

Model Regulations for Updating Zoning Regulations Statutory Changes to Zoning Administration and Procedures Since 2002

Overview

The following model language recommendations are intended to assist towns with addressing recent administrative and procedural revisions to the Connecticut General Statutes that pertain to municipal zoning authority. These are only recommendations, and have not been reviewed by any legal advisor. Towns are advised to consult with legal counsel when adopting new regulations.

As requested by towns that are members of the Northwestern Connecticut Regional Planning Collaborative, Collaborative staff will perform a checklist review of zoning regulations to determine which, if any, of the essential revisions are necessary to avoid potential defects in any regulatory procedures. The checklist notes whether the revisions are mandatory or optional for inclusion in regulations.

We are also making this checklist and model language available to all Litchfield County towns to assist with their own reviews of regulatory updates.

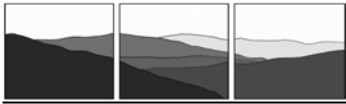
Administrative Revisions Checklist					
	Statutory Requirement	Statutory Citation	Status	Applicable Regulation Section	<input checked="" type="checkbox"/>
A. Revision of Regulations/Zones					
A.1	Regulation Amendment Procedures	§8-7d (Revised 2003)	O-M		
A.2	“Act Upon” Regulation Revision	§8-3 (revised 2002)	M		
A.3	Regulation consistency with Plan	§8-3 (revised 2002)	M		
B. Notice Requirements					
B.1	Additional Notice Procedure	8-7d (revised 2006)	M		
B.2	Required Notice to DPH	8-3i (revised 2006)	O-M		
B.3	Required Notice to Adjoining Municipalities	8-7d (revised 2003)	O-M		
B.4	ZEO to advise applicant re: ZCC notice	§ 8-3(f) (2003)	O-M		
B.5	Required notice to easement holders	§47-42d (revised 2005)	O-M		
C. Administrative Procedures					
C.1	Uniform Procedures	§8-7d (revised 2003)	M		
C.2	Wetlands approval consistency	§8-3(g) (revised 2007)	O-M		
C.3	Pre-application review	§7-159b (revised 2003)	O-O		
D. Other Issues					
D.1	Penalties if fine ordinance adopted	§8-12a (revised 2002)	O-O		
D.2	Automobile Dealers/Repairers – ZBA Certification of Location Approval	§14-54 (revised 2006)	O-M		
D.3	Floodplain Regulations*	§8-2l (revised 2004)	M		
G.4	Site plan appeals	§8-8(b) (revised 2006)	O-M		

M: Mandatory in Regulations

O-M: Optional in Regulations, Mandatory Procedure

O-O: Optional in Regulations, Optional in Procedures

* Applies only to towns with designated floodplains



A. Revision of Regulations/Zones Procedures

1. Regulation Amendment Procedures

Why: PA 03-177 revised CGS §8-3 to specify that a hearing on a regulation or zone change be held in accordance with CGS §8-7d and added a requirement for notice to the regional planning agency of any zone change or regulation change affecting property within 500 feet of a town border. PA 06-80 revised CGS 8-7d to require that the commission notify registrants on a Public Notice Registry whenever the commission proposes a zone or regulation change (see also Notice Requirements below).

How: Where zoning regulations provide the procedure for amending regulations, the following language incorporates statutory revisions to the required procedures and notices.

x.xx: These Regulations and the Zoning District Map may be amended, changed, or repealed and use districts may be established, changed, or eliminated in the manner provided by the Connecticut General Statutes either on the initiative of the Commission or after receipt of a petition in accordance with the following procedures.

