Senate

General Assembly

File No. 560

January Session, 2021

Substitute Senate Bill No. 1024

Senate, April 21, 2021

The Committee on Planning and Development reported through SEN. CASSANO of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ZONING AUTHORITY, CERTAIN DESIGN GUIDELINES, QUALIFICATIONS OF ZONING ENFORCEMENT OFFICERS AND CERTAIN SEWAGE DISPOSAL SYSTEMS.

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

Section 1. Section 8-1a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) "Municipality" as used in this chapter shall include a district establishing a zoning commission under section 7-326. Wherever the words "town" and "selectmen" appear in this chapter, they shall be deemed to include "district" and "officers of such district", respectively.

(b) As used in this chapter and section 5 of this act:

(1) "Accessory apartment" means a separate dwelling unit occupied by a family, or a single housekeeping unit, that (A) is located on the same lot as a principal dwelling unit of greater square footage, (B) has cooking facilities, and (C) complies with or is otherwise exempt from

any applicable building code, fire code and health and safety regulations;

(2) "Affordable accessory apartment" means an accessory apartment that is subject to binding recorded deeds which contain covenants or restrictions that require such accessory apartment be sold or rented at, or below, prices that will preserve the unit as housing for which, for a period of not less than ten years, persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income;

(3) "As of right" means able to be approved in accordance with the terms of a zoning regulation or regulations and without requiring that a public hearing be held, a variance, special permit or special exception be granted or some other discretionary zoning action be taken, other than a determination that a site plan is in conformance with applicable zoning regulations;

(4) "Cottage cluster" means a grouping of at least four detached housing units, or live work units, per acre that are located around a common open area;

(5) "Middle housing" means duplexes, triplexes, quadplexes, cottage clusters and townhouses;

(6) "Mixed-use development" means a development containing both residential and nonresidential uses in any single building; and

(7) "Townhouse" means a residential building constructed in a grouping of three or more attached units, each of which shares at least one common wall with an adjacent unit and has exterior walls on at least two sides.

Sec. 2. Section 8-1c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) Any municipality may, by ordinance, establish a schedule of reasonable fees for the processing of applications by a municipal zoning

commission, planning commission, combined planning and zoning commission, zoning board of appeals or inland wetlands commission. Such schedule shall supersede any specific fees set forth in the general statutes, or any special act or established by a planning commission under section 8-26.

(b) A municipality may, by regulation, require any person applying to a municipal zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals or inland wetlands commission for approval of a development project to pay the cost of reasonable fees associated with any necessary review by consultants with expertise in land use of any particular technical aspect of an application, such as regarding traffic or stormwater, for the benefit of such commission or board. Any such fees shall be accounted for separately from other funds of such commission or board and shall be used only for expenses associated with the technical review by consultants who are not salaried employees of the municipality or such commission or board. Any amount of the fee remaining after payment of all expenses for such technical review, including any interest accrued, shall be returned to the applicant not later than forty-five days after the completion of the technical review.

(c) No municipality may adopt a schedule of fees under subsection (a) of this section that results in higher fees for (1) development projects built using the provisions of section 8-30g, as amended by this act, or (2) residential buildings containing four or more dwelling units, than for other residential dwellings, including, but not limited to, higher fees per dwelling unit, per square footage or per unit of construction cost.

Sec. 3. Subsection (j) of section 8-1bb of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(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 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.

Sec. 4. Section 8-2 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) (1) The zoning commission of each city, town or borough is authorized to regulate, within the limits of such municipality: **[**, the**]** (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, **[**. Such bulk regulations may allow for cluster development, as defined in section 8-18**]** 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 **[**such**]** 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. **[**, and**]**

(3) Such zoning regulations may provide that certain classes or kinds of buildings, structures or **[**uses**]** 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. **[**Such regulations shall be**]**

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

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

(2) Be designed to (A) lessen congestion in the streets; **[**to**]** (B) secure safety from fire, panic, flood and other dangers; **[**to**]** (C) promote health and the general welfare; **[**to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population and to**]** (D) protect the state's historic, tribal, cultural and environmental resources; (E) facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements; **[**. Such regulations shall be made**]** (F) consider the impact, including as to housing affordability, of permitted land uses on contiguous municipalities and on the planning region, as defined in section 4-124i, in which such municipality is located; (G) combat discrimination and take other meaningful actions that overcome patterns of segregation and address significant disparities in housing needs and access to educational, occupational and other opportunities; and (H) provide for clear processes for, and efficient review of, development proposals;

(3) Be drafted with reasonable consideration as to the **[**character**]** physical site characteristics and architectural context of the district and its peculiar suitability for particular uses and with a view to **[**conserving the value of buildings and**]** encouraging the most appropriate use of land throughout **[**such**]** a municipality; **[**. Such regulations may, to the

extent consistent with soil types, terrain, infrastructure capacity and the plan of conservation and development for the community, provide for cluster development, as defined in section 8-18, in residential zones. Such regulations shall also encourage**]**

(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; **[**. Such regulations shall also promote**]**

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

(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; **[**. Zoning regulations shall be**]**

(7) Be made with reasonable consideration for **[**their**]** 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: **[**be**]**

(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; **[**and shall be made with reasonable consideration for the protection of existing and potential public surface and ground drinking water supplies. On and after July 1, 1985, the regulations shall provide that proper provision be made for soil erosion and sediment control pursuant to section 22a-329. Such regulations may also encourage**]**

(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; **[**. The regulations may also provide**]**

(4) Provide for incentives for developers who use **[**passive solar energy techniques, as defined in subsection (b) of section 8-25, in planning a residential subdivision development. The incentives may include, but not be**]** (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; **[**. Such regulations may provide**]**

(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; **[**. Such regulations may also provide**]**

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

(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; **[**. No such regulations shall prohibit**]**

(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 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; **[**. No such regulations shall prohibit**]**

