



## Statement on SB 23-213, Land Use bill – Executive Summary

### **Background**

The locally elected membership that make up Counties & Commissioners Acting Together (CCAT) is very diverse and reflects various perspectives on land use policy. CCAT members are involved and active on behalf of their individual Boards of County Commissioners and other organizations that are providing input to SB 23-213.

The following comments reflect consensus on needed changes and improvements to the bill. This is provided in an executive summary and then followed up with specific recommendations for changes. CCAT staff will support our members in bringing these individual perspectives to lawmakers as they deliberate the policy concepts contained in SB 231-213

CCAT members uniformly recognize and support the need for legislation that addresses affordable housing, including affordable rental and home ownership opportunities, and the need to ease affordability challenges, accommodating population growth in a way that doesn't increase greenhouse gas emissions, and the need to more closely align land use patterns with state and federally funded transportation investments including:

- A process to diagnose and address housing needs,
- Removing barriers to achieving different types of housing and higher density housing in infill areas near transit and with services, - Addressing master planning and coordinating services,
- Greater coordination across agencies, - Integration of land and water use planning and implementation,
- Directing growth in jobs and housing to areas that are served by multi-modal transportation options,
- Optimizing the use of transit and reducing dependency on single-occupancy vehicles where possible and
- Coordinating around multimodal transportation centers and corridors among other goals.

Additionally, CCAT members support affordable housing achieved through a balanced and regional manner while addressing other goals such as reducing greenhouse gas emissions, continuing resource protection (e.g., natural and sensitive lands, agriculture), avoiding housing in hazardous areas (floodplains, wildfire prone areas), achieving greater equity, and avoiding population displacement.

### **SUMMARY COMMENTS**

#### **Bill needs more incentives and support for existing efforts**

- CCAT has concerns about the lack of recognition of existing planning, partnerships and actual projects to address housing gaps and opportunities, many of which incorporate transportation, sustainability and the environment, land use, and open lands preservation.
  - CCAT believes that safeguards are needed to “do no harm” to existing efforts that are meeting the goals of affordable housing, reduction in GHGs, and increased multimodal options. Concerned that without clarity the bill could unintentionally harm existing efforts.
- The process should allow for acceptance of current needs studies that have been conducted within the recent 3 to 5-year period as the initial submittal and allow the required Housing plan to be built on any recently adopted housing plans.
- The bill requires the Transportation Commission to ensure the State's Ten-Year Transportation Plan projects that are “Regionally Significant” are prioritized consistent with the state strategic growth

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objective. Strategic growth objectives are key to achieving many goals of the bill and should be fleshed out in legislation instead of being delegated to the Director of DOLA. The State strategic growth objectives will not be determined by DOLA until March 2024. It is unknown how state priorities will impact local transportation projects that are needed to achieve the goals of the bill.

### **Department of Local Affairs as primary agency to implement bill**

- Currently DOLA is under-resourced and not in a position to be the lead agency for this massive undertaking. Local government experience with the agency is one of slow response and hindering progress on local efforts on affordable housing progress.
- CCAT commissioners are concerned with the level of dependence on DOLA, attorneys and private consultants. The bill needs to lay out a very clear streamlined and affordable approach to support existing efforts and State support for the implementation of effective affordability strategies.

### **Additional direction needed for rulemaking**

- CCAT feels more specificity is needed for all of the DOLA rulemaking processes to include goals for affordability and environmental/air quality protections and improvements. Recent experience with COGCC and AQCC rulemakings in response to legislation underscores the need for the legislature to be very explicit in the goals for that rulemaking.
- The bill must identify affordability, efficient use of transportation infrastructure and air quality as positively stated goals in the legislation to ensure this translates through rulemaking.
- Expand language and guidance around the rulemaking process throughout the legislation. Specifically, highlight the scope of rulemaking to assure affordability standards and climate impact goals.

### **Amend the rulemaking process to ensure formal input and sign off from local government representation.**

- Local government representation and equal participation is crucial to the success of the policy goals contained in the bill.
- Consultation with technical experts, including legal counsel, should occur prior to the public comment and hearing processes to adequately vet proposals
- The rulemaking process should be deliberative, easily accessible for local governments and collaborative in nature. Final Decision making authority of the rulemaking should lie with the multi-agency committee.
  - The committee with final decision making authority should include local government representatives- at a minimum two from urban municipalities and two from urban counties (representing 100k+ and medium/small (10-99k) along with one rural resort job center municipality and one rural resort county.

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- The committee should also include experts in infrastructure/civil engineering and building codes.
- DOLA should obtain independent facilitation to oversee and support this process.

