

WORKSHOP FOR ZONING COMMISSION OF THE CITY OF DANBURY

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OUTLINE OF DISCUSSION TOPICS*

I. ZONING COMMISSION POWERS AND DUTIES.

1. Creature of Statute.

C.G.S. § 8-1 authorizes municipalities to create local zoning commissions.

2. Charter

Danbury has created its Zoning Commission through Charter § 2-2A.h(i) & (2).

3. Membership

9 regular members, 3 alternates.

*This outline is intended as a quick reference to applicable requirements of the Connecticut General Statutes, the Zoning Regulations of the City of Danbury, governing court decisions. It is not intended as a substitute for direct review of these authorities. The Commission should consult with the office of the Corporation Counsel if it has any questions as to the applicability or scope of the authorities and principles outlined herein to particular applications.

4. Functions:

- a. Regulations – Adopt and amend the Zoning Regulations. (Regulations §§ 10.A.1.a., 10.I.1)
- b. Map – Adopt and amend the Zoning Map. (Regulations §§ 10.a.1.a., 10.I.2)
- c. Special Permits - Hear and decide special permit applications for restaurants, liquor stores, cafes, taverns, grocery stores, package stores (to extent retail sale of alcoholic beverages is involved). (Regulations § 3.F)
- d. Motor Vehicle Repairers and Dealers – Determine suitability of location. (Regulations § 10.A.1.a(1); C.G.S. § 14-54)

II. THE ZONING AND PLANNING PROCESS--AN OVERVIEW OF THE LEGISLATIVE FUNCTION.

A. THE CONSTITUTIONAL ORIGINS OF ZONING.

1. Original Ordinances. Zoning came about in the late 1800's-early 1900's. With the growth in numbers and concentrations of urban population came congestion, traffic, etc. Industrial/commercial uses began to locate in residential neighborhoods and vice versa. Original ordinances were nuisance abatement ordinances. They gradually evolved into plans for the overall development of the municipality in furtherance of the public interest.

2. **Village of Euclid** U.S. Supreme Court, 272 U.S. 365 (1926)--upheld the right of towns and cities to adopt regulations dividing a municipality into several districts and segregating residential, business and industrial uses apart from each other. The ordinance in question changed the plaintiff's land from industrial to residential, thus diminishing its value from its intended industrial use. Plaintiff argued that this was a taking of its property without due process.

The Court held that such regulations do not violate private property owners' due process rights because they are in furtherance of the "police power" -- i.e., the power of local government to protect the public health safety and welfare.

B. LEGISLATIVE ROOTS IN CONNECTICUT.

The Connecticut legislature has set forth the public health, safety and welfare purposes of zoning regulations in C.G.S. § 8-2 (copy attached).

Key language in § 8-2 reminds us of the overriding planning purposes of zoning regulations:

- “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.”
- “[Z]oning regulations shall be made with reasonable consideration as to the character 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 municipality.”

- “All such 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...”
- “Regulations may provide that certain classes or kinds of buildings, structures or uses 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 ... 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 made in accordance with a comprehensive plan and in adopting such regulations the commission shall consider the plan of conservation and development prepared under section 8-23.”

C. CORE ZONING PRINCIPLES.

1. Uniformity.

The regulations within a district must be uniform for each class and type of use.

2. No Contract Zoning.

Conditions on zone changes generally are not allowed.

3. Police Power.

The power to zone is not unlimited. Regulations must reasonably relate to the police power purposes of § 8-2, and will be declared to be a taking if they are so restrictive that they prevent all reasonable use of property.

4. Vagueness.

A regulation also will be declared unconstitutional if it is too uncertain or vague to provide a sufficient standard for enforcement.

5. Strict Construction of Zoning Regulations.

They limit private property rights; therefore must be narrowly construed in favor of property owner.

6. “Permissive.”

Our regulations are permissive; what is not expressly allowed is prohibited.