(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; **[**. No such regulations shall**]** 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; **[**. Such regulations shall not impose**]**

(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, **[**which**]** including mobile manufactured home parks, if those conditions and requirements are substantially different from conditions and requirements imposed on (A) single-family dwellings; **[**and**]** (B) lots containing single-family dwellings; **[**. Such regulations shall not impose conditions and requirements on developments to be occupied by manufactured homes having as their narrowest dimension twenty-two feet or more and built in accordance with federal manufactured home construction and safety standards which are substantially different from conditions and requirements imposed on**]** or (C) multifamily dwellings, lots containing multifamily dwellings, cluster developments or planned unit developments; **[**. Such regulations shall not prohibit**]**

(4) (A) Prohibit the continuance of any nonconforming use, building or structure existing at the time of the adoption of such regulations, **[**or**]** except as provided in subparagraph (D) of this subdivision; (B) require a special permit or special exception for any such continuance; **[**. Such regulations shall not**]** (C) provide for the termination of any (i) 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. Such regulations shall not**]** period of less than five years, or (ii) residential nonconforming use, building or structure solely on the basis of the demolition or deconstruction of such use, building or structure; or (D) terminate or deem abandoned a nonconforming use, building or structure unless (i) 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. Unless such town opts out, in accordance with the provisions of subsection (j) of section 8-1bb, such regulations shall not prohibit**]** or (ii) the zoning commission (I) declares, after notice of a cease and desist order duly presented to the property owner in accordance with applicable regulations and after a public hearing on such order, that a nonresidential nonconforming use, building or structure in a residential zone is inconsistent with the plan of conservation and development or is a public nuisance, and (II) specifies a reasonable time for the termination of such nonconforming use;

(5) Prohibit the installation of temporary health care structures for use by mentally or physically impaired persons **[**in accordance with the provisions of section 8-1bb if such structures comply with the provisions of said section.**]** pursuant to section 8-1bb, as amended by this act, unless the municipality opts out pursuant to 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 required under the Public Health 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;

(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; 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.

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

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

passive recreation.]

[(d)] (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. [pursuant to subsection (a) of this section.]

Sec. 5. (NEW) (*Effective October 1, 2021*) (a) Any zoning regulations adopted pursuant to section 8-2 of the general statutes, as amended by this act, 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 of the general statutes, (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 require owner occupancy or to prohibit or limit the use of accessory apartments for short-term rentals or vacation stays, or (C) other requirements where a 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 June 1, 2022, for the purpose of complying with the provisions 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 this section until such municipality adopts or amends a regulation in compliance with this section. A municipality may not use or impose additional standards beyond those set forth in this section.

Sec. 6. Subsection (k) of section 8-30g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(k) The affordable housing appeals procedure established under this section shall not be available if the real property which is the subject of the application is located in a municipality in which at least ten per cent of all dwelling units in the municipality are (1) assisted housing, (2) currently financed by Connecticut Housing Finance Authority mortgages, (3) subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income, (4) mobile manufactured homes located in mobile manufactured home parks or legally approved accessory apartments, which homes or apartments are subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which, for a period of not less than ten years, persons and families pay thirty per cent or less of income, where such income is less than or equal to

eighty per cent of the median income, or (5) mobile manufactured homes located in resident-owned mobile manufactured home parks. For the purposes of calculating the total number of dwelling units in a municipality, accessory apartments built or permitted after January 1, 2022, but that are not described in subdivision (4) of this subsection, shall not be counted toward such total number. The municipalities meeting the criteria set forth in this subsection shall be listed in the report submitted under section 8-37qqq. As used in this subsection, "accessory apartment" **[**means a separate living unit that (A) is attached to the main living unit of a house, which house has the external appearance of a single-family residence, (B) has a full kitchen, (C) has a square footage that is not more than thirty per cent of the total square footage of the house, (D) has an internal doorway connecting to the main living unit of the house, (E) is not billed separately from such main living unit for utilities, and (F) complies with the building code and health and safety regulations**]** has the same meaning as provided in section 8-1a, as amended by this act, and "resident-owned mobile manufactured home park" means a mobile manufactured home park consisting of mobile manufactured homes located on land that is deed restricted, and, at the time of issuance of a loan for the purchase of such land, such loan required seventy-five per cent of the units to be leased to persons with incomes equal to or less than eighty per cent of the median income, and either **[**(i)**]** (A) forty per cent of said seventy-five per cent to be leased to persons with incomes equal to or less than sixty per cent of the median income, or **[**(ii)**]** (B) twenty per cent of said seventy-five per cent to be leased to persons with incomes equal to or less than fifty per cent of the median income.

Sec. 7. (*Effective July 1, 2021*) (a) Not later than September 1, 2021, the Secretary of the Office of Policy and Management, or the secretary's designee, shall convene and chair a working group to develop model design guidelines for both buildings and context-appropriate streets that municipalities may adopt, in whole or in part, as part of their zoning or subdivision regulations. Such guidelines shall (1) identify common architectural and site design features of building types used throughout this state, (2) create a catalogue of common building types, particularly

those typically associated with housing, (3) establish reasonable and cost-effective design review standards for approval of common building types, accounting for topography, geology, climate change and infrastructure capacity, (4) establish procedures for expediting the approval of buildings or streets that satisfy such design review standards, whether for zoning or subdivision regulations, and (5) create a design manual for context-appropriate streets that complement common building types.

(b) The working group shall consist of the following members, who shall be appointed by the Secretary of the Office of Policy and Management, in consultation with the Commissioner of Housing, not later than sixty days after the effective date of this section:

(1) The Secretary of the Office of Policy and Management, or the secretary's designee;

(2) The Commissioner of Housing, or said commissioner's designee;

(3) The Commissioner of Transportation, or said commissioner's designee;

(4) Two representatives with expertise in fair housing issues or affordable housing advocacy;

(5) Two representatives with expertise in state, regional or local planning;

(6) Two representatives with expertise in architecture or design;

(7) One representative of the Connecticut Conference of Municipalities; and

(8) One representative with expertise in the housing construction trade.

