



General Assembly

Substitute Bill No. 6749

January Session, 2019



**AN ACT TO REORGANIZE THE ZONING ENABLING ACT AND
PROMOTE MUNICIPAL COMPLIANCE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-2 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) (1) The zoning commission of each city, town or borough is
4 authorized to regulate, within the limits of such municipality: [, the]
5 (A) The height, number of stories and size of buildings and other
6 structures; (B) the percentage of the area of the lot that may be
7 occupied; (C) the size of yards, courts and other open spaces; (D) the
8 density of population and the location and use of buildings, structures
9 and land for trade, industry, residence or other purposes, including
10 water-dependent uses, as defined in section 22a-93; [,] and (E) the
11 height, size, location, brightness and illumination of advertising signs
12 and billboards, [. Such bulk regulations may allow for cluster
13 development, as defined in section 8-18] except as provided in
14 subsection (f) of this section.

15 (2) Such zoning commission may divide the municipality into
16 districts of such number, shape and area as may be best suited to carry
17 out the purposes of this chapter; and, within such districts, it may
18 regulate the erection, construction, reconstruction, alteration or use of

19 buildings or structures and the use of land. All [such] zoning
20 regulations shall be uniform for each class or kind of buildings,
21 structures or use of land throughout each district, but the regulations
22 in one district may differ from those in another district. [, and]

23 (3) Zoning regulations may provide that certain classes or kinds of
24 buildings, structures or uses of land are permitted only after obtaining
25 a special permit or special exception from a zoning commission,
26 planning commission, combined planning and zoning commission or
27 zoning board of appeals, whichever commission or board the
28 regulations may, notwithstanding any special act to the contrary,
29 designate, subject to standards set forth in the regulations and to
30 conditions necessary to protect the public health, safety, convenience
31 and property values. [Such]

32 (b) Zoning regulations adopted pursuant to subsection (a) of this
33 section shall: [be]

34 (1) Be made in accordance with a comprehensive plan and in
35 [adopting such regulations the commission shall consider]
36 consideration of the plan of conservation and development [prepared]
37 adopted under section 8-23; [. Such regulations shall be]

38 (2) Be designed to (A) lessen congestion in the streets; [to] (B) secure
39 safety from fire, panic, flood and other dangers; [to] (C) promote
40 health and the general welfare; [to] (D) provide adequate light and air;
41 [to] (E) prevent the overcrowding of land; [to] (F) avoid undue
42 concentration of population; [and to] (G) facilitate the adequate
43 provision for transportation, water, sewerage, schools, parks and other
44 public requirements; [. Such regulations shall be] and (H) affirmatively
45 further the purposes of the federal Fair Housing Act, 42 USC 3600 et
46 seq., as amended from time to time;

47 (3) Be made with reasonable consideration as to [the character of the
48 district and its peculiar] a district's suitability for particular uses and
49 with a view to conserving the value of buildings and encouraging the

50 most appropriate use of land throughout [such] a municipality; [. Such
51 regulations may, to the extent consistent with soil types, terrain,
52 infrastructure capacity and the plan of conservation and development
53 for the community, provide for cluster development, as defined in
54 section 8-18, in residential zones. Such regulations shall also
55 encourage]

56 (4) Provide for the development of housing opportunities, including
57 opportunities for multifamily dwellings, consistent with soil types,
58 terrain and infrastructure capacity, for all residents of the municipality
59 and the planning region in which the municipality is located, as
60 designated by the Secretary of the Office of Policy and Management
61 under section 16a-4a; [. Such regulations shall also promote]

62 (5) Promote housing choice and economic diversity in housing,
63 including housing for both low and moderate income households; [,
64 and shall encourage]

65 (6) Provide for the development of housing which will meet the
66 housing needs identified in the state's consolidated plan for housing
67 and community development prepared pursuant to section 8-37t and
68 in the housing component and the other components of the state plan
69 of conservation and development prepared pursuant to section 16a-26;
70 [. Zoning regulations shall be]

71 (7) Be made with reasonable consideration for their impact on
72 agriculture, as defined in subsection (q) of section 1-1; [.]