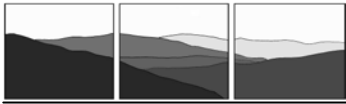
A. Petition Requirements

A petition for zone change and/or regulations modification shall include the following:

1. All petitions shall be submitted in writing and signed by the property owner(s) requesting such change.
2. Any petition for the establishment or change of a use district shall be accompanied by a legal description and an A-2 Survey Map showing in reasonable detail the topographic and land characteristics of the area referred to in such petition, including the names of all property owners within such area and within 500 feet thereof and including the location of any Town boundary within 500 feet of the proposed district boundary.
3. Any petition for a change of these Regulations shall make specific reference to the portion of these Regulations to be changed and shall contain the text of the proposed amendment or change.
4. The Commission may require that petitions for the establishment or change of a use district include conceptual Site Plans for the development of the land involved in the change including the location of buildings, streets, and open spaces, and such other information as the Commission considers necessary for its decision. Such plans shall demonstrate conceptual conformance with these Regulations or with the Regulations as proposed to be modified.
5. All petitions shall be accompanied by a comprehensive analysis of the proposal that includes information concerning traffic flow and generation, environmental impact statement, and compliance with the current Plan of Conservation and Development.
6. All petitions shall be accompanied by a comprehensive analysis of the consistency of the proposed zoning regulation or boundary with the current Town Plan of Conservation and Development.

B. Procedures for District Changes and Amendments to Regulations.

1. Any proposed changes to zoning district boundaries or the Zoning Regulations shall be considered by the Commission following the procedures provided in CGS §8-3, 8-7d, and Section ___ of these Regulations.



2. When any district or regulations change is proposed by the Commission, the Commission shall provide notice in accordance with CGS §8-3b and shall also provide notice to the Public Notice Registry established by the Town in accordance with CGS §8-7d.
3. When any district or regulations changes are proposed by petition, the petitioner shall provide notice in accordance with CGS §8-7d.
4. The Commission shall not be required to hear any petition for amendment, change or repeal within one year from the date after a decision by the Commission or a court decision on an earlier such petition.

2. "Act Upon" Regulation Revision

Why: PA 02-77 removed the limits on the kind of actions a commission may take on a request to change a regulation or zone boundary. Presumably, the new language permits commissions to modify any such request in "acting on" the petition.

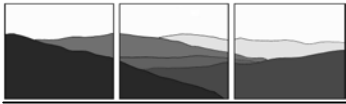
How: If provided in the regulations, procedures for regulation adoption should use the terminology from CGS §8-3 which provides that commission may act upon petitions rather than "adopt or deny".

3. Regulation Consistency with Plan

Why: PA 02-74 amended CGS §8-3 to require consideration of the municipal plan in any decision on a regulation or zone change and state such findings of consistency on the record.

How: A specific reference to the provision in CGS §8-3 requiring a finding of consistency for a regulation with the Plan of Conservation and Development is probably not necessary in the regulations themselves, but towns should be aware of this clause and, if current regulations spell out criteria for approving regulations, add this reference:

- x.xx: In making its decision the commission shall take into consideration the plan of conservation and development, prepared pursuant to section 8-23, and shall state on the record its findings on consistency of the proposed establishment, change or repeal of such regulations and boundaries with such plan.



B. Notice Requirements

1. Additional Notice Procedure

Why: PA 06-80 changed the language of §8-7d, which details procedures for processing applications, to specify what kind of additional notice may be required beyond the publication of a legal notice. The new language states that, if required, additional notice shall be “mailed to persons who own land that is adjacent to the land that is the subject of the hearing.” Proof of such notice need only be certificate of mailing (not return receipt for certified mail).

How: If the Zoning Regulations require notice in addition to the publication of a legal notice, the following language may be inserted in the public hearing procedures section of the Regulations:

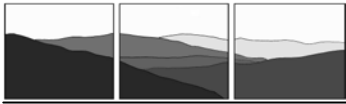
xx.x Upon the scheduling of a public hearing by the Zoning Commission or Zoning Board of Appeals, the applicant shall notify by mail all owners of property adjacent to the subject property according to the current Grand List, including parcels separated from the subject property by a public street or other municipal property, at least 7 days in advance of the initial public hearing. The notice shall include a brief description of the application along with the date, time, and location of the public hearing. The applicant shall submit to the Zoning Commission, Planning Commission, or Zoning Board of Appeals a list of all property owners notified and certificates of mailing of the required notice to each such property owner as evidence of compliance with this requirement.

