one punch you are proposing to take away local control of its zoning, bypassing it totally, then you would strip the voices of the public on housing issues, by employing a Safety Clause on this issue. You constantly use this to literally step over the public’s right to vote on issues that impact their entire lives, and often for generations!</p>

	<p>Why would you put this into a bill which literally gives some groups powers to BYPASS LOCAL ZONING? How do you constantly over step your authority, interfere in commerce and Local Authority over its own plans and zoning?</p> <p>The groups you wish to enable, empower to override local authority, are tax exempt, thereby not contributing to the local tax base, and leaving the local taxpayers to fund this exception to the laws of the community, but gaining benefits.</p> <p>This disruption, as it should be termed, further, steps on the citizens of this local community, without that group of citizens even having a right to vote on the proposals being DUMPED ON THEIR HEADS!</p> <p>This truly feels like the Thumb of BIG BROTHER on each and every one of our heads!</p> <p>We have already created entirely too many entities which are not elected representatives, yet giving them legislative powers over the very population over which they Rule as if they actually had the right!</p> <p>Acknowledging in this lengthy bill that consideration is made for things normally allowed or not allowed in construction, zoning, other local conditions is not nearly enough. Any of the non-profits you mention already have legal means for construction, approvals, variances, provided by the local laws in existence! No legislative committee, entity created should exist or be created to circumvent any of the current procedures. Local communities are absolutely able to make rulings, variances, in any given scenario of development.</p> <p>The non-stop creation of Housing for communities all over Colorado, which look ironically like Russian Era Structures, which already SUCK off of the public "TEET" are disgusting. This constant "Smart City" Global WEF scenario planning while robbing single family ownership, as well as the "Smart/NOT Smart transportation scenarios to fit into the same small area Forced Living Picture is not good for America, Colorado, nor our communities. The fact that it is being done under the tables, with taxpayer money, all the while promoting systems that cost too much, serve the wrong people, and literally bankrupt free enterprise and local citizens! This is another step in the USURPATION of America and our state. You should not have any say in your designations of what qualifies for an OUT HOUSE, much less our</p>
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	<p>commercial and residential neighborhoods. AGAIN, misuse of Safety Clause. This feels MARXIST!</p>
<p>Brian Rossbert For Housing Colorado</p>	<p>February 3, 2026</p> <p>Members of the House Transportation, Housing, and Local Government Committee 200 E Colfax Avenue Denver, CO 80203</p> <p>Dear Committee Members,</p> <p>I would like to share my apologies with the Committee and the sponsors of HB26-1001 for not being present to testify today. I have an unavoidable conflict that prevents me from attending the hearing.</p> <p>My name is Brian Rossbert and I serve as the Executive Director of Housing Colorado – a statewide member association representing the affordable housing industry. We envision a time when every Coloradoan has access to a safe, quality, healthy, affordable home in a thriving community. With that vision in mind, I would like to share Housing Colorado’s support of HB26-1001, otherwise known as the HOME Act.</p> <p>The HOME Act will help unlock land for housing development across our great state. According to the State Demographer, Colorado still struggles with a housing shortage. That shortage is estimated to be 106,000 total units. While we have made significant progress in recent years in closing the gap, its persistence means higher costs to families across the income spectrum and across Colorado.</p> <p>The HOME Act taps land that a host of organizations own for development that otherwise might not be able to take place given current regulations and local opposition. Time and time again, we</p>

	<p>have seen the current process for review of new housing, especially affordable housing, be stymied by the approval process. By changing that process for the types of organizations specified in the bill – school districts, non-profits with a history of developing housing, among others – we are confident that new housing can be built without interrupting the community character or affecting property values.</p> <p>In addition to housing, the bill has been written to include other uses that would enhance the experience of residents of the area greatly, namely childcare and other services. These benefits may be enjoyed by all community members.</p> <p>We appreciate the careful attention Representative Boesenecker and his co-sponsors have given to the development of this legislation. They have listened to various interests in crafting this bill and we believe that it is a commonsense solution that will help ameliorate the housing shortfall that we are experiencing.</p> <p>Thank you for the opportunity to share our perspective. We urge your support of HB26-1001, the HOME Act.</p> <p>Sincerely,</p> <p>Brian Rossbert, Executive Director Housing Colorado</p>
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House Transportation, Housing & Local Government Committee
Hon. Meg Froelich, Chair

February 3, 2026

Re: HB26-1001 - Written Testimony
Beverly Stables, Legislative Advocacy Manager, Colorado Municipal League
Robert Sheesley, General Counsel, Colorado Municipal League

Honorable Members of the Committee:

We write to provide the Colorado Municipal League's position regarding HB26-1001. We urge the Committee to vote "no" on the bill to preserve state and local investments in planning and the creation of unique Colorado places and the expectations of Colorado residents.

