



General Assembly

Amendment

February Session, 2002

LCO No. 3408

HB0540703408HD0

Offered by:

REP. MALONE, 47th Dist.

SEN. FREEDMAN, 26th Dist.

To: Subst. House Bill No. 5407

File No. 265

Cal. No. 160

**"AN ACT CONCERNING LOCAL PARTICIPATION IN THE SITING
OF CELLULAR TOWERS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (a) of section 8-2 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *October 1, 2002*):

6 (a) The zoning commission of each city, town or borough is
7 authorized to regulate, within the limits of such municipality, (1) the
8 height, number of stories and size of buildings and other structures; (2)
9 the height, size, location and number of telecommunications towers
10 and associated telecommunications equipment used in a personal
11 communications services system, as defined in the Code of Federal
12 Regulations Title 47, Part 24, as amended; (3) the percentage of the area
13 of the lot that may be occupied; (4) the size of yards, courts and other
14 open spaces; (5) the density of population and the location and use of

15 buildings, structures and land for trade, industry, residence or other
16 purposes, including water-dependent uses, as defined in section 22a-
17 93; [] and (6) the height, size and location of advertising signs and
18 billboards. Such bulk regulations may allow for cluster development,
19 as defined in section 8-18. Such zoning commission may divide the
20 municipality into districts of such number, shape and area as may be
21 best suited to carry out the purposes of this chapter; and, within such
22 districts, it may regulate the erection, construction, reconstruction,
23 alteration or use of buildings or structures and the use of land. All such
24 regulations shall be uniform for each class or kind of buildings,
25 structures or use of land throughout each district, but the regulations
26 in one district may differ from those in another district, and may
27 provide that certain classes or kinds of buildings, structures or uses of
28 land are permitted only after obtaining a special permit or special
29 exception from a zoning commission, planning commission, combined
30 planning and zoning commission or zoning board of appeals,
31 whichever commission or board the regulations may, notwithstanding
32 any special act to the contrary, designate, subject to standards set forth
33 in the regulations and to conditions necessary to protect the public
34 health, safety, convenience and property values. Such regulations shall
35 be made in accordance with a comprehensive plan and in adopting
36 such regulations the commission shall consider the plan of
37 conservation and development prepared under section 8-23, as
38 amended. Such regulations shall be designed to lessen congestion in
39 the streets; to secure safety from fire, panic, flood and other dangers; to
40 promote health and the general welfare; to provide adequate light and
41 air; to prevent the overcrowding of land; to avoid undue concentration
42 of population and to facilitate the adequate provision for
43 transportation, water, sewerage, schools, parks and other public
44 requirements. Such regulations shall be made with reasonable
45 consideration as to the character of the district and its peculiar
46 suitability for particular uses and with a view to conserving the value
47 of buildings and encouraging the most appropriate use of land
48 throughout such municipality. Such regulations may, to the extent
49 consistent with soil types, terrain, infrastructure capacity and the plan

50 of conservation and development for the community, provide for
51 cluster development, as defined in section 8-18, in residential zones.
52 Such regulations shall also encourage the development of housing
53 opportunities, including opportunities for multifamily dwellings,
54 consistent with soil types, terrain and infrastructure capacity, for all
55 residents of the municipality and the planning region in which the
56 municipality is located, as designated by the Secretary of the Office of
57 Policy and Management under section 16a-4a. Such regulations shall
58 also promote housing choice and economic diversity in housing,
59 including housing for both low and moderate income households, and
60 shall encourage the development of housing which will meet the
61 housing needs identified in the housing plan prepared pursuant to
62 section 8-37t and in the housing component and the other components
63 of the state plan of conservation and development prepared pursuant
64 to section 16a-26. Zoning regulations shall be made with reasonable
65 consideration for their impact on agriculture. Zoning regulations may
66 be made with reasonable consideration for the protection of historic
67 factors and shall be made with reasonable consideration for the
68 protection of existing and potential public surface and ground
69 drinking water supplies. On and after July 1, 1985, the regulations shall
70 provide that proper provision be made for soil erosion and sediment
71 control pursuant to section 22a-329. Such regulations may also
72 encourage energy-efficient patterns of development, the use of solar
73 and other renewable forms of energy, and energy conservation. The
74 regulations may also provide for incentives for developers who use
75 passive solar energy techniques, as defined in subsection (b) of section
76 8-25, as amended, in planning a residential subdivision development.
77 The incentives may include, but not be limited to, cluster development,
78 higher density development and performance standards for roads,
79 sidewalks and underground facilities in the subdivision. Such
80 regulations may provide for a municipal system for the creation of
81 development rights and the permanent transfer of such development
82 rights, which may include a system for the variance of density limits in
83 connection with any such transfer. Such regulations may also provide
84 for notice requirements in addition to those required by this chapter.