### **Direct Financial impacts to local governments**

- CCAT is concerned about the funding needed to execute the bill's goals. The bill will result in direct financial impacts for local governments due to the required studies and reporting to the state that will necessitate not only staff time but also outside consultants.
- There is little detail as to how the identified funding of \$15.0M of appropriated funds will be distributed. Is this solely for local government grants - or will it be used to fund DOLA or other State agency employees and consultants? If the latter then local governments would have the burden of covering these as unfunded mandates.
- A minimum of 0.25-0.5 FTE averaged annually, will be likely to track necessary data, review and manage assessments and studies. Consultant in range of +/- \$125,000.
- Local implementation will require counties to revise their existing regulations and ordinances to conform to the bill and train staff to implement the revised regulations. The expertise of land use planners and attorneys will be needed to adopt conforming regulations. This will be costly to support.
- Additional resources should be provided and/or more flexibility in the timeline, or ability for certain communities to "pass go" if they are already meeting certain criteria.
- Consider adding funding for cities to do the planning work and to develop design standards or criteria to achieve higher density housing that will fit into neighborhoods and be livable and attract better growth management planning.

### **Overall financial Impacts of Required Zoning Allowances and Changes**

- There is no acknowledgement of finite resources (i.e. water supply) and how that might constrain development. All references to water are limited to physical infrastructure.
- Does not include additional funding for transit service to support additional density being directed to areas without adequate transit service. Without additional transit service, we will be adding population that will of necessity be using single-occupancy vehicles.
- There are several grant programs discussed in the bill that are not included in the appropriations. Specifically, the water efficiency grant program and the multimodal transportation options fund are referenced with no information on the appropriations.

### **Parking concerns**



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- Without significant additional funding for regional and local transit service, it is not advisable to remove all parking minimums for ADUs and middle housing or remove off-street parking requirements for Transit Oriented Areas. Adding density without increasing parking capacity will result in issues especially because these additional units are allowed regardless of whether there is adequate available on-street parking, with proximity to employment and commercial land uses.
- Creating infill as a use by right without accommodating parking will force additional parking onto the streets. These units will not be attractive to families with children or to an aging population that needs a car in close proximity that has been parked in a garage in the winter.
- No allowance for the shared goal to support the transition to the increased use of electric vehicles (EV). Most EV-charging occurs at a person's residence. Without requiring parking spaces, local governments cannot ensure adequate EV-charging access for residents in developments.

### **Lack of Assurances for Housing Affordability and Displacement Prevention**

- The bill only mentions affordability metrics in a limited section related to multifamily development in limited geographies. This is a critical policy concern that should be reflected in more of the requirements across the bill. In addition, the relationship to Proposition 123 should also be considered.
- Clarify who will check for the "equitable distribution of housing" and by what measure.
- The bill mandates policies that will foster gentrification and increase the potential to displace long-time residents from established communities while requiring local governments to mitigate the effects of these unwelcome changes. Developing displacement mitigation measures is delegated to DOLA yet effective measures will likely entail aspects of property taxation, limitations on rent increases, and other measures not within DOLA's purview and possibly not legally allowed under Colorado law. Nor does the bill does not confer any additional authority for local governments to enact displacement mitigation measures they may deem necessary.
- Ensure that reporting requirements for Housing Needs Assessments include metrics on affordability.
- Provisions related to inclusionary zoning ordinances could be interpreted to preclude the application of most existing IZO's to transit-oriented areas.
- Clarify that the goal of achieving affordable housing should not outweigh resource protection of natural areas (e.g., large intact ecological areas, floodplains) or occur in hazardous areas (WUI) or ability to achieve GHG or climate goals. Clarify that cities have resource protection areas they would like to maintain while achieving housing benefits in other areas.

### **Clarification on role of Counties**

- Most of the new statutory requirements are contained in title 29, which is generally applicable to local governments, including counties. However, terms like "local government" and "subject jurisdiction" have been defined in the bill to exclude counties. Therefore, it may be more appropriate to place this new statutory language in title 31, which specifically pertains to municipalities. This would clarify that the language does not apply to counties.

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- Counties should be included in the Housing Needs Planning. They are currently excluded, with no explanation or reason.
- Counties maintain the roads between municipalities that will carry the additional traffic from increased population and do not have any new funding or authority to address the additional demand on county infrastructure.
- Need more clarification on how this bill relates to unincorporated areas within a Growth Management/Urban Service Area of a Tier 1 or Tier 2 municipality, as far as whether the requirements of the bill relate only to incorporated areas, or entire Growth Management Areas.
- Clarify regional planning and potential benefits of county and city coordinated approaches, such as its application to counties' areas within Growth Management or Urban Service Areas to address the "edge of cities" within counties and annexation. Many counties develop IGAs between cities and counties that are effective. The bill does not speak to that and could provide incentives for communities that do better growth management planning.
- It is unclear whether this restriction includes standards that protect public health and life safety, including engineering, utility, building, and fire protection requirements. It is important to clearly protect public health, safety and welfare while achieving the purpose of the bill.
- Prohibition on HOA's restricting ADU's - applies to counties? Check statute (38-33.3-106.5) applicable statewide?

### **Possibility for Loopholes**

- The ability of municipalities to annex areas without guardrails could lead to a loophole in this policy that allows for continued sprawl of single-family home zoning and its negative effects. A possible solution to this is to add guardrails around annexation that require mixed-use developments, housing density and minimum requirements for affordability. .
- The ability of counties to authorize metro district developments in unincorporated areas represents another loophole that could be exploited. A possible solution to this is to add guardrails around low density metro districts.