CML Position

CML's opposition to HB26-1001, as with any position that CML takes, is solely related to the harm the bill does to Colorado's systems of governance and prior investments in orderly land use planning, including the "free pass" it gives to certain interests. CML and its 271 member municipalities support the development of housing, responsible and orderly land use planning, state and local investments in affordable and attainable housing.

CML remains committed to:

- Supporting local innovation driven by Coloradans who know what's best for their communities, including implementing HB21-1117 and SB24-174;
- Continuing public and private sector support for housing, including the robust implementation of Proposition 123 and increased grant funding for low- and moderate-income housing;
- Using existing state resources to help local governments increase planning capacity and update land use practices;
- Enhancing state resources for supporting persons experiencing homelessness.

CML, however, must continue to oppose:

- Preemption of local authority to craft comprehensive plans and zoning ordinances designed to work for their communities, their budgets to provide services and amenities, and the environment;

- One-size-fits-all approaches to zoning that disregard community needs and lead to displacement of residents;
- Unfunded mandates or restrictions on cost recovery that require municipalities to bear the direct and indirect costs of development;
- Restrictions on managing development that would prevent municipalities from ensuring that they can provide adequate services for residents and manage their staff resources.

CML Concerns with H26-1001

As a representative of the governments that are closest to the people of Colorado, CML respectfully encourages the Committee to preserve the traditional role of municipalities in providing for planning and zoning for the use of land that Coloradans expect.

1) HB26-1001 ignores sound land use planning principles and investments by the State of Colorado, local governments, and engaged residents in comprehensive planning.

HB26-1001 would permit certain entities to place residential structures (with some non-residential uses) without regard to the community's developed expectations for the future and existing surrounding uses and structures, as expressed through a land use plan. The bill's proposed exceptions do not adequately address the conflicts that the bill will cause, especially given the bill's broad permissions regarding locations and height, density, and construction standards.

Unlike current law and SB24-174, HB26-1001 offers an untested experiment that disrupts the settled tradition of public engagement and thorough analysis by experts by simply allowing certain entities to build large buildings with little restriction as to location. If the state can give a pass from the plan's expectations and implementing zoning regulations, HB26-1001 begs the questions:

- *why should Coloradans participate in planning efforts?*
- *why should Coloradans fund land use planning through state grants and municipal revenue?*
- *why should municipalities devote staff resources and funds to planning efforts to prepare their long-term sustainability, economic vitality, and unique existence?*

HB26-1001 prevents the people from accessing their municipal governments and having their voices heard. The bill effectively tells Coloradans that they have no say in the future of their communities and suggests they should not bother to be engaged in their community's planning efforts.

a. Interference with state planning and zoning laws and local plans

HB26-1001's broad permission to build dense residential structures throughout certain municipalities defeats municipal efforts to provide for orderly and sensible development. "The purpose of planning is to provide public officials with sensible advice on how to deal with and evaluate public and private proposals for physical development, and to some extent for social

and economic development, in the light of an overall approach.”¹ Goals of planning range from the protection of public safety and health, avoiding overcrowding, protecting light and air, and providing open space, to avoiding undue traffic, protecting aesthetics, avoiding nuisances, controlling the timing of development, and preparing for providing public services.² As stated by the Department of Local Affairs (DOLA), “A comprehensive plan promotes the community's vision, goals, objectives, and policies, establishes a process for orderly growth and development, addresses both current and long-term needs, and provides for a balance between the natural and built environment.”³

The State of Colorado has long valued land use planning and community engagement in developing a vision for the future of their communities. That principle has been consistent from its original enactment of the zoning enabling act in 1923⁴ through the 2024 legislative session, when bipartisan SB24-174⁵ increased expectations for planning for housing needs and environmentally and fiscally sound strategic growth. The importance of planning is highlighted by the DOLA’s 2025 Statewide Strategic Growth Report completed as required by SB24-174. That report, at pages 12-14, highlighted the benefits of strategic growth:

- More financially efficient infrastructure investment
- Protection of and connectivity to vital landscapes and resources
- Improved regional coordination
- Enhanced climate and environmental outcomes
- Greater predictability for developers and residents (with benefit to long-term fiscal planning for public entities)⁶

In an *amicus curiae* brief supporting the City of Fort Collins, then-U.S. Representative Jared Polis argued cogently in support of the power and importance of local land use planning by the government that is closest to the people:

“Not only is local governments’ robust land use authority supported legally, it also makes sense from a policy perspective. A local government is elected to represent its community members and is ultimately responsible for preserving the character of the community. **Local governments are best suited to meet the unique land use needs of their community through transparent public processes. Local planning involves widespread citizen input and broad stakeholder involvement.**”⁷

¹ 1 American Land Planning Law § 1:6 (Rev. Ed.).