(c) Not later than April 1, 2022, the working group convened pursuant to this section shall submit a report proposing the model design guidelines for both buildings and context-appropriate streets

that such group developed to the joint standing committee of the General Assembly having cognizance of matters relating to planning and development, in accordance with section 11-4a of the general statutes. Not later than April 1, 2022, the Secretary of the Office of Policy and Management shall post such model design guidelines with any necessary revisions on the Internet web site of the Office of Policy and Management for use and adoption by municipalities of this state.

(d) Not later than June 1, 2021, the regional councils of governments shall collectively develop and implement an education and training program for delivery of such model design guidelines for both buildings and context-appropriate streets. Each regional council of governments shall report its activities relative to such program as part of the annual report required under section 4-66r of the general statutes.

Sec. 8. Subsection (e) of section 8-3 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(e) (1) The zoning commission shall provide for the manner in which the zoning regulations shall be enforced, except that any person appointed as a zoning enforcement officer on or after January 1, 2023, shall be certified in accordance with the provisions of subdivision (2) of this subsection.

(2) Beginning January 1, 2023, and annually thereafter, each person appointed as a zoning enforcement officer shall obtain certification from the Connecticut Association of Zoning Enforcement Officials and maintain such certification for the duration of employment as a zoning enforcement officer.

Sec. 9. Section 7-245 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

For the purposes of this chapter: (1) "Acquire a sewerage system" means obtain title to all or any part of a sewerage system or any interest therein by purchase, condemnation, grant, gift, lease, rental or otherwise; (2) "alternative sewage treatment system" means a sewage

treatment system serving one or more buildings that utilizes a method of treatment other than a subsurface sewage disposal system and that involves a discharge to the groundwaters of the state; (3) "community sewerage system" means any sewerage system serving two or more residences in separate structures which is not connected to a municipal sewerage system or which is connected to a municipal sewerage system as a distinct and separately managed district or segment of such system, except that in the case of a residence that is an accessory apartment, as defined in section 8-1a, such residence shall include the larger principal dwelling unit located on the same lot; (4) "construct a sewerage system" means to acquire land, easements, rights-of-way or any other real or personal property or any interest therein, plan, construct, reconstruct, equip, extend and enlarge all or any part of a sewerage system; (5) "decentralized system" means managed subsurface sewage disposal systems, managed alternative sewage treatment systems or community sewerage systems that discharge sewage flows of less than **[**five**]** seven thousand five hundred gallons per day, are used to collect and treat domestic sewage, and involve a discharge to the groundwaters of the state from areas of a municipality; (6) "decentralized wastewater management district" means areas of a municipality designated by the municipality through a municipal ordinance when an engineering report has determined that the existing subsurface sewage disposal systems may be detrimental to public health or the environment and that decentralized systems are required and such report is approved by the Commissioner of Energy and Environmental Protection with concurring approval by the Commissioner of Public Health, after consultation with the local director of health; (7) "municipality" means any metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district and each municipal organization having authority to levy and collect taxes; (8) "operate a sewerage system" means own, use, equip, reequip, repair, maintain, supervise, manage, operate and perform any act pertinent to the collection, transportation and disposal of sewage; (9) "person" means any person, partnership, corporation, limited liability company, association or public agency; (10)

"remediation standards" means pollutant limits, performance requirements, design parameters or technical standards for application to existing sewage discharges in a decentralized wastewater management district for the improvement of wastewater treatment to protect public health and the environment; (11) "sewage" means any substance, liquid or solid, which may contaminate or pollute or affect the cleanliness or purity of any water; and (12) "sewerage system" means any device, equipment, appurtenance, facility and method for collecting, transporting, receiving, treating, disposing of or discharging sewage, including, but not limited to, decentralized systems within a decentralized wastewater management district when such district is established by municipal ordinance pursuant to section 7-247.

Sec. 10. Subsection (b) of section 7-246 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(b) Each municipal water pollution control authority designated in accordance with this section may prepare and periodically update a water pollution control plan for the municipality. Such plan shall designate and delineate the boundary of: (1) Areas served by any municipal sewerage system; (2) areas where municipal sewerage facilities are planned and the schedule of design and construction anticipated or proposed; (3) areas where sewers are to be avoided; (4) areas served by any community sewerage system not owned by a municipality; (5) areas to be served by any proposed community sewerage system not owned by a municipality; **[**and**]** (6) areas to be designated as decentralized wastewater management districts; and (7) specific allocations of capacity to serve areas that are able to be developed for residential or mixed-use buildings containing four or more dwelling units. Such plan shall also describe the means by which municipal programs are being carried out to avoid community pollution problems and describe any programs wherein the local director of health manages subsurface sewage disposal systems. The authority shall file a copy of the plan and any periodic updates of such plan with the Commissioner of Energy and Environmental Protection and the

Commissioner of Housing, and shall manage or ensure the effective supervision, management, control, operation and maintenance of any community sewerage system or decentralized wastewater management district not owned by a municipality.