85 Such regulations may provide for conditions on operations to collect
86 spring water or well water, as defined in section 21a-150, including the
87 time, place and manner of such operations. No such regulations shall
88 prohibit the operation of any family day care home or group day care
89 home in a residential zone. Such regulations shall not impose
90 conditions and requirements on manufactured homes having as their
91 narrowest dimension twenty-two feet or more and built in accordance
92 with federal manufactured home construction and safety standards or
93 on lots containing such manufactured homes which are substantially
94 different from conditions and requirements imposed on single-family
95 dwellings and lots containing single-family dwellings. Such
96 regulations shall not impose conditions and requirements on
97 developments to be occupied by manufactured homes having as their
98 narrowest dimension twenty-two feet or more and built in accordance
99 with federal manufactured home construction and safety standards
100 which are substantially different from conditions and requirements
101 imposed on multifamily dwellings, lots containing multifamily
102 dwellings, cluster developments or planned unit developments. Such
103 regulations shall not prohibit the continuance of any nonconforming
104 use, building or structure existing at the time of the adoption of such
105 regulations. Such regulations shall not provide for the termination of
106 any nonconforming use solely as a result of nonuse for a specified
107 period of time without regard to the intent of the property owner to
108 maintain that use. Any city, town or borough which adopts the
109 provisions of this chapter may, by vote of its legislative body, exempt
110 municipal property from the regulations prescribed by the zoning
111 commission of such city, town or borough; but unless it is so voted
112 municipal property shall be subject to such regulations.

113 Sec. 2. (NEW) (*Effective October 1, 2002*) (a) When an application,
114 petition, request or plan is filed with the zoning commission, planning
115 and zoning commission or zoning board of appeals of any
116 municipality concerning a telecommunications tower or associated
117 telecommunications equipment used in a personal communications
118 services system, as defined in the Code of Federal Regulations Title 47,

119 Part 24, as amended, the applicant or the person making the filing shall
120 provide written notice of the application, petition, request or plan to
121 the Connecticut Siting Council. Such notice shall be made by certified
122 mail, return receipt requested, and shall be mailed no later than seven
123 days after the date of the application.

124 (b) The presiding officer of the zoning commission, planning and
125 zoning commission or zoning board of appeals shall grant the
126 Connecticut Siting Council intervenor status at any hearing on any
127 such application, petition, request or plan, and shall define the
128 Connecticut Siting Council's intervenor rights in accordance with
129 subsection (d) of section 4-177a of the general statutes.

130 Sec. 3. Subsection (a) of section 16-50i of the general statutes is
131 repealed and the following is substituted in lieu thereof (*Effective*
132 *October 1, 2002*):

133 (a) "Facility" means: (1) An electric transmission line of a design
134 capacity of sixty-nine kilovolts or more, including associated
135 equipment but not including a transmission line tap, as defined in
136 subsection (e) of this section; (2) a fuel transmission facility, except a
137 gas transmission line having a design capability of less than two
138 hundred pounds per square inch gauge pressure; (3) any electric
139 generating or storage facility using any fuel, including nuclear
140 materials, including associated equipment for furnishing electricity but
141 not including an emergency generating device, as defined in
142 subsection (f) of this section or a facility (i) owned and operated by a
143 private power producer, as defined in section 16-243b, (ii) which is a
144 qualifying small power production facility or a qualifying
145 cogeneration facility under the Public Utility Regulatory Policies Act of
146 1978, as amended, or a facility determined by the council to be
147 primarily for a producer's own use, and (iii) which has, in the case of a
148 facility utilizing renewable energy sources, a generating capacity of
149 one megawatt of electricity or less and, in the case of a facility utilizing
150 cogeneration technology, a generating capacity of twenty-five
151 megawatts of electricity or less; (4) any electric substation or

152 switchyard designed to change or regulate the voltage of electricity at
153 sixty-nine kilovolts or more or to connect two or more electric circuits
154 at such voltage, which substation or switchyard may have a substantial
155 adverse environmental effect, as determined by the council established
156 under section 16-50j, and other facilities which may have a substantial
157 adverse environmental effect as the council may, by regulation,
158 prescribe; (5) such community antenna television towers and head-end
159 structures, including associated equipment, which may have a
160 substantial adverse environmental effect, as said council shall, by
161 regulation, prescribe; and (6) such telecommunication towers,
162 including associated telecommunications equipment, owned or
163 operated by the state, a public service company or a certified
164 telecommunications provider or used in a cellular system, as defined
165 in the Code of Federal Regulations Title 47, Part 22, as amended,
166 except for telecommunication towers or associated
167 telecommunications equipment used in a personal communications
168 system, as defined in the Code of Federal Regulations Title 47, Part 22,
169 as amended, which may have a substantial adverse environmental
170 effect, as said council shall, by regulation, prescribe.