² 1 American Land Planning Law Pt. 4 Introduction (Rev. Ed.).

³ <https://dlg.colorado.gov/comprehensive-plans>.

⁴ <https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=3725&context=session-laws-1901-1950>.

⁵ <https://leg.colorado.gov/bills/sb24-174>.

⁶ https://drive.google.com/file/d/1xmVwlr024Z1Og3eauCVol_dG4QF8fjhr/view?pli=1.

⁷ Amicus Curiae Brief of Congressman Polis in The City of Fort Collins v. Colorado Oil and Gas Association, No. 15SC668, Colorado Supreme Court (Aug. 17, 2015) (emphasis added), https://drive.google.com/file/d/1GRkHNpl4qI2-0BHINXRC6vAQ2XFfw_U/view.

Land use plans identify “the general character, location, and extent of . . . housing developments, whether public or private” and “the existing, proposed, or projected location of residential neighborhoods and sufficient land for future housing development for the existing and projected economic and other needs of all current and anticipated residents of the municipality; and redevelopment areas.” Plans can include “projections of population change and housing needs to accommodate the projected population for specified increments of time.”⁸ Frequently, municipalities and counties join together to engage in regional planning efforts with the encouragement of state law.⁹

Land use plans are implemented through zoning regulations. Home rule municipalities derive their zoning authority through charters adopted under Article XX of the Colorado Constitution.¹⁰ Statutory municipalities have been delegated the power to zone: “for the purpose of promoting health, safety, morals, or the general welfare of the community, including energy conservation and the promotion of solar energy utilization, the governing body of each municipality is empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the height and location of trees and other vegetation, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.”¹¹

HB26-1001 disregards both plans and zoning regulations enacted at substantial cost after significant community input and approval by local elected representatives.

b. Unlawful “spot zoning”

Land use plans are advisory documents but may be turned into binding land use regulations by local governments. Moreover, plans can restrict a local government from giving special treatment to a particular piece of land (in the that the way that HB26-1001 does). HB26-1001, either directly or by requiring a local government to ignore a comprehensive plan and its zoning regulations, could be construed as involving unlawful “spot zoning,” which has been described as:

“the application of a zoning designation to a specific parcel of land that is inconsistent with the surrounding area, plan guidance, and other zoning restrictions, is prohibited in Colorado on the theory that a local government cannot act merely to be benefit a single landowner, but must act to benefit the general public. The test for determining whether a particular action constitutes spot zoning is whether the action is designed to relieve a certain

⁸ C.R.S. § 30-28-106; C.R.S. § 31-23-206.

⁹ C.R.S. §§ 30-28-101 to -110.

¹⁰ See *Serv. Oil Co. v. Rhodus*, 500 P.2d 807, 346 (Colo. 1972); see also *Zavala v. City and Cnty. of Denver*, 759 P.2d 664, 669 (Colo. 1988) (“Denver is a home rule city . . . As such, its zoning authority is governed by its own charter and ordinances”).

¹¹ C.R.S. § 31-23-301.

piece of property from zoning restrictions in spite of – rather than in conformance with – the jurisdiction’s comprehensive plan.”¹²

Under HB26-1001, an eligible property owner can construct more intense residential uses regardless of the underlying zoning and a plan’s designated of the intended use of the property. While HB26-1001 may not actually change the property’s zoning, the benefit to the property owner is the same. It is questionable whether a local government could legally permit such a use. And if the local government is limited in permitting the use, the General Assembly’s attempt to do so is also suspect.

c. Community harms

One-size fits all measures like HB26-1001 that ignore planning and community needs and the contexts of different communities and regions are harmful to communities. Municipalities implement comprehensive plans and zoning regulations to address unique needs and to prevent incompatible uses from being mixed. HB26-1001 restricts that authority and would limit development only if state or federal law or private deed restrictions limit residential uses or where conservation easements exist (see page 4, lines 10-18). Local governments can only limit development through their own action with regard to historic properties or airport influence areas (see page 4, lines 19) or through limited health and safety regulations (including oil and gas setbacks) (see page 8, lines 7-9). The extent of this authority to restrict incompatible uses (such as in properties zoned or used for industrial uses) is unclear.

HB26-1001 goes too far. In 2023, California’s SB4 was enacted with similar intentions but at least included affordability restrictions, a prevailing wage requirement, and limits on housing developments adjoining light industrial uses, within 1,200 feet of heavy industrial uses, and 3,200 of oil and gas uses.¹³ The bill suggests that municipalities cannot implement reasonable limitations to ensure public health, safety, and welfare and could be limited to very narrow restrictions.

d. Interference with SB24-174

In 2024, the General Assembly passed SB24-174 with wide bipartisan support and broad support from municipalities, housing advocates, planning professionals, and environmental advocates. Through SB24-174, municipalities and counties must: 1) conduct housing needs assessments; 2) create and implement housing action plans responsive to those housing needs assessments; 3) and amend comprehensive plans with inclusive processes that include those actions plans, assessments, and new strategic growth components. The state, for its part, would offer technical and financial assistance for these plans and create a statewide strategic growth report.