2. Required Notice to DPH:

Why: PA 06-53 added a requirement to CGS §8-3i that the Department of Public Health be notified (by the applicant) whenever an application, petition, request, or plan is filed with the zoning commission for a project within any designated aquifer protection area or water company watershed. (DPH has notified all communities that are subject to this requirement.) Note that the DPH has created an online notification form at http://www.dir.ct.gov/dph/Water/Web_form.htm. This notice is in addition to the existing requirement to notify public water supply companies for applications within a designated watershed area.

How: If notification requirements are provided in zoning regulations, the following clause may be inserted. If not in regulations, such requirements should be specified on application forms.

xx.x When an application is filed to conduct or cause to be conducted any action requiring approval of the _____ planning and zoning commission on a property, any portion of which is within a public water supply aquifer as identified in accordance with CGS §22a-354c or the watershed area of a water company, the applicant shall notify the Commission of Public Health as required by CGS Section 8-3i and shall certify such notice to the Commission prior to any action by the Commission on the application.



3. Required Notice to Adjoining Municipalities

Why: PA 03-177 added a provision for notification of adjoining municipalities of any applications affecting land within 500 feet of a town boundary or if traffic or water impacts are likely across town boundaries.

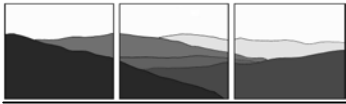
How: If Zoning Regulations detail notice requirements, the following clause should be included; alternatively such notice requirements may be added to internal administrative procedures. Note that this requirement also applies to inland wetlands agencies and zoning boards of appeals.

x.xx The planning and zoning commission shall notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which: (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan.

4. ZEO Advise Permit or CO Applicant

Why: PA 03-144 added a provision requiring that the applicant for a building permit or zoning certificate of compliance be notified by the ZEO of the right to publish notice of such permit or certificate.

How: If regulations include administrative procedures regarding responsibilities of the Zoning Enforcement Officer, language should reference the requirement that such official inform the applicant for any certification of a building permit or certificate of occupancy that the applicant may provide notice of such certification by either (1) publication in a newspaper having substantial circulation in such municipality stating that the certification has been issued, or (2) any other method provided for by local ordinance. If not in regulations, the local administrative procedures should address this requirement by providing the notice on any application form for a building permit or certificate of occupancy, specifying that the notice must contain (A) a description of the building, use or structure, (B) the location of the building, use or structure, (C) the identity of the applicant, and (D) a statement that an aggrieved person may appeal to the zoning board of appeals in accordance with the provisions of section 8-7.



5. Required Notice to Easement Holder

Why: *PA 05-124 amended CGS §47-42d to require applicants for any land use permit involving a new structure or exterior work on a structure that expands or alters the building footprint, where the property is subject to a conservation easement, to provide written notice to the holder of such easement.*

How: *If Zoning Regulations detail notice requirements, the following clause should be included; alternatively a similar clause may be provided on application forms.*

xx.x When an application is filed to conduct or cause to be conducted any construction of a new building or other structure or expansion of the footprint of an existing building or other structure on a property, any portion of which is subject to a conservation restriction or preservation restriction, the application shall include with the application proof of written notice of such application, by certified mail return receipt requested, to the party holding such restriction or a letter from the holder of such restriction or the holder's authorized agent verifying that the application is in compliance with the terms of the restriction.

If Zoning Regulations provide criteria for decisions on permit applications (standard zoning permits as well as special permits), a reference may be added specifying that no permit shall be granted if it would violate the terms of the restriction.