Sec. 11. Section 19a-35a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) Notwithstanding the provisions of chapter 439 and sections 22a-430 and 22a-430b, not later than January 1, 2022, the Commissioner of Public Health shall, **[**within available appropriations,**]** pursuant to section 19a-36, establish and define categories of discharge that constitute alternative on-site sewage treatment systems with capacities of **[**five**]** seven thousand five hundred gallons or less per day and subsurface community sewerage systems with capacities of seven thousand five hundred gallons or less per day. After the establishment of such categories, said commissioner shall have jurisdiction **[**, within available appropriations,**]** to issue or deny permits and approvals for such systems and for all discharges of domestic sewage to the groundwaters of the state from such systems. Said commissioner shall, pursuant to section 19a-36, **[**and within available appropriations,**]** establish minimum requirements for alternative on-site sewage treatment systems and subsurface community sewerage systems under said commissioner's jurisdiction, including, but not limited to: (1) Requirements related to activities that may occur on the property; (2) changes that may occur to the property or to buildings on the property that may affect the installation or operation of such systems; and (3) procedures for the issuance of permits or approvals by said commissioner, a local director of health, or a sanitarian licensed pursuant to chapter 395. A permit or approval granted by said commissioner, such local director of health or such sanitarian for an alternative on-site sewage treatment system or subsurface community sewerage system pursuant to this section shall: (A) Not be inconsistent with the requirements of the federal Water Pollution Control Act, 33 USC 1251 et seq., the federal Safe Drinking Water Act, 42 USC 300f et seq., and the standards of water quality adopted pursuant to section

22a-426, as such laws and standards may be amended from time to time, (B) not be construed or deemed to be an approval for any other purpose, including, but not limited to, any planning and zoning or municipal inland wetlands and watercourses requirement, and (C) be in lieu of a permit issued under section 22a-430 or 22a-430b. For purposes of this section, "alternative on-site sewage treatment system" means a sewage treatment system serving one or more buildings on a single parcel of property that utilizes a method of treatment other than a subsurface sewage disposal system and that involves a discharge of domestic sewage to the groundwaters of the state, and "subsurface community sewerage system" means a community sewerage system, as defined in section 7-245, as amended by this act, that involves a discharge of domestic sewage to the groundwaters of the state.

(b) In establishing and defining categories of discharge that constitute alternative on-site sewage treatment systems and subsurface community sewerage systems pursuant to subsection (a) of this section, and in establishing minimum requirements for such systems pursuant to section 19a-36, said commissioner shall consider all relevant factors, including, but not limited to: (1) The impact that such systems or discharges may have individually or cumulatively on public health and the environment, (2) the impact that such systems and discharges may have individually or cumulatively on land use patterns, and (3) recommendations regarding responsible growth made to said commissioner by the Secretary of the Office of Policy and Management through the Office of Responsible Growth established by Executive Order No. 15 of Governor M. Jodi Rell.

(c) The Commissioner of Energy and Environmental Protection shall retain jurisdiction over any alternative on-site sewage treatment system or subsurface community sewerage system not under the jurisdiction of the Commissioner of Public Health. The provisions of title 22a shall apply to any such system not under the jurisdiction of the Commissioner of Public Health. The provisions of this section shall not affect any permit issued by the Commissioner of Energy and Environmental Protection prior to [July 1, 2007] January 1, 2022, and the

provisions of title 22a shall continue to apply to any such permit until such permit expires.

(d) A permit or approval denied by the Commissioner of Public Health, a local director of health or a sanitarian pursuant to subsection (a) of this section shall be subject to an appeal in the manner provided in section 19a-229.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2021*	8-1a
Sec. 2	*October 1, 2021*	8-1c
Sec. 3	*October 1, 2021*	8-1bb(j)
Sec. 4	*October 1, 2021*	8-2
Sec. 5	*October 1, 2021*	New section
Sec. 6	*October 1, 2021*	8-30g(k)
Sec. 7	*July 1, 2021*	New section
Sec. 8	*October 1, 2021*	8-3(e)
Sec. 9	*October 1, 2021*	7-245
Sec. 10	*October 1, 2021*	7-246(b)
Sec. 11	*October 1, 2021*	19a-35a

Statement of Legislative Commissioners:
In Section 4(a)(3), "uses" was changed to "**[**uses**]** use" for consistency; in Section 4(b)(7), "their impact" was changed to "**[**their**]** the impact of such regulations" for clarity; in Section 7(d), "councils of government" was changed to "councils of governments" for consistency; and in Section 8(e)(1), "on and after" was changed to "on or after" for accuracy.

PD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 $	FY 23 $
Public Health, Dept.	GF - Cost	See Below	See Below
Department of Energy and Environmental Protection	GF - Potential Savings	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 22 $	FY 23 $
Various Municipalities	Potential Cost	See Below	See Below
Various Municipalities	Potential Savings	See Below	See Below

Explanation

The bill makes various zoning regulation changes, shifts jurisdiction of the regulation of certain sewage systems from the Department of Energy and Environmental Protection (DEEP) to the Department of Public Health (DPH), and makes changes to fees charged by municipalities to third parties.

The bill results in a potential savings to municipalities from permitting towns to charge reasonable fees for technical consulting related to the zoning applications. The bill also results in a potential cost from prohibiting municipalities from setting higher fee schedules for certain zoning appeals.

The bill also results in a potential cost to the DPH and a corresponding savings to DEEP from shifting jurisdiction of certain

sewer systems. DPH may incur additional staffing costs and other expenses from regulating these systems.

The bill also requires the Office of Policy and Management to convene a working group to establish guidelines for certain building characteristics. This provision does not result in a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of zoning appeals and the fees recovered for technical consultants.

OLR Bill Analysis

sSB 1024

AN ACT CONCERNING ZONING AUTHORITY, CERTAIN DESIGN GUIDELINES, QUALIFICATIONS OF ZONING ENFORCEMENT OFFICERS AND CERTAIN SEWAGE DISPOSAL SYSTEMS.

TABLE OF CONTENTS:

§§ 1, 5 & 6 — AS OF RIGHT ACCESSORY APARTMENTS

Requires municipalities that zone under CGS § 8-2 to adopt or amend regulations to allow ADUs as of right on the same lot as single-family homes; specifies that these units will not count toward a municipality's base housing stock calculation, for purposes of the Affordable Housing Land Use Appeals Procedure (CGS § 8-30g); modifies the definition of ADU for purposes of the appeals procedure

Definitions

Under the bill, an "accessory apartment" (also referred to as an accessory dwelling unit or "ADU") means a separate dwelling unit occupied by a family or a single housekeeping unit that (1) is located on the same lot as a principal dwelling unit of greater square footage; (2) has cooking facilities; and (3) complies with or is otherwise exempt from any applicable building code, fire code, and health and safety regulations.