HB26-1001 interferes with these efforts just as they are getting started. The bill ignores the assessments, housing action plans, and comprehensive plans created by municipalities and, in some cases, funded by the state. What was the purpose of SB24-174 and the expense of time and resources by the state, municipalities and counties, and residents if specific users can build

¹² Colorado Land Planning and Development Law (Donald L. Elliot ed., 12th Ed. 2021), pp. 78-79 (citing *King’s Mill Homeowners Ass’n v. City of Westminster*, 557 P.2d 1186 (Colo. 1976); *Clark v. City of Boulder*, 362 P.2d 160 (Colo. 1961); *Whitelaw v. Denver City Council*, 2017 COA 47, ¶ 61).

¹³ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB4.

housing anywhere and not where it is needed the most? What was the point of assessing where housing is needed and avoiding the risk of displacement? What was the point of developing inclusive public engagement processes if the end result is the development of housing at the property owner's discretion?

HB26-1001 also defeats the fiscal and environmental focus of SB24-174 and its emphasis on planning for strategic growth that would inhibit greenfield development. The strategic growth report published by the Department of Local Affairs in 2025 as required by SB24-174 defined strategic growth as, "*A fiscally and environmentally sustainable approach to land use planning, housing, community well-being, and infrastructure that promotes the development or redevelopment of vacant and underutilized infill parcels, and mitigates the need for extensions of infrastructure and public services into natural and agricultural lands.*" The "strategic growth element" of master plans required by the act would "*discourage sprawl and promote the development or redevelopment of vacant and underutilized parcels in urban areas to address the demonstrated housing needs of the county or region and mitigate the need for extension of infrastructure and public services to develop natural and agricultural lands for residential uses.*" At most, HB26-1001 limits based on access to existing water and wastewater infrastructure or conservation easements (page 4, lines 2-9 and 18) does not limit sprawl.

HB26-1001 inhibits SB24-174 because it:

- wastes the money and time that municipalities and residents have spent to develop assessments and plans;
- allows development where it is not needed or useful;
- contains no provisions to prevent displacement, particularly of low-income residents, and local business properties;
- does not promote development near existing transit; and
- encourages sprawl.

e. Interference with HB24-1313

Even requirements of HB24-1313, which focused on increasing housing density near transit, are frustrated by HB26-1001. According to HB24-1313, housing solutions must incorporate transit needs to provide affordable, more environmentally sustainable, and accessible housing. Therefore, the bill sought to require that certain municipalities increase zoning density in limited areas that would have substantial access to transit.

Municipalities subject to HB24-1313 have taken steps to adhere in good faith with the requirements or expectations of the act by designating transit centers, rezoning properties to increase density, modifying processes, or planning to take those steps. But HB26-1001 disrupts those plans and expectations by allowing housing of substantial density nearly *anywhere in a jurisdiction*. That result also undermines the primary goals and theories of HB24-1313.

2) HB26-1001's blunt solutions interfere with intergovernmental relationships and causes problems where none exist.

The reality of Colorado's governance systems and land development is that rough edges of disputes and uncertainty must be smoothed by relationships and intergovernmental cooperation.

Rigid, top-down mandates that favor one group and remove essential leverage from a regulator do extraordinary violence to intergovernmental relationships and ultimately create more problems than they solve. The lack of substantial factual basis of a problem to be addressed suggests that HB26-1001 neither involves a plausible state interest nor has any rational basis.

While there may be isolated anecdotal support for the bill, there are more examples of cooperation and partnership between municipalities and counties, school districts, transit authorities, housing authorities, and housing nonprofits that will be destroyed if the bill is enacted. For example, the City of Golden has a longstanding agreement with the Colorado School of Mines related to development of the campus.¹⁴ The school participates in local planning processes voluntarily and with great success. In addition, many municipalities contribute significant sums to their housing authorities or directly to nonprofits, have close relationships with school districts, and directly fund affordable housing.

Moreover, the Committee should recall that local regulations provide public benefits that outweigh any frustration or inconvenience to a landowner. Public engagement processes and public hearings create community buy-in and understanding. Land use applications include rigorous requirements to ensure that critical matters are addressed. Unlike state government, local government can be nimble in its response to changing conditions. If HB26-1001 does not work as intended, Coloradans must wait for uncertain solutions from the General Assembly that must survive political conflicts and may be delayed for several years before any relief is provided.