7. The Comprehensive Plan.

The “comprehensive plan” consists of the zoning regulations and map which divide the municipality into districts. All zoning regulations and boundaries must be consistent with the comprehensive plan. (C.G.S. § 8-2)

D. RELATIONSHIP OF ZONING TO PLANNING--THE "POCD."

- Planning is critical to good zoning.
- Planning Commission must adopt a Plan of Conservation and Development ("POCD") (C.G.S. § 8-23).
- POCD is basically a plan for the overall development of the community.
 - What types of uses go where?
- What is the most desirable density of population in the various districts of the City?
- What areas should be conserved?
- What are the goals for the physical and economic development of the City?

- The POCD is a recommendation, but the Zoning Commission must consider it in adopting or amending regulations and zoning districts. (C.G.S. § 8-2).
- Uses allowed in a zoning district must be compatible with stated purposes of the district (as found in the Zoning Regulations and the POCD).
- If not, the district becomes a mish-mash of incompatible uses, destroying the integrity of the zone, reducing property values, destroying property owners' reasonable expectations, etc. -- i.e., bad zoning undermines the POCD and its health, safety and welfare goals.
- Both the Zoning Commission and Planning Commission need to consider the POCD and make express findings on it when they are considering changes in regulations or zone boundaries -- i.e., Is the proposed change consistent with the POCD? (C.G.S. § 8-3(b)); see also Regulations § 10.1.3 (considerations).

E. ZONING IS NOT NUISANCE ABATEMENT.

Nuisance – a use of property which is offensive and unreasonable.

Zoning is not nuisance abatement. It must be based on an overall plan that is in the best interests of the entire community.

-- The Supreme Court in Euclid said:

“The exclusion of places of business from residential districts is not a declaration that such places are nuisances ... but it is a part of the general plan by which the city’s territory is allotted to different uses, in order to prevent, or at least to reduce, the congestion, disorder, and dangers which often inhere in unregulated municipal development.” 272 U.S. at 392-93.

Just because a proposed use is not a nuisance does not mean that it is appropriate for a particular zone. (For example, a small office building may not be a nuisance to a surrounding residential neighborhood but it may be inconsistent with the City’s plan.)

F. HIGHEST AND BEST USE DOES NOT CONTROL ZONING DECISIONS.

The highest and best use of a particular piece of property is not a controlling purpose of zoning, nor is the maximum possible enrichment of any particular landowner. Fuller, Land Use Law & Practice § 34.10 (2007). The purpose of zoning is to control the use of land to promote the public interest.

G. SPOT ZONING.

Spot zoning generally may be described as singling out “for special treatment a lot or a small area of land in a way that does not further the comprehensive plan.” Fuller, § 4.8.

To survive a spot zoning challenge, the change of zone must be in accord with the comprehensive plan and reasonably relate to the police power purposes set forth in C.G.S. § 8-2.

Spot zoning is inconsistent with the planning goal of an overall development plan in furtherance of the public interest.

- Fact – intensive!

H. CONSIDERATIONS IN AMENDING THE REGULATIONS.

- Amendments to the regulations to allow a use in a specific zone are effective not only as to the applicant's contemplated use of its property, but to all properties located in the zone.
- In exercising its legislative judgment the Commission can and should consider the amendment's effect on all properties in the City located in the applicable zoning district. See Protect Hamden/North Haven from Excessive Traffic and Pollution, Inc. v. Planning & Zoning Comm'n, 220 Conn. 527, 547-48 (1991).
- A conceptual site plan submitted by the applicant with its zone change application does not limit the use of the property if the change is granted. Id.
- Vote requirements (C.G.S. § 8-3(b))
 - Majority vote of entire commission required.
 - Two-thirds vote required if protest filed at or before hearing by owners of twenty percent of lots included in the change or of lots within 500 feet of the subject property.
 - Protest filed at or before hearing by voters of twenty or more.