The bill specifies that "as of right" means able to be approved without requiring a public hearing; a variance, special permit, or special

exception; or other discretionary zoning action, other than a determination that a site plan conforms with applicable zoning regulations.

Regulation Adoption Requirement

The bill requires municipalities that exercise powers under CGS § 8-2 (the Zoning Enabling Act) to adopt regulations (1) allowing one ADU as of right on each lot that contains a single-family dwelling and (2) designating other areas where ADUs are allowed. The bill specifies that municipalities cannot require as of right ADUs sharing a lot with a single-family home to be preserved for lower-income families.

The bill requires municipalities to amend or adopt ADU zoning regulations by June 1, 2022, and specifies that those that do not must review ADU permit applications in accordance with the bill's regulation requirements until the regulations are amended or adopted. A municipality may not use or impose additional standards beyond those set forth in the bill. The bill deems noncompliant regulations to be null and void.

As of Right Permitting

The bill requires regulations to establish an as of right permit application and review process for ADUs. The process must require the zoning or planning and zoning commission to decide within 65 days after application, unless an applicant approves an extension or extensions of up to 65 days total or withdraws the application.

Under the bill, municipalities cannot condition ADU approval on the correction of a nonconforming use, structure, or lot or require fire sprinklers unless they are also required in the principal dwelling or by the fire code.

Regulation Contents

Under the bill, the ADU zoning regulations must:

1. allow attached and detached ADUs and ADUs contained within the principal dwelling unit;

2. set a maximum net floor area for ADUs that is the lesser of (a) at least 30% of the principal dwelling's net floor area or (b) 1,000 square feet (but regulations may allow a larger net floor area for ADUs);

3. require setbacks, lot size, and building frontage less than or equal to that which is required for the principal dwelling;

4. require lot coverage greater than or equal to that which is required for the principal dwelling; and

5. provide for height, landscaping, and architectural design standards that do not exceed standards applied to single-family dwellings in the municipality.

Regulations cannot require:

1. a passageway between the ADU and principal dwelling;

2. an exterior door for an ADU, except as required by the applicable building or fire code;

3. more than one parking space for the ADU or fees in lieu of parking;

4. a familial, marital, or employment relationship between the principal dwelling unit's occupants and the ADU's occupants;

5. a minimum age for ADU occupants;

6. separate billing of utilities otherwise connected to, or used by, the principal dwelling unit; or

7. periodic ADU permit renewal.

The bill further specifies that it does not supersede applicable building code requirements or other requirements where a private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld.

Additionally, the bill prohibits municipalities, special districts, and sewer or water authorities from (1) considering an ADU to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling on the same lot or (2) requiring the installation of a new or separate utility connection directly to an ADU or imposing a related connection fee or capacity charge.

The bill does not prevent municipalities from (1) requiring ADUs be owner-occupied or (2) prohibiting or limiting the use of ADUs for short-term rentals or vacation stays.

Housing Stock Calculation Under CGS § 8-30g

By law, the Department of Housing (DOH) must promulgate annually a list identifying the housing stock in each municipality that qualifies as affordable housing under the Affordable Housing Land Use Appeals Procedure (see BACKGROUND). The list, based on Census data, provides this information as a percentage of the total housing stock in the municipality (CGS §§ 8-30g(k) & 8-37qqq(a)(2)(D)). The bill specifies that ADUs built or permitted after January 1, 2022, but that are not subject to deed restrictions that qualify them as affordable housing, will not increase a municipality's base (market-rate) housing stock calculation. Thus, as of right ADUs will not increase the amount of affordable housing that a municipality must have to obtain or maintain an exemption or moratorium from the procedure. (Presumably, municipalities will provide DOH with information on ADUs to be excluded from the base housing stock calculation.)

The bill also aligns the definition of "accessory apartment" under the appeals procedure with bill's definition of ADU.

EFFECTIVE DATE: October 1, 2021

§ 2 — TECHNICAL CONSULTANT FEES

Limits municipal authority to charge higher land use application fees for larger residential projects; authorizes municipalities to charge technical consultant fees

Current law allows municipalities to set by ordinance reasonable fees for processing applications submitted to the planning, zoning, or planning and zoning commission; the zoning board of appeals, or inland wetlands commission. The bill prohibits adopting a fee schedule that imposes higher fees on developments built following an appeal brought under the Affordable Housing Land Use Appeals Procedure (CGS § 8-30g). It also prohibits charging more for residential buildings with more than four units, including higher fees per unit, by square footage, or per unit of construction cost.

The bill additionally allows municipalities to adopt regulations establishing reasonable technical consultant fees for applications made to the abovementioned boards and commissions. The fees must be used to pay consultants who have expertise in land use to review particular technical aspects of an application (e.g., traffic or stormwater), for the benefit of the commission or board.

The fees must be accounted for separately and may only be used for technical review costs. The fees cannot be used to pay a consultant who is a salaried employee of the municipality, commission, or board. Leftover amounts, including any interest accrued, must be returned to the applicant within 45 days after the review is complete.

EFFECTIVE DATE: October 1, 2021

§§ 3 & 4 — CGS § 8-2: REORGANIZATION AND MINOR CHANGES

Reorganizes the Zoning Enabling Act (CGS § 8-2, which applies to municipalities exercising zoning powers under the statutes) and makes minor, technical, and conforming changes

The bill makes various minor, technical, and conforming changes to the Zoning Enabling Act, which applies to municipalities that exercise zoning powers under the statutes (as opposed to a special act).