171 Sec. 4. Subsection (a) of section 16-50p of the general statutes, as
172 amended by section 2 of public act 01-120, is repealed and the
173 following is substituted in lieu thereof (*Effective October 1, 2002*):

174 (a) In a certification proceeding, the council shall render a decision
175 upon the record either granting or denying the application as filed, or
176 granting it upon such terms, conditions, limitations or modifications of
177 the construction or operation of the facility as the council may deem
178 appropriate. The council's decision shall be rendered within twelve
179 months of the filing of an application concerning a facility described in
180 subdivision (1) or (2) of subsection (a) of section 16-50i, as amended by
181 this act, or subdivision (4) of said subsection (a) if the application was
182 incorporated in an application concerning a facility described in
183 subdivision (1) of said subsection (a), and within one hundred eighty
184 days of the filing of any other application concerning a facility
185 described in subdivision (4) of said subsection (a), and an application

186 concerning a facility described in subdivision (3), (5) or (6) of said
187 subsection (a), provided such time periods may be extended by the
188 council by not more than one hundred eighty days with the consent of
189 the applicant. The council shall file, with its order, an opinion stating
190 in full its reasons for the decision that states with particularity the basis
191 for each decision as to each disputed issue, the reasons for which it did
192 not select an alternative site that was listed on the application pursuant
193 to subsection (b) of section 16-50l, its position on opposing party
194 claims, and the manner in which the criteria set forth in this section
195 were considered in arriving at such decision, including, where
196 applicable, the specific evidence relied upon and the reasons for the
197 reliance. Such decision shall also include a discussion of any
198 consultation with a municipality pursuant to subsection (e) of section
199 16-50l and the recommendation issued by the municipality pursuant to
200 said subsection (e). Except as provided in subsection (c) of this section,
201 the council shall not grant a certificate, either as proposed or as
202 modified by the council, unless it shall find and determine: (1) A
203 public need for the facility and the basis of the need; (2) the nature of
204 the probable environmental impact, including a specification of every
205 significant adverse effect, whether alone or cumulatively with other
206 effects, on, and conflict with the policies of the state concerning, the
207 natural environment, ecological balance, public health and safety,
208 scenic, historic and recreational values, forests and parks, air and
209 water purity and fish, aquaculture and wildlife; (3) why the adverse
210 effects or conflicts referred to in subdivision (2) of this subsection are
211 not sufficient reason to deny the application; (4) in the case of an
212 electric transmission line, (A) what part, if any, of the facility shall be
213 located overhead, (B) that the facility conforms to a long-range plan for
214 expansion of the electric power grid of the electric systems serving the
215 state and interconnected utility systems and will serve the interests of
216 electric system economy and reliability, and (C) that the overhead
217 portions of the facility, if any, are cost effective and the most
218 appropriate alternative based on a life-cycle cost analysis of the facility
219 and underground alternatives to such facility, and are consistent with
220 the purposes of this chapter, with such regulations as the council may

221 adopt pursuant to subsection (a) of section 16-50t, and with the Federal
222 Power Commission "Guidelines for the Protection of Natural Historic
223 Scenic and Recreational Values in the Design and Location of Rights-
224 of-Way and Transmission Facilities" or any successor guidelines and
225 any other applicable federal guidelines; (5) in the case of an electric or
226 fuel transmission line, that the location of the line will not pose an
227 undue hazard to persons or property along the area traversed by the
228 line. The terms of any agreement entered into by the applicant and any
229 party to the certification proceeding, or any third party, in connection
230 with the construction or operation of the facility, shall be part of the
231 record of the proceedings and available for public inspection. The full
232 text of any such agreement, and a statement of any consideration
233 therefor, if not contained in the agreement, shall be filed with the
234 council prior to the council's decision. This provision shall not require
235 the public disclosure of proprietary information or trade secrets."

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>