



General Assembly

February Session, 2012

Raised Bill No. 5341

LCO No. 1532

01532_____CE_

Referred to Committee on Commerce

Introduced by:

(CE)

AN ACT CONCERNING ADDITIONAL BUSINESS RIGHTS RELATED TO ZONING ENFORCEMENTS.

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

1 Section 1. Section 8-2a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2013*):

3 (a) The secretary or clerk of each regulatory board of a political
4 subdivision of the state, adopting subdivision or zoning regulations
5 pursuant to the general statutes or a special act, shall make printed
6 copies of such regulations available to the public at a reasonable price
7 upon request.

8 (b) The secretary or clerk of each regulatory board of a political
9 subdivision of the state shall make printed copies of a step-by-step
10 explanation of the procedure for obtaining a certificate of occupancy,
11 which shall include any fees required in said procedure, available to
12 the public at a reasonable price upon request.

13 Sec. 2. Subsection (a) of section 8-2 of the 2012 supplement to the
14 general statutes is repealed and the following is substituted in lieu

15 thereof (*Effective January 1, 2013*):

16 (a) The zoning commission of each city, town or borough is
17 authorized to regulate, within the limits of such municipality, the
18 height, number of stories and size of buildings and other structures;
19 the percentage of the area of the lot that may be occupied; the size of
20 yards, courts and other open spaces; the density of population and the
21 location and use of buildings, structures and land for trade, industry,
22 residence or other purposes, including water-dependent uses, as
23 defined in section 22a-93, and the height, size and location of
24 advertising signs and billboards. Such bulk regulations may allow for
25 cluster development, as defined in section 8-18. Such zoning
26 commission may divide the municipality into districts of such number,
27 shape and area as may be best suited to carry out the purposes of this
28 chapter; and, within such districts, it may regulate the erection,
29 construction, reconstruction, alteration or use of buildings or
30 structures and the use of land. All such regulations shall be uniform
31 for each class or kind of buildings, structures or use of land throughout
32 each district, but the regulations in one district may differ from those
33 in another district, and may provide that certain classes or kinds of
34 buildings, structures or uses of land are permitted only after obtaining
35 a special permit or special exception from a zoning commission,
36 planning commission, combined planning and zoning commission or
37 zoning board of appeals, whichever commission or board the
38 regulations may, notwithstanding any special act to the contrary,
39 designate, subject to standards set forth in the regulations and to
40 conditions necessary to protect the public health, safety, convenience
41 and property values. Such regulations shall be made in accordance
42 with a comprehensive plan and in adopting such regulations the
43 commission shall consider the plan of conservation and development
44 prepared under section 8-23. Such regulations shall be designed to
45 lessen congestion in the streets; to secure safety from fire, panic, flood
46 and other dangers; to promote health and the general welfare; to
47 provide adequate light and air; to prevent the overcrowding of land; to
48 avoid undue concentration of population and to facilitate the adequate

49 provision for transportation, water, sewerage, schools, parks and other
50 public requirements. Such regulations shall be made with reasonable
51 consideration as to the character of the district and its peculiar
52 suitability for particular uses and with a view to conserving the value
53 of buildings and encouraging the most appropriate use of land
54 throughout such municipality. Such regulations may, to the extent
55 consistent with soil types, terrain, infrastructure capacity and the plan
56 of conservation and development for the community, provide for
57 cluster development, as defined in section 8-18, in residential zones.
58 Such regulations shall also encourage the development of housing
59 opportunities, including opportunities for multifamily dwellings,
60 consistent with soil types, terrain and infrastructure capacity, for all
61 residents of the municipality and the planning region in which the
62 municipality is located, as designated by the Secretary of the Office of
63 Policy and Management under section 16a-4a. Such regulations shall
64 also promote housing choice and economic diversity in housing,
65 including housing for both low and moderate income households, and
66 shall encourage the development of housing which will meet the
67 housing needs identified in the state's consolidated plan for housing
68 and community development prepared pursuant to section 8-37t and
69 in the housing component and the other components of the state plan
70 of conservation and development prepared pursuant to section 16a-26.
71 Zoning regulations shall be made with reasonable consideration for
72 their impact on agriculture, as defined in subsection (q) of section 1-1.
73 Zoning regulations may be made with reasonable consideration for the
74 protection of historic factors and shall be made with reasonable
75 consideration for the protection of existing and potential public surface
76 and ground drinking water supplies. On and after July 1, 1985, the
77 regulations shall provide that proper provision be made for soil
78 erosion and sediment control pursuant to section 22a-329. Such
79 regulations may also encourage energy-efficient patterns of
80 development, the use of solar and other renewable forms of energy,
81 and energy conservation. The regulations may also provide for
82 incentives for developers who use passive solar energy techniques, as