Finally, estimates of zoning restrictions in Colorado local governments, such as those identified in the “National Zoning Atlas” and related media reports, are not credible. That resource, for example, appears to not distinguish between unincorporated large lots or agriculturally zoned land that allows housing by right (where the use will always be single family or housing is accessory to the primary use) and incorporated land with more direct residential zoning. Further, the National Zoning Atlas appears to have excluded or failed to properly analyze zoning in planned unit developments by either showing no residential development is possible at all or underrepresenting the density and housing options allowed in those areas. As a result, such sources dramatically distort the conclusions about where multifamily housing is allowed and what procedural requirements apply

3) HB26-1001’s development standards are unreasonable and unfair, offer no promise of affordability, and will lead to confusion.

HB26-1001 establishes confusing and unreasonably lax standards relating to building height and other development standards. A close reading of the bill reveals that the standards do nothing to ensure consistency with a comprehensive plan or similarity of developments in size, density, or other aspects of surrounding neighborhoods.

Relating to height, the bill allows three options for development, the greater of which would control: 1) forty-five feet or three stories (though it is unclear what limit would apply); 2) the height limit zoning district in which the development would be built (presumably, the current district, even if wildly incompatible with surrounding structures); or 3) the height limit for any residential parcel that is contiguous (regardless of the extent of contiguity or the height of the majority of surrounding structures) (page 9, lines 10-23). This means that a development on a property used

¹⁴ https://www.cityofgolden.gov/government/initiatives_plans/mines_iga.php.

and planned for a particular use in the context of surrounding areas could have development that is wildly inconsistent and disharmonious with the structures surrounding it.

Further, the density (page 9, line 24 – page 10, line 1) and development standards (page 10, lines 2-15) suggest that significant harm will be done to neighborhoods and community plans. By relying on the phrase “similar housing constructed within the subject jurisdiction,” with “similar housing” being that which is “similar form and number of dwelling units” (page 7, lines 5-6), the bill uses a circular definition that allows the developer of the property to define – without reference to underlying zoning or plans – the size and scope of the development. In other words, the developer chooses what standards apply if the standards apply to some other development *anywhere* in the jurisdiction.

Finally, aside from providing a benefit to housing nonprofits who are likely to build only affordable products, HB26-1001 omits any reference to affordable, attainable, or workforce housing. HB25-1169, which provides the basis for this bill, included such requirements, as did California’s SB4. The broad permissions for *any* nonprofit to take advantage of the bill does not even include a requirement that an associated housing nonprofit construct affordable housing (see page 6, lines 8-14).

These concerns could be mitigated by requiring a reasonable amount of consistency with a comprehensive plan and surrounding neighborhoods in terms of height, building dimensions, proportionality to lot sizes, setbacks, and density. Provisions guaranteeing affordability also should be added.

4) HB26-1001’s eligibility requirements are too broad, provide loopholes for private development, and encourage speculation and systemic abuses.

The entities and properties qualifying under the bill in HB26-1001 are so broad and unlimited defined that they will be ripe for abuse. HB26-1001 would permit virtually any nonprofit to sidestep local plans and zoning laws, as long as it has an agreement with a housing nonprofit (page 6, lines 8-14). In addition, any nonprofit can qualify as a housing nonprofit (“with a demonstrated history of providing affordable housing”) simply by meeting one of 7 criteria with respect to any property (even if not in Colorado) at any point in the preceding five years.¹⁵ One of those criteria (page 5, line 24 – page 6, line 1) requires only ownership of a property with a deed restriction on a property with a certificate of occupancy for long-term affordable housing. Because there is no limit as to the actual use of the property or the number of units, HB26-1001 that a “demonstrated history of providing affordable housing” exists because a nonprofit (even one without a housing purpose) has a deed restriction on a single dwelling unit.

Notably, the bill does not require that an eligible entity construct the residential development (page 7, lines 14-15: “shall allow a residential development *to be constructed on* a qualifying property . . .”). On its face, the bill would permit a eligible entity to acquire a property only to entitle it to development and then quickly sell it. A state-endorsed loophole for private development around local planning and zoning is unconscionable.

The standards for a property to qualify under the bill are equally troubling: ownership by an eligible entity and a size under five acres (page 6, lines 2-14). Five acres – or roughly a city block or

¹⁵ The bill is unclear as to whether “the last five years” by which an entity can own certain property to qualify for the bill means the five years preceding the bill’s enactment or the attempt to make use of the bill (see page 5, line 2).

just under five football fields – may be inconsequential in an already dense urban environment. Five acres in other areas would dwarf structures in surrounding neighborhoods. This concern could be mitigated by reducing the size of eligible properties.