Among these, the bill authorizes municipalities, through their zoning regulations, to regulate the height, size, location, brightness, and illumination of any sign or billboard, not only advertising signs as under current law. (This comports with case law holding that (1) "advertising

signs" means commercial and noncommercial signs aimed at the sale of goods, promulgation of doctrine or idea, securing attendance, or the like and (2) content-based regulation may raise First Amendment concerns.)

Additionally, the bill specifies that when a municipality is contiguous to, or on a navigable waterway that drains to, Long Island Sound, its regulations must consider a proposed development's environmental impact on Long Island Sound's "coastal resources" (as defined in the Coastal Management Act), rather than impacts on Long Island Sound generally. By law, "coastal resources" means coastal waters and their natural resources, related marine and wildlife habitat, and adjacent shorelands (CGS § 22a-93).

The bill specifically authorizes municipalities to use a vehicle's miles traveled and vehicle trips generated standard instead of a "level of service" traffic calculation when assessing (1) a proposed development's anticipated traffic impact and (2) 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).

The bill specifies that regulations may provide for floating zones, overlay zones, and planned development districts. (Connecticut courts have held that CGS § 8-2 implicitly grants municipalities the power to use these techniques.)

The bill also makes technical and conforming changes to the temporary health care structure law (§ 3).

EFFECTIVE DATE: October 1, 2021

§ 4 — CGS § 8-2: REQUIRED GOALS AND CONSIDERATIONS

Eliminates a requirement that zoning regulations be (1) designed to prevent overcrowding and undue population concentration and (2) made with reasonable consideration as to the "character" of a district; requires regulations to combat discrimination and provide for varied housing opportunities; requires regulations to be designed to protect historic, tribal, cultural, and environmental resources

Required Goals

The bill eliminates the requirement that zoning regulations be designed to provide adequate light and air, prevent the overcrowding of land, and avoid undue concentration of population.

The bill requires that regulations be designed to do the following:

1. protect the state's historic, tribal, cultural, and environmental resources;

2. consider the impact of permitted land uses on contiguous municipalities and the planning region, including the impact on housing affordability;

3. combat discrimination and take other meaningful actions that overcome patterns of segregation and address significant disparities in housing needs and access to educational, occupational, and other opportunities; and

4. provide for clear processes for, and efficient review of, development proposals.

Consideration of Character

Current law requires that zoning regulations be made with (1) reasonable consideration as to the character of the district and its peculiar suitability for particular uses and (2) a view toward conserving the buildings' value and encouraging the most appropriate use of land throughout a municipality. The bill instead requires that regulations be drafted with reasonable consideration as to the physical site characteristics and architectural context of the district with a view toward encouraging the most appropriate use of land throughout a municipality.

The bill also specifies that regulations cannot be applied to deny a land use application (including site plans, special permits or exceptions, or other zoning approval) based upon:

1. a district's character unless the character is expressly articulated in regulations with clear and explicit physical standards for site

work and structures or

2. the immutable characteristics, source of income, or income level of an applicant or end user (other than age or disability, in the case of age-restricted or disability-restricted housing).

Providing Housing Opportunities

In addition to the housing-related provisions above, the bill requires zoning regulations to provide for, rather than encourage, the development of housing opportunities for all residents of the municipality and local planning region, including opportunities for multifamily dwellings, consistent with soil types, terrain, and infrastructure capacity.

The bill requires zoning regulations to expressly allow, rather than encourage, housing that meets the needs identified in the state's Consolidated Plan for Housing and Community Development and Plan of Conservation and Development.

EFFECTIVE DATE: October 1, 2021

§ 4 — CGS § 8-2: PROHIBITED PROVISIONS

Prohibits regulations from (1) prohibiting cottage food operations in a residential zone or (2) establishing minimum floor area requirements for buildings; limits local authority to (1) require the provision of parking spaces or (2) place a cap on the number of dwellings in multifamily, middle, or mixed-use developments

The bill prohibits zoning regulations from:

1. prohibiting cottage food operations (i.e., operations in which food products are prepared in a private residential dwelling's home kitchen and for sale directly to the consumer) in a residential zone,

2. establishing minimum floor area requirements for buildings that are greater than those required under the Public Health Code, or

3. requiring 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.

The bill also prohibits regulations from placing a fixed numerical or percentage cap on the number of dwelling units permitted in multifamily housing over four units, middle housing, or mixed-use developments.

Under the bill, "middle housing" refers to duplexes, triplexes, quadplexes, cottage clusters, and townhouses. A "cottage cluster" is a grouping of at least four detached housing units or live work units, per acre, that are located around a common open area. (The bill does not define live work units.) A "mixed-use development" is a development containing residential and nonresidential uses in a single building. A "townhouse" is a residential building constructed in a grouping of three or more attached units, each of which shares at least one common wall with an adjacent unit and has exterior walls on at least two sides.

EFFECTIVE DATE: October 1, 2021

§ 4 — CGS § 8-2: OPTIONS FOR PROMOTING CONSERVATION

Expands the energy conservation tools and renewable energy types a municipality can require or promote

Current law allows zoning regulations to encourage the use of certain energy conservation tools, including solar. The bill instead allows the regulations to require or promote these and expands them to include distributed generation or freestanding wind and combined heat and power.

The bill also expands the conservation tools that municipalities can incentivize developers' use of to include any solar and other renewable forms of energy; combined heat and power; water conservation, including demand offsets; and other energy conservation techniques.

EFFECTIVE DATE: October 1, 2021

§ 4 — CGS § 8-2: NONCONFORMING USES

Allows municipalities to discontinue a nonresidential nonconforming use, building, or structure in a residential zone; makes it easier for municipalities to establish that a nonconforming use, building, or structure was abandoned

A nonconforming use is a property use that legally exists at the time

a zoning restriction prohibiting or limiting it is adopted (e.g., a business in an area later zoned for single-family housing). The term also generally applies to lots and structures that do not comply with zoning regulations (e.g., setbacks; see also CGS § 8-13a).