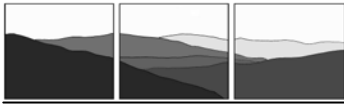
C. Administrative Procedures

1. Uniform Procedures

Why: *PA 03-177 established uniform procedures in CGS §8-7d for scheduling and conducting hearings and issuing decisions.*

How: *Most, if not all, land use commissions have incorporated these procedures; however, when provided in zoning regulations, the following language may be used. Note that the same requirements apply to subdivision, zoning board of appeals, and inland wetlands procedures.*

xx.x Where these regulations require a public hearing on any petition, application, request, or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences. The date of receipt shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. All decisions on such matters shall be rendered within sixty-five days after completion of such hearing, unless a shorter period of time is required under chapter 124 of the Connecticut General Statutes. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.



- xx.x The provisions of this section ___ shall not apply to any action initiated by the Planning and Zoning Commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.
- xx.x Whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered within sixty-five days after receipt of such site plan. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application.

2. Consistency with Wetlands Decision

Why: *CGS 8-3(g) was amended by PA 07-102 to require that any site plan application that involves an inland wetlands regulated activity must be filed with the wetlands agency coincidentally with any zoning application. No decision may be issued by the Zoning Commission until the wetlands agency issues its final decision and the Commission must consider the inland wetlands decision and state on its record the reasons for any terms and conditions that are not consistent with the final decision of the inland wetlands agency.*

How: *Where Zoning Regulations provide criteria for decisions, the following clause may be added.*

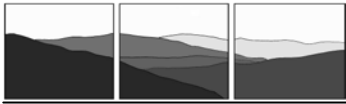
- xx.x When an application for site plan approval involves an inland wetlands regulated activity, the Commission's decision shall not be issued until a decision has been issued by the inland wetlands agency and reviewed by the Commission. The Commission shall state in its decision the reasons for any terms and conditions that are not consistent with such inland wetlands agency decision.

3. Pre-Application Review Process

Why: *PA 03-184 authorized municipal agencies and commissions to conduct pre-application reviews of proposed projects, specifying that no such review is binding on any agency or commission. This is an extremely valuable tool to help expedite application processing.*

How: *Where a town wishes to offer a pre-application review process, the following language may be inserted into the procedural section of the zoning regulations.*

- x.xx Pre-application Reviews
- A. Applicants for a Site Plan, Special Permit, or Special Exception approval, or any combination thereof, may request a pre-application review of a proposed project, as authorized by CGS §7-159b, which review may include members of the Planning and Zoning Commission, Inland Wetlands Agency, Design Review Board, Health District Office, Building Official, Fire Marshal, Town Engineer, Public Works Director, land use staff, and other municipal officials as determined by the Land Use Office (collectively, the "Pre-application Review Team"). Any meeting involving a quorum of board, commission or agency members shall be duly noticed pursuant to Connecticut General Statutes Section 1-225.



- B. In addition to the pre-application review, an applicant for Site Plan, Special Permit, or Special Exception approval may request a pre-application presentation to the Planning and Zoning Commission in accordance with CGS §7-159b.
- C. In order to assist the Pre-application Review Team and/or Planning and Zoning Commission to determine conformity of any Site Plan and any Special Permit or Special Exception application with the intent and purpose of these Regulations, the following information is recommended for submittal at any pre-application review or presentation:
 - 1. Preliminary site plan drawings showing conceptual locations of buildings and other structures, accessways, parking, and other infrastructural development;
 - 2. Photographs of the site including all adjacent properties as viewed from all public streets as well as from adjacent properties;
 - 3. Elevation drawings of proposed buildings, landscaping, outdoor storage areas and refuse/trash containers and free-standing signs corresponding to the site photographs; and
 - 4. For buildings containing over 5,000 square feet, digital views showing the proposed development as integrated with existing adjacent development.
- D. Any pre-application review or presentation under this Section and any results or information obtained from it may not be appealed under the provisions of the Connecticut General Statutes, and shall not be binding on the applicant or any authority, commission, department, agency or other official having jurisdiction to review the proposed project.