Moreover, there is no requirement of prior ownership, ownership as of a certain date, or notification to local governments to allow for proper planning. This suggests that HB26-1001 intends for entities to actively acquire properties for development as an ongoing process. This is problematic for several reasons. First, such a system would be subject to abuse as entities may be targeted by private interests to use the bill to sidestep local regulations for private gain. Second, the legal status of properties would be uncertain because the underlying zoning is not changed. Third, municipalities and related service providers like schools and transit entities cannot adequately plan when they do not anticipate that property, especially dense residential development, is coming. These concerns could be mitigated by: 1) limiting eligibility to properties owned as of January 1, 2026; 2) requiring notification to a local government of the intent to develop a property by December 31, 2025, enabling the repurposing of unused properties; and 3) requiring rezoning as necessary according to the local government’s processes and limiting administrative actions to subdivision and development plans.

5) HB26-1001 violates the powers reserved by the people to their municipal governments under Article XX of the Colorado Constitution.

Since 1912, Article XX, Section 6 of the Colorado Constitution has prohibited the General Assembly from overriding control of local and municipal matters by the local government elected by the people of a community. The Constitution grants the people of home rule municipalities “the full right of self-government in both local and municipal matters” and “all . . . powers necessary, requisite or proper for the government and administration of its local and municipal matters”¹⁶

While regulations connected to municipal land use authority – such as oil and gas regulation – and economic regulations relating to housing – such as rent control – have been recognized as matters of mixed state and local concern, the Colorado Supreme Court has never recognized that the zoning of land and processes related to zoning – especially as to the use of specific property for residential purposes – are anything but local and municipal matters. Home rule municipalities have a substantial and predominant interest in planning for future land uses, zoning and regulating particular uses within their communities, and establishing processes for zoning changes.

The weight of tradition, legal precedent, and impacts of planning and zoning should prevent the General Assembly from intruding into procedural and substantive aspects of residential zoning. Zoning and planning has been a local government role since those concepts were introduced in the state. The Colorado Supreme Court stated in 1972, “The General Assembly has the power to legislate zoning regulations applicable to statutory cities. Where, however, the Charter of a home rule city exercises the power delegated to by Article XX, Section 6 as to matters of purely local concern, the legislature has no power.”¹⁷ For a home rule municipality, “zoning

¹⁶ Colo. Const. art. XX, § 6.

¹⁷ *Serv. Oil Co. v. Rhodus*, 500 P.2d 807, 812 (Colo. 1972); see also *Roosevelt v. City of Englewood*, 492 P.2d 65, 70 (Colo. 1972) (holding that zoning, including zoning procedures, was a matter of local concern); *Moore v. City of*

authority is governed by its own charter and ordinances.”¹⁸ The Supreme Court has stated with respect to zoning, “Implicit in this constitutional delegation of authority is the recognition that the City possesses broad legislative discretion to determine how best to achieve declared municipal objectives.”¹⁹

Again, even then-U.S. Representative Polis recognized the constitutional authority of home rule municipalities to regulate land use and why it made the most sense for the government closest to the people to do so. “Taken cumulatively, [Colorado] laws expressly allow a local government like the City [of Fort Collins] to control land use within its municipal boundaries as a matter of local concern.”²⁰ HB26-1001 would require actions inconsistent with home rule charters adopted by the people and ordinances enacted by their governing bodies.

6) HB26-1001 inhibits the reserved powers of initiative and referendum.

When municipalities zone and rezone properties, they do so by ordinances adopted after public hearings. Generally, such actions have characterized as “legislative” actions by the Colorado Supreme Court and therefore subject to the powers of initiative and referendum reserved by the people of Colorado through Article 1, Section 1 of the Colorado Constitution.²¹ These powers give the people the right to petition their governing body to enact a particular zoning law or repeal a particular zoning action, or to call an election to let voters decide. These are essential parts of the legislative process under Colorado’s system of governance and further demonstrate Colorado’s commitment to local self-determination of zoning matters.

The people’s frequent exercise of these rights shows that Coloradans want to have a say in the future of their communities. HB26-1001 sidesteps the local legislative action needed to change permissible land uses and development restrictions and, therefore, the people’s right to call legislative decision into question when it effects direct change to laws in their communities.

Conclusion

HB26-1001, while well-intentioned, is an uncertain experiment that does not justify violence done to comprehensive plans, community engagement, and our constitutional system of governance. Instead, CML urges the Committee to vote “no” and seek opportunities to promote housing developments without blunt and untested mandates and to partner with municipalities to achieve the proponent’s goals.

Respectfully submitted,

Boulder, 484 P.2d 134, 136-37 (Colo. App. 1971) (holding that planned development zoning ordinance to establish low-cost housing was a matter of purely local concern).

¹⁸ *Zavala v. City and Cnty. of Denver*, 759 P.2d 664, 669 (Colo. 1988); *Sellon v. City of Manitou Springs*, 745 P.2d 229 n.5 (Colo. 1987); *City of Colo. Springs v. Smartt*, 620 P.2d 1060, 1062 (Colo.1981).