Under existing law, unchanged by the bill, municipalities can prohibit the expansion of a nonconforming use, building, or structure.

Current law prohibits municipalities from discontinuing a nonconforming use, building, or structure that was already in existence when a zoning restriction that prohibited or limited it was adopted unless the property owner voluntarily discontinues and abandons it with the intention of not reestablishing it.

Establishing Abandonment

Current law specifies that demolition or deconstruction alone are insufficient to establish intent to abandon. The bill narrows this rule, applying it only to residential uses, buildings, and structures. Therefore, under the bill, regulations may specify that demolition or deconstruction alone serves as evidence of intent to abandon a nonresidential nonconforming use, building, or structure.

Under current law, regulations cannot specify any time period after which a nonconforming use that is not being used is terminated unless there is an inquiry into the owner's intent. The bill relaxes this standard and instead specifies that regulations cannot terminate a nonconforming use solely as a result of nonuse for a period of less than five years. (It appears that this provision allows regulations to deem an unused, nonconforming use abandoned after a period of five years without an inquiry into the owner's intent.)

Amortization

Under current law, absent voluntary discontinuance and intentional permanent abandonment, zoning regulations cannot phase out or terminate a nonconforming use. The bill authorizes municipalities to adopt regulations discontinuing a nonresidential nonconforming use, building, or structure located in a residential zone after a "reasonable"

amount of time. Specifically, the zoning commission (or presumably combined planning and zoning commission) must:

1. declare that a nonresidential nonconforming use, building, or structure is (a) inconsistent with the local plan of conservation and development or (b) a public nuisance and

2. specify a reasonable time for the termination of such nonconforming use, building, or structure (i.e., amortization period).

The bill requires the commission, before making the declaration, to provide the property owner with (1) notice of a duly presented cease and desist order and (2) a public hearing on it.

EFFECTIVE DATE: October 1, 2021

§ 4 — CGS § 8-2: REGULATING MOBILE MANUFACTURED HOMES

Prohibits regulations from imposing on mobile manufactured homes and associated lots conditions that are substantially different from those imposed on other residential developments

The bill prohibits zoning regulations adopted pursuant to CGS § 8-2 from imposing on manufactured homes, including mobile homes, built to federal standards and with a narrowest dimension of 22 feet or more, and associated lots and parks, conditions that are substantially different from those imposed on (1) single-family dwellings and associated lots; (2) multifamily dwellings; or (3) lots with multifamily dwellings, cluster developments, or planned unit developments.

Under current law, manufactured homes and lots cannot be treated substantially differently from single-family dwellings and lots with single-family dwellings. Additionally, manufactured home developments cannot be treated substantially differently from multifamily dwellings or lots with multifamily dwellings, cluster developments, or planned unit developments. The bill removes references to manufactured home developments.

EFFECTIVE DATE: October 1, 2021

§ 7 — MODEL DESIGN GUIDELINES WORKING GROUP

Requires OPM to convene a working group to develop model guidelines for both buildings and context-appropriate streets that municipalities may adopt

The bill requires the Office of Policy and Management (OPM) secretary or her designee to convene and chair an 11-member working group to develop model guidelines for both buildings and context-appropriate streets that municipalities may adopt, in whole or in part, as part of their zoning or subdivision regulations.

Required Components

The model guidelines must accomplish the following:

1. identify common architectural and site design features of building types used throughout Connecticut;

2. create a catalogue of common building types, particularly those typically associated with housing;

3. establish reasonable and cost-effective design review standards for approval of common building types, accounting for topography, geology, climate change, and infrastructure capacity;

4. establish procedures for expediting the approval of buildings or streets that satisfy these design review standards, whether for zoning or subdivision regulations; and

5. create a design manual for context-appropriate streets that complement common building types.

Reporting, Publication, and Training Requirement

By April 1, 2022, the working group must submit a report to the Planning and Development Committee proposing its model design guidelines. OPM must, by that date, post the guidelines and any necessary revisions on its website for use and adoption by municipalities.

The bill requires the regional councils of governments (COGs), by

June 1, 2021, to collectively develop and implement an education and training program for delivering the model design guidelines for both buildings and context-appropriate streets. COGs will not be able to comply with this deadline because it occurs before the bill takes effect.

COGs must report on their education and training programs in their annual report to the legislature required under the regional services grant program law.

Membership

The OPM secretary, in consultation with the housing commissioner, must appoint the following working group members by August 30, 2021:

1. two with expertise in fair housing issues or affordable housing advocacy;
2. two with expertise in state, regional, or local planning;
3. one representative of the Connecticut Conference of Municipalities;
4. two with expertise in architecture or design;
5. one with expertise in the housing construction trade; and
6. the housing and transportation commissioners and OPM secretary, or their designees.

EFFECTIVE DATE: July 1, 2021

§ 8 — ZONING ENFORCEMENT OFFICER CERTIFICATION

Beginning January 1, 2023, requires all appointed ZEOs to obtain and maintain certification from the state's professional ZEO association

Beginning January 1, 2023, and annually thereafter, the bill requires zoning enforcement officers (ZEOs) to obtain certification from the Connecticut Association of ZEOs. The requirement applies to existing employees and to newly appointed ZEOs working in municipalities that exercise zoning authority under the statutes. The bill requires ZEOs to

maintain certification for the duration of their employment as ZEOs. (It appears that the bill authorizes un-certified ZEOs to be appointed, but it requires them to obtain certification as soon as practicable. In practice, the Connecticut Association of ZEOs requires an individual to have at least two years' experience before it grants certification, among other requirements.)

