

**TOWN OF EAST HAVEN TOWN COUNCIL
DECEMBER 6, 2022 REGULAR MEETING
CONNECTICUT GENERAL STATUTES SECTIONS
FOR PUBLIC HEARINGS #3 AND #4**

Sec. 8-2. Regulations. (a)(1) The zoning commission of each city, town or borough is authorized to regulate, within the limits of such municipality: (A) The height, number of stories and size of buildings and other structures; (B) the percentage of the area of the lot that may be occupied; (C) the size of yards, courts and other open spaces; (D) the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes, including water-dependent uses, as defined in section 22a-93; and (E) the height, size, location, brightness and illumination of advertising signs and billboards, except as provided in subsection (f) of this section.

(2) Such zoning commission may divide the municipality into districts of such number, shape and area as may be best suited to carry out the purposes of this chapter; and, within such districts, it may regulate the erection, construction, reconstruction, alteration or use of buildings or structures and the use of land. All zoning regulations shall be uniform for each class or kind of buildings, structures or use of land throughout each district, but the regulations in one district may differ from those in another district.

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

(b) Zoning regulations adopted pursuant to subsection (a) of this section shall:

(1) Be made in accordance with a comprehensive plan and in consideration of the plan of conservation and development adopted under section 8-23;

(2) Be designed to (A) lessen congestion in the streets; (B) secure safety from fire, panic, flood and other dangers; (C) promote health and the general welfare; (D) provide adequate light and air; (E) protect the state's historic, tribal, cultural and environmental resources; (F) facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements; (G) consider the impact of permitted land uses on contiguous municipalities and on the planning region, as defined in section 4-124i, in which such municipality is located; (H) address significant disparities in housing needs and access to educational, occupational and other opportunities; (I)

promote efficient review of proposals and applications; and (J) affirmatively further the purposes of the federal Fair Housing Act, 42 USC 3601 et seq., as amended from time to time;

(3) Be drafted with reasonable consideration as to the physical site characteristics of the district and its peculiar suitability for particular uses and with a view to encouraging the most appropriate use of land throughout a municipality;

(4) Provide for the development of housing opportunities, including opportunities for multifamily dwellings, consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located, as designated by the Secretary of the Office of Policy and Management under section 16a-4a;

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

(6) Expressly allow the development of housing which will meet the housing needs identified in the state's consolidated plan for housing and community development prepared pursuant to section 8-37t and in the housing component and the other components of the state plan of conservation and development prepared pursuant to section 16a-26;

(7) Be made with reasonable consideration for the impact of such regulations on agriculture, as defined in subsection (q) of section 1-1;

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

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

(10) In any municipality that is contiguous to or on a navigable waterway draining to Long Island Sound, (A) be made with reasonable consideration for the restoration and protection of the ecosystem and habitat of Long Island Sound; (B) be designed to reduce hypoxia, pathogens, toxic contaminants and floatable debris on Long Island Sound; and (C) provide that such municipality's zoning commission consider the environmental impact on Long Island Sound coastal resources, as defined in section 22a-93, of any proposal for development.

(c) Zoning regulations adopted pursuant to subsection (a) of this section may:

(1) To the extent consistent with soil types, terrain and water, sewer and traffic infrastructure capacity for the community, provide for or require cluster development, as defined in section 8-18;

(2) Be made with reasonable consideration for the protection of historic factors;

(3) Require or promote (A) energy-efficient patterns of development; (B) the use of distributed generation or freestanding solar, wind and other renewable forms of energy; (C) combined heat and power; and (D) energy conservation;

(4) Provide for incentives for developers who use (A) solar and other renewable forms of energy; (B) combined heat and power; (C) water conservation, including demand offsets; and (D) energy conservation techniques, including, but not limited to, cluster development, higher density development and performance standards for roads, sidewalks and underground facilities in the subdivision;

(5) Provide for a municipal system for the creation of development rights and the permanent transfer of such development rights, which may include a system for the variance of density limits in connection with any such transfer;

(6) Provide for notice requirements in addition to those required by this chapter;

(7) Provide for conditions on operations to collect spring water or well water, as defined in section 21a-150, including the time, place and manner of such operations;

(8) Provide for floating zones, overlay zones and planned development districts;

(9) Require estimates of vehicle miles traveled and vehicle trips generated in lieu of, or in addition to, level of service traffic calculations to assess (A) the anticipated traffic impact of proposed developments; and (B) potential mitigation strategies such as reducing the amount of required parking for a development or requiring public sidewalks, crosswalks, bicycle paths, bicycle racks or bus shelters, including off-site; and

(10) In any municipality where a traprock ridge or an amphibolite ridge is located, (A) provide for development restrictions in ridgeline setback areas; and (B) restrict quarrying and clear cutting, except that the following operations and uses shall be permitted in ridgeline setback areas, as of right: (i) Emergency work necessary to protect life and property; (ii) any nonconforming uses that were in existence and that were approved on or before the effective date of regulations adopted pursuant to this section; and (iii) selective timbering, grazing of domesticated animals and passive recreation.