¹⁹ *Zavala v. City and Cnty. of Denver*, 759 P.2d 664, 669 (Colo. 1988).

²⁰ Amicus Curiae Brief of Congressman Polis in *The City of Fort Collins v. Colorado Oil and Gas Association*, No. 15SC668, Colorado Supreme Court (Aug. 17, 2015).

²¹ See *Margolis v. District Court*, 638 P.2d 297, 303-05 (Colo. 1981). Notably, such actions include “quasi-judicial” elements when conducted by a governing body that involve constitutional protections for interested parties. HB26-1001 also disregards the constitutional implications of changes to property rights without due process.

Beverly Stables
Legislative Advocacy Manager

Robert Sheesley
General Counsel



February 3, 2026

Representative Andrew Boesenecker District 53 andrew.boesenecker.house@coleg.gov

Representative Javier Mabrey District 1 Javier.mabrey.house@coleg.gov

Senator Tony Exum District 11 tony.exum.senate@coleg.gov

Senator Julie Gonzales District 34 Julie.gonzales.senate@coleg.gov

RE: Opposition House Bill 26-1001 Residential Developments on Qualifying Properties

Dear Representatives Boesenecker and Mabrey, Senator Exum, and Senator Gonzales,

As Community Development Director for the Town of Gypsum, I have spent 25 years helping our locally elected officials guide thoughtful, sustainable growth. During that time, Gypsum has grown responsibly from 3,650 residents in 2000 to 10,000 today (a 174% increase) while expanding business opportunities and delivering essential services.

We have actively supported housing in ways that align with our community's long-term vision:

- Zoning and approving diverse for-sale and rental options
- Partnering with Habitat for Humanity Vail Valley to build 100 affordable units
- Contributing financially to Eagle County's affordable housing programs
- Approving housing on school district property

These efforts show that local planning works when communities are empowered to make decisions that balance housing needs with economic vitality, infrastructure, and quality of life.

HB 26-1001 undermines these successes and threatens communities statewide for several critical reasons:

1. **It overrides Colorado's constitutional protection for home-rule municipalities.** Article XX of the Colorado Constitution grants home-rule municipalities (like Gypsum) full control over local land use, zoning, and planning details. This bill disregards that fundamental protection. Just as Colorado firmly resists federal overreach and demands respect for state sovereignty on issues of state concern, local governments deserve the same respect from the state. Imposing a statewide, one-size-fits-all mandate that preempts duly adopted local plans undermines the very principle of self-determination that state officials expect the Federal Government to honor.
2. **It eliminates local strategic planning.** Communities must carefully designate where residential, commercial, light industrial, and heavy industrial uses belong. HB 26-1001 allows qualifying entities to build housing on any qualifying property, regardless of existing zoning or comprehensive plans, disrupting balanced development.
3. **Gypsum already has significant approved housing in the pipeline.** We have zoned or approved projects that will add 2,494 more residential units. Supporting these new residents requires planned commercial, retail, and industrial growth to provide jobs, services, and tax revenue. This bill risks converting prime commercial or industrial land into housing, starving communities, particularly bedroom communities like ours, of needed revenue and creating incompatible uses (e.g., residential next to noisy or polluting industrial operations).

4. **It bypasses public input and transparent processes.** By mandating administrative approval only, the bill removes public hearings, citizen comments, and review by planning commissions and elected officials which erodes accountability and trust.
5. **It jeopardizes essential tax bases and community character.** Prime commercial sites generate sales taxes vital for roads, parks, public safety, and services. Industrial zones support jobs but often involve noise, fumes, lights, or 24/7 operation—conditions unsuitable next to homes. Forcing housing in these areas ignores these real conflicts. We have dealt with these use compatibility problems at the local level and know how important it is that zoning designations and lot layouts are thoughtfully considered.

Colorado faces real housing challenges, but a one-size-fits-all statewide mandate is not the answer. It harms responsible communities like Gypsum that are already delivering results through local leadership.

A better approach would be targeted collaboration: work directly with specific jurisdictions where legitimate barriers exist, rather than preempting local authority across the entire state and overriding the visions our communities have carefully crafted over decades.

I respectfully urge you to oppose HB 26-1001 and protect local control, which has proven effective in building sustainable, vibrant places to live and work.

Thank you for your time and consideration. I am available to discuss these concerns further.