73 (8) Provide that proper provisions be made for soil erosion and
74 sediment control pursuant to section 22a-329;

75 (9) Be made with reasonable consideration for the protection of
76 existing and potential public surface and ground drinking water
77 supplies; and

78 (10) In any municipality that is contiguous to Long Island Sound,
79 (A) be made with reasonable consideration for the restoration and

80 protection of the ecosystem and habitat of Long Island Sound; (B) be
81 designed to reduce hypoxia, pathogens, toxic contaminants and
82 floatable debris on Long Island Sound; and (C) provide that the
83 commission consider the environmental impact on Long Island Sound
84 of any proposal for development.

85 (c) Zoning regulations adopted pursuant to subsection (a) of this
86 section may: [be]

87 (1) To the extent consistent with soil types, terrain and
88 infrastructure capacity for the community, provide for cluster
89 development, as defined in section 8-18;

90 (2) Be made with reasonable consideration for the protection of
91 historic factors; [and shall be made with reasonable consideration for
92 the protection of existing and potential public surface and ground
93 drinking water supplies. On and after July 1, 1985, the regulations shall
94 provide that proper provision be made for soil erosion and sediment
95 control pursuant to section 22a-329. Such regulations may also
96 encourage]

97 (3) Encourage energy-efficient patterns of development, the use of
98 solar and other renewable forms of energy, and energy conservation; [. The regulations may also provide]

100 (4) Provide for incentives for developers who use passive solar
101 energy techniques, as defined in subsection (b) of section 8-25, in
102 planning a residential subdivision development; [. The incentives may
103 include, but not be] including, but not limited to, cluster development,
104 higher density development and performance standards for roads,
105 sidewalks and underground facilities in the subdivision; [. Such
106 regulations may provide]

107 (5) Provide for a municipal system for the creation of development
108 rights and the permanent transfer of such development rights, which
109 may include a system for the variance of density limits in connection
110 with any such transfer; [. Such regulations may also provide]

111 (6) Provide for notice requirements in addition to those required by
112 this chapter; [. Such regulations may provide]

113 (7) Provide for conditions on operations to collect spring water or
114 well water, as defined in section 21a-150, including the time, place and
115 manner of such operations; [. No such regulations shall prohibit] and

116 (8) In any municipality where a traprock ridge or an amphibolite
117 ridge is located, (A) provide for development restrictions in ridgeline
118 setback areas; and (B) restrict quarrying and clear cutting, except that
119 the following operations and uses shall be permitted in ridgeline
120 setback areas, as of right: (i) Emergency work necessary to protect life
121 and property; (ii) any nonconforming uses that were in existence and
122 that were approved on or before the effective date of regulations
123 adopted pursuant to this section; and (iii) selective timbering, grazing
124 of domesticated animals and passive recreation. As used in this
125 subdivision, "traprock ridge", "amphibolite ridge" and "ridgeline
126 setback area" have the same meanings as provided in section 8-1aa.

127 (d) Zoning regulations adopted pursuant to subsection (a) of this
128 section shall not:

129 (1) Prohibit the operation of any family child care home or group
130 child care home in a residential zone; [. No such regulations shall
131 prohibit]

132 (2) (A) Prohibit the use of receptacles for the storage of items
133 designated for recycling in accordance with section 22a-241b or require
134 that such receptacles comply with provisions for bulk or lot area, or
135 similar provisions, except provisions for side yards, rear yards and
136 front yards; [. No such regulations shall] or (B) unreasonably restrict
137 access to or the size of such receptacles for businesses, given the nature
138 of the business and the volume of items designated for recycling in
139 accordance with section 22a-241b, that such business produces in its
140 normal course of business, provided nothing in this section shall be
141 construed to prohibit such regulations from requiring the screening or

142 buffering of such receptacles for aesthetic reasons; [. Such regulations
143 shall not impose]

