



General Assembly

February Session, 2018

Governor's Bill No. 5045

LCO No. 266



Referred to Committee on PLANNING AND DEVELOPMENT

Introduced by:

REP. ARESIMOWICZ, 30th Dist.

REP. RITTER M., 1st Dist.

SEN. LOONEY, 11th Dist.

SEN. DUFF, 25th Dist.

AN ACT ESTABLISHING ACCOUNTABILITY FOR FAIR AND AFFORDABLE HOUSING THROUGH ZONING REGULATIONS.

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

1 Section 1. Section 8-2 of the 2018 supplement to the general statutes
2 is repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2018*):

4 (a) (1) The zoning commission of each city, town or borough is
5 authorized to regulate, within the limits of such municipality: [.] (A)
6 [the] The height, number of stories and size of buildings and other
7 structures; (B) the percentage of the area of the lot that may be
8 occupied; (C) the size of yards, courts and other open spaces; (D) the
9 density of population and the location and use of buildings, structures
10 and land for trade, industry, residence or other purposes, including
11 water-dependent uses, as defined in section 22a-93; [.] and (E) the

12 height, size and location of advertising signs and billboards. [Such
13 bulk regulations may allow for cluster development, as defined in
14 section 8-18.]

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 fair housing;

46 (3) Be made with reasonable consideration as to [the character of the
47 district and its peculiar] a district's suitability for particular uses and
48 with a view to conserving the value of buildings and encouraging the
49 most appropriate use of land throughout [such] a municipality; [Such
50 regulations may, to the extent consistent with soil types, terrain,
51 infrastructure capacity and the plan of conservation and development
52 for the community, provide for cluster development, as defined in
53 section 8-18, in residential zones. Such regulations shall also
54 encourage]

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

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

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

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

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

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

77 (10) In any municipality that is contiguous to Long Island Sound,
78 (A) be made with reasonable consideration for the restoration and
79 protection of the ecosystem and habitat of Long Island Sound; (B) be
80 designed to reduce hypoxia, pathogens, toxic contaminants and
81 floatable debris in Long Island Sound; and (C) provide that the
82 commission consider the environmental impact on Long Island Sound
83 of any proposal for development.

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

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

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

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

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

105 regulations may provide]

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

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

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

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

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

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

130 (2) (A) Prohibit the use of receptacles for the storage of items
131 designated for recycling in accordance with section 22a-241b or require
132 that such receptacles comply with provisions for bulk or lot area, or
133 similar provisions, except provisions for side yards, rear yards and
134 front yards; [. No such regulations shall] or (B) unreasonably restrict

135 access to or the size of such receptacles for businesses, given the nature
136 of the business and the volume of items designated for recycling in
137 accordance with section 22a-241b, that such business produces in its
138 normal course of business, provided nothing in this section shall be
139 construed to prohibit such regulations from requiring the screening or
140 buffering of such receptacles for aesthetic reasons; [. Such regulations
141 shall not impose]

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

158 (4) (A) Prohibit the continuance of any nonconforming use, building
159 or structure existing at the time of the adoption of such regulations; [.
160 Such regulations shall not] (B) provide for the termination of any
161 nonconforming use solely as a result of nonuse for a specified period
162 of time without regard to the intent of the property owner to maintain
163 that use; [. Such regulations shall not] or (C) terminate or deem
164 abandoned a nonconforming use, building or structure unless the
165 property owner of such use, building or structure voluntarily
166 discontinues such use, building or structure and such discontinuance
167 is accompanied by an intent to not reestablish such use, building or

168 structure. The demolition or deconstruction of a nonconforming use,
169 building or structure shall not by itself be evidence of such property
170 owner's intent to not reestablish such use, building or structure; [.
171 Unless such town opts out, in accordance with the provisions of
172 subsection (j) of section 8-1bb, such regulations shall not prohibit] and

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

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

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

192 (c) In any municipality where a traprock ridge, as defined in section
193 8-1aa, or an amphibolite ridge, as defined in section 8-1aa, is located
194 the regulations may provide for development restrictions in ridgeline
195 setback areas, as defined in said section. The regulations may restrict
196 quarrying and clear cutting, except that the following operations and
197 uses shall be permitted in ridgeline setback areas, as of right: (1)
198 Emergency work necessary to protect life and property; (2) any
199 nonconforming uses that were in existence and that were approved on

200 or before the effective date of regulations adopted under this section;
201 and (3) selective timbering, grazing of domesticated animals and
202 passive recreation.]

203 (f) (1) On or before July 1, 2019, and at least once every five years
204 thereafter, each municipality that adopts the provisions of this chapter
205 pursuant to section 8-1 shall demonstrate, in a form and manner
206 prescribed by the Commissioner of Housing, compliance with
207 subdivisions (4) to (6), inclusive, of subsection (b) of this section. The
208 commissioner shall notify the Secretary of the Office of Policy and
209 Management of the failure of any municipality to demonstrate
210 compliance.

211 (2) A municipality that fails to demonstrate such compliance shall
212 be ineligible for discretionary state funding until the commissioner
213 notifies the secretary that the municipality has satisfied the
214 requirements, unless such ineligibility is expressly waived by the
215 secretary.

216 Sec. 2. Subsection (j) of section 8-1bb of the 2018 supplement to the
217 general statutes is repealed and the following is substituted in lieu
218 thereof (*Effective July 1, 2018*):

219 (j) A municipality, by vote of its legislative body or, in a
220 municipality where the legislative body is a town meeting, by vote of
221 the board of selectmen, may opt out of the provisions of this section
222 and the provision of subdivision (5) of subsection [(a)] (d) of section 8-
223 2, as amended by this act, regarding authorization for the installation
224 of temporary health care structures, provided the zoning commission
225 or combined planning and zoning commission of the municipality: (1)
226 First holds a public hearing in accordance with the provisions of
227 section 8-7d on such proposed opt-out, (2) affirmatively decides to opt
228 out of the provisions of said sections within the period of time
229 permitted under section 8-7d, (3) states upon its records the reasons for
230 such decision, and (4) publishes notice of such decision in a newspaper
231 having a substantial circulation in the municipality not later than

232 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, 2018</i>	8-2
Sec. 2	<i>July 1, 2018</i>	8-1bb(j)

PD *Joint Favorable*