Sincerely,

Lana Bryce
Community Development Director
Town of Gypsum, Eagle County Colorado
lane@townofgypsum.com
(970) 524-1729

cc: Senator Dylan Roberts dylan.roberts.senate@coleg.gov
Representative Meghan Lukens Meghan.lukens.house@coleg.gov
Dan Graeve, Staff for Colorado House Transportation, Housing & Local Government Committee
dan.graeve@coleg.gov
Bev Stables, CML Legislative & Advocacy Manager bstables@cml.org
Jeremy Rietmann, Town Manager jeremy@townofgypsum.com



Town of Palisade, Colorado
175 East 3rd Street, Palisade, CO 81526
website: palisade.gov
January 29, 2026

Oppose HB26-1001 - Small Town Scale & Infrastructure Capacity

Dear Representative House Transportation, Housing & Local Government Committee Members,

The Town of Palisade respectfully urges you to **vote NO on HB26-1001** when it comes before the House Transportation, Housing & Local Government Committee on February 3, 2026.

Planning decisions need to stay with the local government and community. There are Local Planning Codes for a reason: *to make sure communities develop in a functional and harmonious manner*. Palisade is much different than Denver and the same planning codes will have detrimental effects on towns such as Palisade.

Palisade's Unique Vulnerability: Scale Matters - Palisade is Pro-Housing

Palisade is 1.2 square miles with a population of 2,565 residents - we are NOT a Front Range community with urban infrastructure and resources. Within our small-town boundaries, we have at least 6 qualifying nonprofits (churches) that would gain administrative approval rights under HB26-1001, plus potential school and other nonprofit properties.

The Math is Alarming: If even half of these organizations pursued administrative approval to develop their land simultaneously, Palisade could face multiple mandatory-approval housing developments happening faster than our infrastructure can adapt. Rapid, unplanned growth can have long term detrimental effects on the community and the development itself. This is why planning codes and zoning exist. Not for politicians to override local needs and control.

Administrative Approval Abandons Sound Planning for Small Towns

Palisade already partners with schools, nonprofits, and housing organizations. We are pro-housing infill. We don't need to abandon sound public input and infrastructure assessment for forced rapid low quality housing, without proper review.

Request: Please vote NO on HB26-1001

We are available to discuss Palisade's specific concerns at your convenience. We are a professional Town providing housing for various income classes, employees and growth.

Respectfully,


Mayor Greg Mikolai

gmikolai@townofpalisade.org


Trustee Sarah Matchett, CML Representative

smatchett@townofpalisade.org

To: Members of the House Transportation & Local Government Committee

Subject: HB26-1001, "Housing Developments on Qualifying Properties"

Date: February 2, 2026

Thank you to the members of this committee for providing the opportunity to submit testimony regarding HB26-1001.

I am a registered voter residing in an incorporated, home rule city in a Denver suburb.

I am against this bill as written, for the following reasons:

- It is a heavy-handed approach that eliminates local control over planning and zoning decisions affecting almost all residential properties.
- Colorado resources are strained, and the state is already struggling to meet water requirements and air quality standards. Traffic congestion is bad and getting worse. Mass transit has multiple issues which will take years, if not decades, to resolve.
- The state is using population and housing projections that already appear to be out of date, relying on data from the 2023 American Community Survey. The ACS has many weaknesses, including high margins of errors, particularly for certain groups and geographies. The governor's housing study ("Colorado's Housing Shortfall", 9/2025) also uses outdated data, along with a methodology that relies on multiple assumptions, and does not appear to be validated. It has gaps and other issues, as documented in the research brief itself (as it should be). Many variables can and will change, yet this is being used to quantify and project state housing shortfall over the next *decade*. (And this is not about the efforts of the State Demography Office, who understand the shortcomings but have no control over how the data are used.)
- The development where I live consists of a mix of townhomes (70%) and single family homes (30%). It is already a high-density development. Additional multifamily structures are being built to the west and also to the east (developments not reflected in the state's analysis). The single family homes in my subdivision are mostly two-story structures built on small lots with narrow 15 – 20 foot separations between adjacent houses. If an entity were to purchase property in my subdivision and build multiunit residences per this bill, it would destroy a) the character of the neighborhood, and b) the property values of homes on the respective streets and in the immediate proximity of the multiunit structures.
- And while it seems counterintuitive, increasing housing density *en masse* has not been proven to lower housing prices across a larger geographic area (see <https://www.newgeography.com/content/007221-higher-urban-densities-associated-with-worst-housing-affordability>).



A multiunit building on either side of my home, as envisioned by HB26-1001, would turn my property into a deep, dark canyon, drastically limiting available sunlight and privacy, and increasing noise, pollution, and traffic, and decreasing safety.

It is sad to realize that HB26-1001, if passed, is essentially the state of Colorado giving a gift to special interests (i.e., developers, AAMD *et al*) and taking away our quality of life and the value of our homes that we've worked so hard to keep and maintain. Before permanently destroying the character of our neighborhoods, the state should be looking at alternatives, such as repurposing vacant offices/business parks and related buildings, and challenging developers, landlords and nonprofits to make those options work.

Sincerely,
Carol B.

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Carol B.