



OLR RESEARCH REPORT

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2002 ACTS AFFECTING LAND USE

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You asked us to summarize 2002 acts affecting land use.

ZONING

PA 02-74, AAC Zoning and the Municipal Plan of Conservation and Development, Appeals of Site Plan Decisions and Municipal Penalties for Violations of Zoning Laws (see below for effective dates)

This act imposes the maximum \$150 fine for each day a zoning violation continues. The law allows towns to adopt ordinances imposing up to \$150 fines for these violations, but prior law did not explicitly allow them to reimpose a fine each day a violation continued (effective October 1, 2002).

The act also explicitly allows anyone aggrieved by a zoning commission's decision to approve or deny a site plan to appeal the decision directly to the Superior Court. In doing so, the act overrules a Connecticut Appellate Court decision, which dismissed a site plan appeal because the aggrieved property owner did not first appeal it to the local zoning board of appeals (*Borden v. Planning and Zoning Commission*, 58 Conn. App. 399, *cert. den.* 254 Conn. 921 (2000)) (effective upon passage).

Finally, the act requires zoning commissions to consider the town's plan of conservation and development when changing or repealing zoning regulations or zoning boundaries. The law already requires them to consider the plan when adopting regulations. The act also requires commissions to state on the record whether a proposal to adopt, change, or repeal a regulation or boundary is consistent with the plan (effective October 1, 2002).

PA 02-77, AAC Actions of Zoning Commissions on Petitions (effective upon passage and applicable to petitions filed on or after that date)

This act removes the limits on the kinds of actions zoning commissions can take on a request to change a zoning regulation or a zoning map's boundaries. Prior law allowed them to adopt or deny these requests. The Superior Court has issued conflicting rulings as to whether the power to approve a request encompasses the power to modify it. The act allows commissions to act upon requests without limitations.

LAND USES

PA 02-87, AAC the Affordable Housing Land Use Appeals Procedure (effective October 1, 2002)

This act makes several changes to the affordable housing appeals. It extends, from three to four years, the time period during which towns can obtain a state-imposed moratorium on developers using the procedure to appeal local decisions rejecting proposed affordable housing projects. It also adds another year on to any moratorium that is in effect on October 1, 2002. By law, a town obtains a moratorium each time it meets specific affordable housing thresholds.

By law, developers cannot use the procedure in towns where at least 10% of the housing units were assisted or financed with government funds or are subject to 40-year deeds restricting their sale or rental to low- and moderate-people. The act adds deed-restricted mobile manufactured homes and accessory ("in-law") apartments to the type of units towns that count toward the 10% threshold. The deed restriction must (1) be recorded on the land record; (2) last 10 years; and (3) require the units to be sold or rented at prices that are affordable under the statutes (i.e., the price does not exceed 30% of the income of a person or family whose income is at most 80% of the median income). The act

requires the economic and community development commissioner to write model deed restrictions satisfying these requirements.

Lastly, the act makes people who own and rent units eligible for property tax credits if they agree to place deeds on the units restricting their rental to low- and moderate-income people for at least 40 years. Prior law restricted these credits only to single-family homeowners and multifamily homeowners who occupy one of the units. By law, towns can count these units toward a moratorium and the 10% exemption threshold.

PA 02-129, AAC Wastewater Discharges in Drinking Water Supply Watersheds (effective October 1, 2002)

This act bars the environmental protection commissioner from issuing a discharge permit for an alternative on-site sewage treatment system within a drinking water supply watershed, unless he determines:

1. the system is the only feasible solution to an existing water pollution problem and the new system's capacity does not exceed that of the failed on-site system or
2. the system is for expanding a municipal or public school project or constructing a new one on the site of an existing municipal or public school project in a town where a majority of the land is located within a drinking water supply watershed.