83 defined in subsection (b) of section 8-25, in planning a residential
84 subdivision development. The incentives may include, but not be
85 limited to, cluster development, higher density development and
86 performance standards for roads, sidewalks and underground facilities
87 in the subdivision. Such regulations may provide for a municipal
88 system for the creation of development rights and the permanent
89 transfer of such development rights, which may include a system for
90 the variance of density limits in connection with any such transfer.
91 Such regulations may also provide for notice requirements in addition
92 to those required by this chapter. Such regulations may provide for
93 conditions on operations to collect spring water or well water, as
94 defined in section 21a-150, including the time, place and manner of
95 such operations. No such regulations shall prohibit the operation of
96 any family day care home or group day care home in a residential
97 zone. No such regulations shall prohibit the use of receptacles for the
98 storage of items designated for recycling in accordance with section
99 22a-241b or require that such receptacles comply with provisions for
100 bulk or lot area, or similar provisions, except provisions for side yards,
101 rear yards and front yards. No such regulations shall unreasonably
102 restrict access to or the size of such receptacles for businesses, given
103 the nature of the business and the volume of items designated for
104 recycling in accordance with section 22a-241b, that such business
105 produces in its normal course of business, provided nothing in this
106 section shall be construed to prohibit such regulations from requiring
107 the screening or buffering of such receptacles for aesthetic reasons.
108 Such regulations shall allow for the purchaser of a business or a
109 property in which a business may be located to request the official
110 charged with the enforcement of such regulations to walk-through and
111 provide the purchaser with a preliminary notice of regulations that
112 may apply to the business or property. Such regulations shall not
113 impose conditions and requirements on manufactured homes having
114 as their narrowest dimension twenty-two feet or more and built in
115 accordance with federal manufactured home construction and safety
116 standards or on lots containing such manufactured homes which are

117 substantially different from conditions and requirements imposed on
118 single-family dwellings and lots containing single-family dwellings.
119 Such regulations shall not impose conditions and requirements on
120 developments to be occupied by manufactured homes having as their
121 narrowest dimension twenty-two feet or more and built in accordance
122 with federal manufactured home construction and safety standards
123 which are substantially different from conditions and requirements
124 imposed on multifamily dwellings, lots containing multifamily
125 dwellings, cluster developments or planned unit developments. Such
126 regulations shall not prohibit the continuance of any nonconforming
127 use, building or structure existing at the time of the adoption of such
128 regulations. Such regulations shall not provide for the termination of
129 any nonconforming use solely as a result of nonuse for a specified
130 period of time without regard to the intent of the property owner to
131 maintain that use. Any city, town or borough which adopts the
132 provisions of this chapter may, by vote of its legislative body, exempt
133 municipal property from the regulations prescribed by the zoning
134 commission of such city, town or borough; but unless it is so voted
135 municipal property shall be subject to such regulations.

136 Sec. 3. Subsection (f) of section 8-3 of the 2012 supplement to the
137 general statutes is repealed and the following is substituted in lieu
138 thereof (*Effective January 1, 2013*):

139 (f) (1) No building permit or certificate of occupancy shall be issued
140 for a building, use or structure subject to the zoning regulations of a
141 municipality without certification in writing by the official charged
142 with the enforcement of such regulations that such building, use or
143 structure is in conformity with such regulations or is a valid
144 nonconforming use under such regulations. Such official shall inform
145 the applicant for any such certification that such applicant may
146 provide notice of such certification by either [(1)] (A) publication in a
147 newspaper having substantial circulation in such municipality stating
148 that the certification has been issued, or [(2)] (B) any other method
149 provided for by local ordinance. Any such notice shall contain [(A)] (i)

150 a description of the building, use or structure, [(B)] (ii) the location of
151 the building, use or structure, [(C)] (iii) the identity of the applicant,
152 and [(D)] (iv) a statement that an aggrieved person may appeal to the
153 zoning board of appeals in accordance with the provisions of section 8-
154 7.

155 (2) Not later than fourteen days after the date an applicant for a
156 building permit or certificate of occupancy pursuant to this subsection
157 files his or her application, the official shall notify the applicant of (A)
158 any document required for approval of such permit or certificate that
159 is in the municipality's possession, and (B) any additional document
160 required for approval of such permit or certificate.

161 (3) Not later than seven days after the official approves or denies an
162 applicant's application for a building permit, the official shall notify
163 the applicant and the applicant's representative or contractor, in
164 writing, of such official's approval or denial of such applicant's
165 application for a building permit. The official shall include, in any
166 notification of a denial of an applicant's application for a building
167 permit, a printed copy of a step-by-step explanation of the procedure
168 for appealing such denial to the zoning board of appeals.