By law, each municipality decides how its zoning regulations are enforced. In practice, the zoning or combined planning and zoning commission may reserve the enforcement power to itself, or it may be delegated to a ZEO. ZEOs may be responsible for (1) investigating zoning violations and issuing cease and desist orders and (2) reviewing and providing an advisory opinion on applications for special permits, site plans, subdivisions, and variances.

EFFECTIVE DATE: October 1, 2021

§§ 9 & 11 — ALTERNATIVE ON-SITE AND SUBSURFACE COMMUNITY SEWAGE SYSTEMS

Expands DPH's authority over alternative on-site sewage treatment systems to include those with a daily capacity of up to 7,500 gallons, instead of up to 5,000 gallons; shifts, from DEEP to DPH, authority over subsurface community sewage systems with a daily capacity of up to 7,500 gallons; and includes accessory apartments as part of the larger main residence for determining the presence of a community sewage system

Starting by January 1, 2022, the bill (1) expands the Department of Public Health's (DPH's) authority over alternative on-site sewage treatment systems to include most of those with a daily capacity of up to 7,500 gallons, instead of up to 5,000 gallons as under current law; (2) eliminates the caveat that DPH have this authority within available appropriations; and (3) shifts, from the Department of Energy and Environmental Protection (DEEP) to DPH, authority over subsurface community sewage systems with a daily capacity of up to 7,500 gallons.

The bill does so by requiring the DPH commissioner to adopt regulations effectuating the changes. She must establish and define discharge categories that comprise these systems and establish minimum requirements for them, including procedures for issuing a permit or approval for a system by the commissioner, a local health

director, or a licensed sanitarian.

By law, an alternative on-site sewage treatment system consists of a sewage treatment system that uses a treatment method other than a subsurface sewage disposal system and involves a discharge to groundwater. For purposes of the bill, a subsurface community sewage system is a community sewer system involving a domestic sewage discharge to groundwater.

Under current law, a community sewer system is generally a sewer system service for at least two residences in separate structures that is not connected to a municipal sewer system. The bill specifies that, for purposes of this definition, an accessory apartment is part of the larger principal dwelling unit located on the same lot (see "accessory apartment," above).

Under existing law, DEEP has jurisdiction over sewage systems not under DPH's jurisdiction. The bill specifies that it does not affect DEEP permits for alternative on-site sewage treatment systems or subsurface community sewage systems issued before January 1, 2022, and applicable environmental laws continue to apply to the permits until they expire.

Alternative On-Site Sewage Systems

Under current law, DPH has regulatory authority over alternative on-site sewage treatment systems with daily capacities of up to 5,000 gallons. It requires the DPH commissioner to establish and define categories of discharge that constitute these systems (through regulations) and take related actions, but within available appropriations. (To date, no such regulations have been adopted, and DEEP remains responsible for permitting all of these systems.)

The bill (1) increases this threshold, and therefore the capacity of facilities under DPH's authority, to 7,500 gallons, and (2) eliminates the caveat that DPH effectuate the shift of authority from DEEP to DPH within available appropriations, therefore requiring the DPH commissioner, by January 1, 2022, to establish discharge categories and

minimum standards for the treatment systems under DPH's authority.

The bill also makes a conforming change to a related statutory definition (§ 9).

EFFECTIVE DATE: October 1, 2021

§ 10 — WATER POLLUTION CONTROL PLANS

Adds information about sewer system capacity for certain areas to municipal water pollution control plans and requires copies of these plans to be filed with the DOH commissioner in addition to the DEEP commissioner

The bill requires municipal water pollution control authorities (WPCAs) to include in the water pollution control plans they create the specific capacity allocations to serve developable areas for residential or mixed-use buildings with at least four dwelling units. By law, these plans delineate areas such as those (1) served by the municipal sewerage system, (2) where sewerage facilities are planned, and (3) where sewers should be avoided. The plans also describe municipal programs to avoid pollution problems and manage subsurface sewage disposal.

The bill also requires copies of WPCA plans, and any periodic updates to them, to be filed with DOH in addition to DEEP as the law already requires.

EFFECTIVE DATE: October 1, 2021

BACKGROUND

Information on the Affordable Housing Land Use Appeals Procedure and related bills

Affordable Housing Land Use Appeals Procedure (CGS § 8-30g)

The procedure requires municipal planning and zoning agencies ("municipalities") to defend their decisions to reject affordable housing development applications or approve them with costly conditions. In traditional land use appeals, the developer must convince the court that the municipality acted illegally, arbitrarily, or abused its discretion. The procedure instead places the burden of proof on municipalities.

With limited exceptions, developers can use the appeals procedure to contest a municipality's decision on an affordable housing development

application submitted to a municipality if (1) fewer than 10% of the municipality's housing units are affordable, based on certain statutory criteria, and (2) the municipality has not qualified for a moratorium (i.e., a temporary suspension of procedure following a relatively rapid increase in affordable housing stock).

By law, DOH annually publishes a list of housing stock in each municipality that qualifies as affordable housing.

Related Bills

sSB 87 (File 181), favorably reported by the Housing Committee, makes many of the same technical changes to the Zoning Enabling Act and also prohibits regulations from (1) treating licensed group child care homes located in a residence differently than single or multifamily properties and (2) requiring a special permit or exception to operate either a family or group child care home located in a residence within a residential zone.

sSB 961, favorably reported by the Planning and Development Committee, also shifts, from DEEP to DPH, regulatory authority over (1) alternative on-site sewage treatment systems with daily capacities of between 5,000 and 7,500 gallons and (2) small community sewage systems with daily capacities of up to 10,000 gallons.

sHB 6107, favorably reported by the Planning and Development Committee, makes many of the same technical and minor changes to the Zoning Enabling Act, but it also requires municipalities to demonstrate that their regulations provide varied housing development opportunities and promote housing choice and economic diversity in housing.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute
Yea 17 Nay 9 (03/31/2021)