The act applies specifically to alternative on-site sewage treatment systems defined in the Public Health Code as "a system serving one or more buildings on one property which utilizes a method of treatment other than a subsurface sewage disposal system and which involves a discharge to the waters of the state." Subsurface sewage treatment systems include septic tanks and accompanying leaching systems.

Prior law required the commissioner to issue a discharge permit for any facility if the application is consistent with the federal Clean Water Act and (1) the discharge will not pollute state waters or (2) the system proposed to treat the discharge will protect state waters from pollution.

PLANNING POLICY

SA 02-13, AAC Blue Ribbon Commission on Property Tax Burdens and Smart Growth Incentives (effective upon passage)

This act establishes a 17-member commission to evaluate smart growth incentives and disincentives. It also requires the commission to evaluate personal and business property tax burdens among municipalities, compare them to other states, and study ways to modify the tax and identify alternative revenue sources.

The governor, legislative leaders, the Connecticut Conference of Municipalities (CCM), the Council of Small Towns (COST), the Connecticut Business and Industry Association (CBIA), and the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) appoint the commission members. They must make all appointments, and the commission must hold its first meeting, by July 1, 2002. CCM and COST jointly designate the commission chairman and vice-chairman.

The commission's final report, with findings and recommendations, must be filed by October 1, 2003.

PA 02-83 AA Requiring Notification of Voting or Voting Registration to Conservators of Residents in Certain Institutions Mail-in Voter Registration Procedures, and Service by Municipal Employees on Municipal Boards and Commissions (Effective October 1, 2002)

This act allows towns to adopt an ordinance allowing its employees to serve on bodies (1) exercising planning, zoning, or land use powers and (2) regulating inland wetlands and watercourses. Prior law prohibited all municipal employees from serving on these boards and a board of finance unless (1) the town's charter or home rule ordinance allowed it or (2) the employee served on these boards because of his membership on the town's legislative body. The ban on service on a finance board or a governmental body that directly supervises the employee still applies.

The act also removes the ban on salaried municipal office holders' service on a planning commission if the town has adopted the ordinance described here.

RECORDS

PA 02-137, AAC The Confidentiality of Military Discharge Documents (effective October 1, 2002)

This act gives members of the public the right to copy public records, using a battery operated electronic scanning device that leaves no marks or impressions on the record and that does not unreasonably interfere with the operations of the agency that maintains the record. It allows public agencies to establish a fee of up to \$10 for each time a person copies the agency's records.

The act requires each municipal agency to waive copying fees for the municipality's elected officials who certify that the records pertain to their official duties. State agencies can currently charge up to 25 cents per page for copies and municipal agencies can charge up to 50 cents.

PA 02-133, AAC Concerning the Disclosure of Security Information Under the Freedom of Information Act (effective October 1, 2002)

The act exempts the following records from disclosure under the Freedom of Information Act (FOIA) if reasonable grounds exist to believe that their release could pose a safety risk, including harm to anyone or any facility or equipment owned or leased by the state; a town; public service company; certified telecommunications provider; or municipal gas, electric, or water services utility. These records include:

1. engineering and architectural drawings;
2. security systems' operational specifications (except a general description, cost, and quality of such a system);
3. training manuals that describe security procedures, emergency plans, or security equipment;
4. internal security audits; and
5. logs or other documents containing information on security personnel movement or assignments.

By law, the state public works commissioner, not municipal officials, decides if security-related records on public buildings and facilities are exempt from FOIA.

APPEALS

PA 02-132, AAC the Court Support Services Division (effective October 1, 2002)

The law allows parties to resolve disputes involving land use decisions or locally cited violations of state dumping laws through mediation instead of litigation. This act makes changes to the mediation procedure and makes it available to parties appealing decisions involving wetlands or watercourses.

The act eliminates a requirement that the parties publish notice of mediation in a newspaper with substantial circulation in the municipality within 15 days after notifying the court. It also eliminates a provision under which aggrieved parties could petition the court to participate in the mediation process. The act makes conforming changes.

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