III. THE ADMINISTRATIVE PROCESS – MAKING THE DECISION.

A. SITE PLANS (Planning & Zoning Dept.) – authorized by § 8-3.

- What is a site plan? A plan showing a proposed use on a specific site, showing all information required by the regulations for such use.
- It is required for all permitted and special exception and special permit uses (except 1-3 family dwellings). (Danbury Zoning Regulations § 10.D) It must meet requirements of the Regulations. (§ 10.D.3)
- A site plan can be approved, modified (to comply with the Regulations) or denied. A site plan can be modified or denied only if it fails to comply with requirements already set forth in the zoning or inland wetlands regulations. (C.G.S. § 8-3 (g))
- The decision must be based on specific criteria already set forth in the Regulations.

- If particular use is permitted in the zone, a conclusive presumption arises that such a use in general will not adversely affect off-site traffic. Friedman v. Planning & Zoning Comm'n, 222 Conn. 262 (1992).
- Section 10.D.11a(i) of the Zoning Regulations allows inquiry into whether ingress or egress to the site will adversely impact the normal flow of traffic or normal safe conditions of the roadways.” This language does not mean that a site plan can be denied because of existing off-site traffic volumes and patterns. See Fuller, Land Use Law & Practice § 49.14 (1998 Supp.).

B. SPECIAL PERMITS/SPECIAL EXCEPTIONS.

1. Zoning Commission issues Special Permits.
2. Planning Commission issues Special Exceptions.
3. What is a Special Permit use compared to a use permitted as of right?

- A permitted use is one for which the Commission (through the Regulations) has already made the determination that a particular use is appropriate in a particular area.
- In reviewing a special permit application the commission must examine the proposed site plan submitted with the application and determine, inter alia, whether it would be compatible with the zoning district and the existing structures permitted in that zone as of right.
- Basic principle – special permit uses may be generally compatible with permitted uses in a district, but because of their nature, their location and operation must be scrutinized because of topography, traffic problems, neighboring uses, etc. Barbering Realty v. Planning & Zoning Comm'n, 222 Conn. 607, 620 (1991).
- For example, a site plan that allows for adequate traffic circulation in an area zoned commercial may be wholly inadequate in an area zoned residential. The commission, therefore, must tailor its review of each site plan accompanying a special permit application to the particular zoning district in which the landowner seeks to develop. Id.

C. THE 10.C.4 STANDARDS TO GRANT A SPECIAL PERMIT.

The Commission must follow the standards set forth in the Zoning Regulations. The standards for approval are in § 10.C.4 of the Zoning Regulations. The Commission must find that the proposed use:

- (1) will not emit noise, smoke, glare, odor, or vibration or other conditions which will create a nuisance having a detrimental effect on adjacent properties;
- (2) is designed in a manner which is compatible with the character of the neighborhood;
- (3) will not create conditions adversely affecting traffic safety or which will cause undue traffic congestion; and
- (4) will not create conditions harmful to the natural environment or which will jeopardize public health and safety.

D. ADDITIONAL STANDARDS FOR SPECIAL PERMITS (INVOLVING ALCOHOL SALES).

1. Regulations § 3.F.2. Commission must find that:
 - (1) the proximity of such premises or buildings will not have a detrimental effect upon any adjacent school, church or other place of worship; and
 - (2) the location of such premises or buildings will not have a detrimental effect upon the immediate area with due consideration given to:
 - (a) the compatibility and impact of the use on the surrounding area, including adjacent residential neighborhoods, and
 - (b) the impact of the use upon traffic congestion and safety.
2. Separate Requirements for Cafes and Taverns, Grocery Stores, Package Stores. (Regulations, § 3.F.2.b. through d.)
3. Planning & Zoning Department must approve (or waive) site plan before special permit application may be filed. Id., § 10.C.4.b(3).

E. SITE PLANS SUBMITTED WITH SPECIAL PERMIT APPLICATIONS.

- If the site plan fails to comply with the Zoning Regulations, Commission must deny Special Permit. Mackenzie v. Planning & Zoning Comm'n, 146 Conn. App. 406 (2013).