D. Other Issues

1. Penalties if fine ordinance adopted

Why: *Municipalities that wish to adopt penalties for violations of zoning regulations must establish such penalties by ordinance. PA 02-74 specified that such fines could apply to “each day” of a violation.*

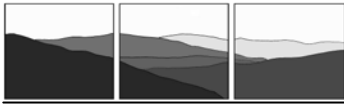
How: *A sample ordinance is attached. Such penalties may also be referenced in the enforcement section of the Zoning Regulations.*

2. Automobile Dealers/Repairers Certification of Location

Why: *If the Zoning Regulations permit motor vehicle sales or repair, applications for state licenses must be certified by the local ZBA. This has changed several times over the past ten years.*

How: *Where zoning regulations specify the duties of Zoning Board of Appeals, the regulations could specify the procedure for location approval by the ZBA, as required by CGS §14-54. Suggested language:*

x.xx The ZBA shall have the authority to issue a certificate of approval of the location for a motor vehicle sales or repair business following a determination that such business is permitted by right or has received any required zoning permit, special permit, special exception, or site plan approval in accordance with the Town of _____ Zoning Regulations. An application for a certificate shall be on a form provided by the Board and shall include all documentation necessary to support the determination required above.



3. Floodplain Regulations

Why: *PA 04-144 added §8-2I to the Statutes to require towns to adopt regulatory standards for managing land uses in floodplains. Such standards may be stricter than the statutory guidelines.*

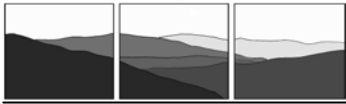
How: *Where a town has floodplain regulations, at a minimum the following language should be inserted where appropriate. The town may wish to consult the DEP model floodplain regulations. Contact Collaborative staff or the Connecticut Department of Environmental Protection for a copy or more information.*

x.xx: Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

x.xx: Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

4. Site Plan Appeals

Why: *Commissions should be aware that CGS §8-8(b), as amended by PA 07-60, now clarifies that appeal of any decision on a site plan application is made to superior court. Previously, the statutes did not specify that such appeals were to court, rather than to the local zoning board of appeals.*



Zoning Citation Ordinance Model (based on Guilford, Connecticut ordinance)

ARTICLE __. Penalties for Offenses, Violation of Zoning Regulations.

- A. Citations for zoning violations. The Zoning Enforcement Officer is authorized to issue citations for violations of the Zoning Regulations of the Town of _____ to the extent and in the manner provided by this section. The Zoning Enforcement Officer may issue such citations only after approval by the _____ Planning and Zoning Commission. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in the citation. If the person named in the citation sent by certified mail refuses to accept such mail, the citation may be sent by regular United States Mail.
- B. Zoning violations for which citation shall be issued. A citation may be issued for any violation of the zoning regulations of the Town of Guilford.
- C. Amount of fine for zoning violation citations. The fine for each citation shall be \$150 for each day the violation continues. Fines shall be payable to the Treasurer of the Town of _____.
- D. Time period by which a fine must be paid if not contested. A person receiving a citation shall be allowed a period of 30 days from his or her receipt of the citation to make an uncontested payment of the fine specified in the citation to the Treasurer. If the citation has been sent by regular mail pursuant to the provision of Subsection A of this section, the day of receipt of the citation shall be deemed to be three business days after the day of mailing of the citation.
- E. Hearing procedure for citations. Any person issued a citation shall be entitled to a hearing to contest the citation. The procedures for hearing, disposition and enforcement shall be as is set forth in the Connecticut General Statutes, Section 7-152c, Hearing Procedure for Citations, and Connecticut General Statutes §8-12a, as the same may be amended from time to time.
- F. Selection of hearing officers. The First Selectman shall appoint one or more citation hearing officers to conduct any hearings required by this Ordinance. The Zoning Enforcement Officer, Building Official, and any employee or member of the _____ Planning and Zoning Commission may not be appointed as a hearing officer pursuant to this section.