144 (3) Impose conditions and requirements on manufactured homes,
145 including mobile manufactured homes, having as their narrowest
146 dimension twenty-two feet or more and built in accordance with
147 federal manufactured home construction and safety standards, or on
148 lots containing such manufactured homes, [which] including mobile
149 manufactured home parks, if those conditions and requirements are
150 substantially different from conditions and requirements imposed on
151 (A) single-family dwellings; [and] (B) lots containing single-family
152 dwellings; [. Such regulations shall not impose conditions and
153 requirements on developments to be occupied by manufactured homes
154 having as their narrowest dimension twenty-two feet or more and
155 built in accordance with federal manufactured home construction and
156 safety standards which are substantially different from conditions and
157 requirements imposed on] or (C) multifamily dwellings, lots
158 containing multifamily dwellings, cluster developments or planned
159 unit developments; [. Such regulations shall not prohibit]

160 (4) (A) Prohibit the continuance of any nonconforming use, building
161 or structure existing at the time of the adoption of such regulations;
162 [or] (B) require a special permit or special exception for any such
163 continuance; [. Such regulations shall not] (C) provide for the
164 termination of any nonconforming use solely as a result of nonuse for a
165 specified period of time without regard to the intent of the property
166 owner to maintain that use; [. Such regulations shall not] or (D)
167 terminate or deem abandoned a nonconforming use, building or
168 structure unless the property owner of such use, building or structure
169 voluntarily discontinues such use, building or structure and such
170 discontinuance is accompanied by an intent to not reestablish such use,
171 building or structure. The demolition or deconstruction of a
172 nonconforming use, building or structure shall not by itself be
173 evidence of such property owner's intent to not reestablish such use,
174 building or structure; [. Unless such town opts out, in accordance with

175 the provisions of subsection (j) of section 8-1bb, such regulations shall
176 not prohibit] and

177 (5) Prohibit the installation of temporary health care structures for
178 use by mentally or physically impaired persons [in accordance with
179 the provisions of section 8-1bb if such structures comply with the
180 provisions of said section] pursuant to section 8-1bb, as amended by
181 this act, unless the municipality opts out pursuant to subsection (j) of
182 said section.

183 (e) Any city, town or borough which adopts the provisions of this
184 chapter may, by vote of its legislative body, exempt municipal
185 property from the regulations prescribed by the zoning commission of
186 such city, town or borough, ; but unless it is so voted, municipal
187 property shall be subject to such regulations.

188 [(b) In any municipality that is contiguous to Long Island Sound the
189 regulations adopted under this section shall be made with reasonable
190 consideration for restoration and protection of the ecosystem and
191 habitat of Long Island Sound and shall be designed to reduce hypoxia,
192 pathogens, toxic contaminants and floatable debris in Long Island
193 Sound. Such regulations shall provide that the commission consider
194 the environmental impact on Long Island Sound of any proposal for
195 development.

196 (c) In any municipality where a traprock ridge, as defined in section
197 8-1aa, or an amphibolite ridge, as defined in section 8-1aa, is located
198 the regulations may provide for development restrictions in ridgeline
199 setback areas, as defined in said section. The regulations may restrict
200 quarrying and clear cutting, except that the following operations and
201 uses shall be permitted in ridgeline setback areas, as of right: (1)
202 Emergency work necessary to protect life and property; (2) any
203 nonconforming uses that were in existence and that were approved on
204 or before the effective date of regulations adopted under this section;
205 and (3) selective timbering, grazing of domesticated animals and
206 passive recreation.]

207 ~~[(d)]~~ (f) Any advertising sign or billboard that is not equipped with
208 the ability to calibrate brightness or illumination shall be exempt from
209 any municipal ordinance or regulation regulating such brightness or
210 illumination that is adopted by a city, town or borough, pursuant to
211 subsection (a) of this section, after the date of installation of such
212 advertising sign or billboard. [pursuant to subsection (a) of this
213 section.]

214 Sec. 2. Subsection (a) of section 8-30j of the general statutes is
215 repealed and the following is substituted in lieu thereof (*Effective July*
216 *1, 2019*):

217 (a) [At] Not later than January 1, 2021, and at least once every five
218 years thereafter, each municipality shall prepare or amend and adopt
219 an affordable housing plan for the municipality. Such plan shall
220 specify how the municipality intends to increase the number of
221 affordable housing developments in the municipality.