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

(1) Prohibit the operation of any family child care home or group child care home in a residential zone;

(2) (A) Prohibit the use of receptacles for the storage of items designated for recycling in accordance with section 22a-241b or require that such receptacles comply with provisions for bulk or lot area, or similar provisions, except provisions for side yards, rear yards and front yards; or (B) unreasonably restrict access to or the size of such receptacles for businesses, given the nature of the business and the volume of items designated for recycling in accordance with section 22a-241b, that such business produces in its normal course of business, provided nothing in this section shall be construed to prohibit such regulations from requiring the screening or buffering of such receptacles for aesthetic reasons;

(3) Impose conditions and requirements on manufactured homes, including mobile manufactured homes, having as their narrowest dimension twenty-two feet or more and built in accordance with federal manufactured home construction and safety standards or on lots containing such manufactured homes, including mobile manufactured home parks, if those conditions and requirements are substantially different from conditions and requirements imposed on (A) single-family dwellings; (B) lots containing single-family dwellings; or (C) multifamily dwellings, lots containing multifamily dwellings, cluster developments or planned unit developments;

(4) (A) Prohibit the continuance of any nonconforming use, building or structure existing at the time of the adoption of such regulations; (B) require a special permit or special exception for any such continuance; (C) provide for the termination of any nonconforming use solely as a result of nonuse for a specified period of time without regard to the intent of the property owner to maintain that use; or (D) terminate or deem abandoned a nonconforming use, building or structure unless the property owner of such use, building or structure voluntarily discontinues such use, building or structure and such discontinuance is accompanied by an intent to not reestablish such use, building or structure. The demolition or deconstruction of a nonconforming use, building or structure shall not by itself be evidence of such property owner's intent to not reestablish such use, building or structure;

(5) Prohibit the installation, in accordance with the provisions of section 8-1bb, of temporary health care structures for use by mentally or physically impaired persons if such structures comply with the provisions of said section, unless the municipality opts out in accordance with the provisions of subsection (j) of said section;

(6) Prohibit the operation in a residential zone of any cottage food operation, as defined in section 21a-62b;

(7) Establish for any dwelling unit a minimum floor area that is greater than the minimum floor area set forth in the applicable building, housing or other code;

(8) Place a fixed numerical or percentage cap on the number of dwelling units that constitute multifamily housing over four units, middle housing or mixed-use development that may be permitted in the municipality;

(9) Require more than one parking space for each studio or one-bedroom dwelling unit or more than two parking spaces for each dwelling unit with two or more bedrooms, unless the municipality opts out in accordance with the provisions of section 8-2p; or

(10) Be applied to deny any land use application, including for any site plan approval, special permit, special exception or other zoning approval, on the basis of (A) a district's character, unless such character is expressly articulated in such regulations by clear and explicit physical standards for site work and structures, or (B) the immutable characteristics, source of income or income level of any applicant or end user, other than age or disability whenever age-restricted or disability-restricted housing may be permitted.

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

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

(1949 Rev., S. 837; November, 1955, S. N10; 1959, P.A. 614, S. 2; 661; 1961, P.A. 569; 1963, P.A. 133; 1967, P.A. 801; P.A. 77-509, S. 1; P.A. 78-314, S. 1; P.A. 80-327, S. 1; P.A. 81-334, S. 2; P.A. 83-388, S. 6, 9; P.A. 84-263; P.A. 85-91, S. 2, 5; 85-279, S. 3; P.A. 87-215, S. 1, 7; 87-232; 87-474, S. 1; 87-490, S. 1; P.A. 88-105, S. 2; 88-203, S. 1; P.A. 89-277, S. 1; P.A. 91-170, S. 1; 91-392, S. 1; 91-395, S. 1, 11; P.A. 92-50; P.A. 93-385, S. 3; P.A. 95-239, S. 2; 95-335, S. 14, 26; P.A. 97-296, S. 2, 4; P.A. 98-105, S. 3; P.A. 10-87, S. 4; P.A. 11-124, S. 2; 11-188, S. 3; P.A. 15-227, S. 25; P.A. 17-39, S. 1; 17-155, S. 2; P.A. 18-28, S. 1, 2; 18-132, S. 1; P.A. 21-29, S. 4.)