169 (4) An official's failure to provide any notice required pursuant to
170 subdivision (2) or (3) of this subsection to an applicant shall result in
171 automatic approval of the applicant's application for such building
172 permit or certificate of occupancy.

173 Sec. 4. Section 8-7 of the general statutes is repealed and the
174 following is substituted in lieu thereof (*Effective January 1, 2013*):

175 The concurring vote of four members of the zoning board of appeals
176 shall be necessary to reverse any order, requirement or decision of the
177 official charged with the enforcement of the zoning regulations or to
178 decide in favor of the applicant any matter upon which it is required to
179 pass under any bylaw, ordinance, rule or regulation or to vary the
180 application of the zoning bylaw, ordinance, rule or regulation. An

181 appeal may be taken to the zoning board of appeals by any person
182 aggrieved or by any officer, department, board or bureau of any
183 municipality aggrieved and shall be taken (1) within such time as is
184 prescribed by a rule adopted by said board, [or,] (2) if no such rule is
185 adopted by the board, within thirty days, or (3) in the case of an appeal
186 of a denial of an applicant's application for a building permit, within
187 fourteen days, by filing with the zoning commission or the officer from
188 whom the appeal has been taken and with said board a notice of
189 appeal specifying the grounds thereof. Such appeal period shall
190 commence for an aggrieved person at the earliest of the following: [(1)]
191 (A) Upon receipt of the order, requirement or decision from which
192 such person may appeal, [(2)] (B) upon the publication of a notice in
193 accordance with subsection (f) of section 8-3, or [(3)] (C) upon actual or
194 constructive notice of such order, requirement or decision. The officer
195 from whom the appeal has been taken shall forthwith transmit to said
196 board all the papers constituting the record upon which the action
197 appealed from was taken. An appeal shall not stay any such order,
198 requirement or decision which prohibits further construction or
199 expansion of a use in violation of such zoning regulations except to
200 such extent that the board grants a stay thereof. An appeal from any
201 other order, requirement or decision shall stay all proceedings in the
202 action appealed from unless the zoning commission or the officer from
203 whom the appeal has been taken certifies to the zoning board of
204 appeals after the notice of appeal has been filed that by reason of facts
205 stated in the certificate a stay would cause imminent peril to life or
206 property, in which case proceedings shall not be stayed, except by a
207 restraining order which may be granted by a court of record on
208 application, on notice to the zoning commission or the officer from
209 whom the appeal has been taken and on due cause shown. The board
210 shall hold a public hearing on such appeal in accordance with the
211 provisions of section 8-7d. Such board may reverse or affirm wholly or
212 partly or may modify any order, requirement or decision appealed
213 from and shall make such order, requirement or decision as in its
214 opinion should be made in the premises and shall have all the powers

215 of the officer from whom the appeal has been taken but only in
 216 accordance with the provisions of this section. Whenever a zoning
 217 board of appeals grants or denies any special exception or variance in
 218 the zoning regulations applicable to any property or sustains or
 219 reverses wholly or partly any order, requirement or decision appealed
 220 from, it shall state upon its records the reason for its decision and the
 221 zoning bylaw, ordinance or regulation which is varied in its
 222 application or to which an exception is granted and, when a variance is
 223 granted, describe specifically the exceptional difficulty or unusual
 224 hardship on which its decision is based. Notice of the decision of the
 225 board shall be published in a newspaper having a substantial
 226 circulation in the municipality and addressed by certified mail to any
 227 person who appeals to the board, by its secretary or clerk, under his
 228 signature in any written, printed, typewritten or stamped form, within
 229 fifteen days after such decision has been rendered. In any case in
 230 which such notice is not published within such fifteen-day period, the
 231 person who requested or applied for such special exception or variance
 232 or took such appeal may provide for the publication of such notice
 233 within ten days thereafter. Such exception or variance shall become
 234 effective upon the filing of a copy thereof [(A)] (i) in the office of the
 235 town, city or borough clerk, as the case may be, but, in the case of a
 236 district, in the offices of both the district clerk and the town clerk of the
 237 town in which such district is located, and [(B)] (ii) in the land records
 238 of the town in which the affected premises are located, in accordance
 239 with the provisions of section 8-3d.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2013</i>	8-2a
Sec. 2	<i>January 1, 2013</i>	8-2(a)
Sec. 3	<i>January 1, 2013</i>	8-3(f)
Sec. 4	<i>January 1, 2013</i>	8-7

Statement of Purpose:

To provide more transparency and notice of the zoning enforcement process to applicants seeking a building permit or certificate of occupancy.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]