222 Sec. 3. (NEW) (*Effective July 1, 2019*) (a) (1) The Commissioner of
223 Housing shall convene a working group to conduct a study of the
224 requirements for municipal zoning to:

225 (A) Provide for the development of housing opportunities,
226 including opportunities for multifamily dwellings consistent with soil
227 types, terrain and infrastructure capacity, for all residents of a
228 municipality and the planning region in which such municipality is
229 located, as designated by the Secretary of the Office of Policy and
230 Management pursuant to section 16a-4a of the general statutes;

231 (B) Promote housing choice and economic diversity in housing,
232 including housing for both low and moderate income households; and

233 (C) Provide for the development of housing that will meet the needs
234 identified in the state's consolidated plan for housing and community
235 development, prepared pursuant to section 8-37t of the general
236 statutes, and in the housing and other components of the state plan of
237 conservation and development, prepared pursuant to section 16a-26 of

238 the general statutes.

239 (2) Such study shall include an examination of (A) how the
240 Commissioner of Housing should determine each municipality's
241 compliance with such zoning requirements, (B) the form and manner
242 in which evidence of such compliance should be provided to said
243 commissioner, and (C) how such compliance should be incorporated
244 into each municipality's affordable housing plan prepared pursuant to
245 section 8-30j of the general statutes, as amended by this act.

246 (3) The working group shall consist of the following members, who
247 shall be appointed by the Commissioner of Housing not later than
248 sixty days after the effective date of this section:

249 (A) Two representatives with expertise in fair housing issues;

250 (B) Two representatives with expertise in state or local planning;

251 (C) Two representatives with expertise in addressing homelessness
252 in the state;

253 (D) One representative of a municipal advocacy organization;

254 (E) One representative with expertise in the housing construction
255 trade; and

256 (F) The Secretary of the Office of Policy and Management, or said
257 secretary's designee.

258 (4) Not later than January 1, 2020, the Commissioner of Housing
259 shall submit a report regarding the outcome and recommendations of
260 the working group, including any recommended legislation, to the
261 joint standing committee of the General Assembly having cognizance
262 of matters relating to planning and development, in accordance with
263 section 11-4a of the general statutes.

264 (b) (1) Not later than January 1, 2021, and at least once every ten
265 years thereafter, each municipality that adopts the provisions of

chapter 124 of the general statutes pursuant to section 8-1 of the general statutes, as amended by this act, shall demonstrate, in a form and manner prescribed by the Commissioner of Housing, compliance with subdivisions (4) to (6), inclusive, of subsection (b) of section 8-2 of the general statutes, as amended by this act. Said commissioner, in consultation with the working group established pursuant to subsection (a) of this section, shall prescribe the form and manner in which each municipality shall provide evidence of such compliance, except that, not later than April 1, 2020, said commissioner shall provide guidance to municipalities regarding the demonstration of such compliance.

(2) The Commissioner of Housing shall notify the Secretary of the Office of Policy and Management of the failure of any municipality to demonstrate compliance in accordance with subdivision (1) of this subsection. Any municipality that fails to demonstrate such compliance shall be ineligible for discretionary state funding until said commissioner notifies said secretary that such municipality has so complied, except that said secretary may expressly waive such ineligibility.

Sec. 4. Subsection (j) of section 8-1bb of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

(j) A municipality, by vote of its legislative body or, in a municipality where the legislative body is a town meeting, by vote of the board of selectmen, may opt out of the provisions of this section and the [provision] provisions of subdivision (5) of subsection [(a)] (d) of section 8-2, as amended by this act, regarding authorization for the installation of temporary health care structures, provided the zoning commission or combined planning and zoning commission of the municipality: (1) First holds a public hearing in accordance with the provisions of section 8-7d on such proposed opt-out, (2) affirmatively decides to opt out of the provisions of said sections within the period of time permitted under section 8-7d, (3) states upon its records the

299 reasons for such decision, and (4) publishes notice of such decision in a
300 newspaper having a substantial circulation in the municipality not
301 later than fifteen days after such decision has been rendered.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	8-2
Sec. 2	<i>July 1, 2019</i>	8-30j(a)
Sec. 3	<i>July 1, 2019</i>	New section
Sec. 4	<i>July 1, 2019</i>	8-1bb(j)

PD *Joint Favorable Subst.*

HSG *Joint Favorable*