Sec. 8-2o. Zoning regulations re accessory apartments. Municipal opt-out; exception. (a) Any zoning regulations adopted pursuant to section 8-2 shall:

(1) Designate locations or zoning districts within the municipality in which accessory apartments are allowed, provided at least one accessory apartment shall be allowed as of right on each lot that contains a single-family dwelling and no such accessory apartment shall be required to be an affordable accessory apartment;

(2) Allow accessory apartments to be attached to or located within the proposed or existing principal dwelling, or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling;

(3) Set a maximum net floor area for an accessory apartment of not less than thirty per cent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less, except that such regulations may allow a larger net floor area for such apartments;

(4) Require setbacks, lot size and building frontage less than or equal to that which is required for the principal dwelling, and require lot coverage greater than or equal to that which is required for the principal dwelling;

(5) Provide for height, landscaping and architectural design standards that do not exceed any such standards as they are applied to single-family dwellings in the municipality;

(6) Be prohibited from requiring (A) a passageway between any such accessory apartment and any such principal dwelling, (B) an exterior door for any such accessory apartment, except as required by the applicable building or fire code, (C) any more than one parking space for any such accessory apartment, or fees in lieu of parking otherwise allowed by section 8-2c, (D) a familial, marital or employment relationship between occupants of the principal dwelling and accessory apartment, (E) a minimum age for occupants of the accessory apartment, (F) separate billing of utilities otherwise connected to, or used by, the principal dwelling unit, or (G) periodic renewals for permits for such accessory apartments; and

(7) Be interpreted and enforced such that nothing in this section shall be in derogation of (A) applicable building code requirements, (B) the ability of a municipality to prohibit or limit the use of accessory apartments for short-term rentals or vacation stays, or (C) other requirements where a well or private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld.

(b) The as of right permit application and review process for approval of accessory apartments shall require that a decision on any such application be rendered not later

than sixty-five days after receipt of such application by the applicable zoning commission, except that an applicant may consent to one or more extensions of not more than an additional sixty-five days or may withdraw such application.

(c) A municipality shall not (1) condition the approval of an accessory apartment on the correction of a nonconforming use, structure or lot, or (2) require the installation of fire sprinklers in an accessory apartment if such sprinklers are not required for the principal dwelling located on the same lot or otherwise required by the fire code.

(d) A municipality, special district, sewer or water authority shall not (1) consider an accessory apartment to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless such accessory apartment was constructed with a new single-family dwelling on the same lot, or (2) require the installation of a new or separate utility connection directly to an accessory apartment or impose a related connection fee or capacity charge.

(e) If a municipality fails to adopt new regulations or amend existing regulations by January 1, 2023, for the purpose of complying with the provisions of subsections (a) to (d), inclusive, of this section, and unless such municipality opts out of the provisions of said subsections in accordance with the provisions of subsection (f) of this section, any noncompliant existing regulation shall become null and void and such municipality shall approve or deny applications for accessory apartments in accordance with the requirements for regulations set forth in the provisions of subsections (a) to (d), inclusive, of this section until such municipality adopts or amends a regulation in compliance with said subsections. A municipality may not use or impose additional standards beyond those set forth in subsections (a) to (d), inclusive, of this section.

(f) Notwithstanding the provisions of subsections (a) to (d), inclusive, of this section, the zoning commission or combined planning and zoning commission, as applicable, of a municipality, by a two-thirds vote, may initiate the process by which such municipality opts out of the provisions of said subsections regarding allowance of accessory apartments, provided such commission: (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 subsections within the period of time permitted under section 8-7d, (3) states upon its records the reasons for such decision, and (4) publishes notice of such decision in a newspaper having a substantial circulation in the municipality not later than fifteen days after such decision has been rendered. Thereafter, the municipality's legislative body or, in a municipality where the legislative body is a town meeting, its board of selectmen, by a two-thirds vote, may complete the process by which such municipality opts out of the provisions of

subsections (a) to (d), inclusive, of this section, except that, on and after January 1, 2023, no municipality may opt out of the provisions of said subsections.

(P.A. 21-29, S. 6.)

Sec. 8-2p. Municipal opt-out re dwelling unit parking space limitations. The zoning commission or combined planning and zoning commission, as applicable, of a municipality, by a two-thirds vote, may initiate the process by which such municipality opts out of the provision of subdivision (9) of subsection (d) of section 8-2 regarding limitations on parking spaces for dwelling units, provided such commission: (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 provision of said subsection within the period of time permitted under section 8-7d, (3) states upon its records the reasons for such decision, and (4) publishes notice of such decision in a newspaper having a substantial circulation in the municipality not later than fifteen days after such decision has been rendered. Thereafter, the municipality's legislative body or, in a municipality where the legislative body is a town meeting, its board of selectmen, by a two-thirds vote, may complete the process by which such municipality opts out of the provision of subsection (d) of section 8-2.

(P.A. 21-29, S. 5.)