F. TRAFFIC CONSIDERATIONS.

- If a development will cause or worsen traffic congestion (not merely an increase in traffic in general) or create a traffic hazard (safety), the Commission may deny a special permit in a proper case. See Fuller, § 49.13 (denial proper when proposed on-site driveway did not allow for adequate traffic circulation and was too close to adjacent property). Necessary traffic and highway improvements adjacent to the property may be a basis for a condition.
- Special permit application may not be denied on the basis of traffic congestion unless evidence shows the special permit use will have a “significantly greater impact” on traffic congestion in the zoning district than a use permitted as of right. Cambodian Buddhist Society of Conn., Inc. v. Planning & Zoning Comm'n, 285 Conn. 381, 434 (2008).

**IV. OVERLAPPING JURISDICTION OF LAND USE AGENCIES;
NOTICE AND REFERRAL REQUIREMENTS.**

A. ADOPTION OF ZONING REGULATIONS AND BOUNDARIES.

1. Proposal must be referred to Planning Commission at least 35 days before start of hearing. (C.G.S § 8-3a)
 - a. Planning Commission must issue report on consistency of proposed regulation/boundary with plan of conservation and development and any other factors Planning Commission deems relevant.
 - b. Report must be read aloud at Zoning Commission public hearing.

- c. If no report, Planning Commission approval is implied.
- d. If Planning Commission issues negative recommendation, amendment may be adopted only upon vote of two-thirds of entire Zoning Commission.

NOTE – IF COMMISSION FAILS TO OBTAIN AND READ PLANNING COMMISSION’S REPORT INTO HEARING RECORD, COURT WILL OVERTURN THE ADOPTION OF THE PROPOSAL.

Pompea v. Danbury Zoning Comm’n, 1996 Conn. Super. LEXIS 1205.

B. NOTICES AND REFERRALS TO OTHER AGENCIES.

1. Notice to Adjoining Municipality.

Zoning Commission, Planning Commission, Zoning Board of Appeals and Wetlands Agency must notify clerk of any adjoining municipality of pendency of any application, petition, request or plan concerning any project on any site if any portion of the property affected by a decision is within 500 feet of the boundary of the adjacent municipality or if traffic, sewer or water, drainage or runoff will have impacts on the adjoining municipality, under specified circumstances. (C.G.S. § 8-7d(f))

- Appears not to apply to zone changes.

2. Notice to Regional Planning Agency.

Required for changes in zoning regulations or boundaries affecting use of a zone within 500 feet of boundary of another municipality within a regional planning agency area. Notice must be not later than thirty (30) days before hearing. (C.G.S. § 8-3b)

3. Notice by Applicant to Water Companies.

Required for any application to Zoning Commission, Planning Commission, or Zoning Board of Appeals concerning any project on any site within the watershed of a “water company,” provided the water company has filed a map showing boundaries of the watershed on the land records and with the zoning commission, planning and zoning commission or zoning board of appeals. (C.G.S. § 8-3)

4. Wetlands.

- If any portion of regulated wetlands activity is within watershed of water company, applicant must provide written notice of application to water company if water company has filed a map showing boundaries of the watershed on the land records and with the wetlands agency. (C.G.S. § 22a-42f)
- If application for special permit/special exception involves a regulated wetlands activity, applicant must submit wetlands application to EIC no later than the day the special permit/special exception application is filed. (C.G.S. § 8-3c).
- Commission must wait for EIC decision, must give “due consideration” to EIC decision. (Id.)

V. PROTECTING THE DECISION: PROBLEM ISSUES.

A. PARTICIPATION IN THE HEARING PROCESS.

Allow public to inspect all documents and plans submitted.

1. Include all written reports and comments in hearing record (log in exhibits; read aloud regional planning agency and Planning Commission reports on zone changes).
2. Identify speakers.
3. Provide interested persons fair opportunity to comment, introduce exhibits; parties must be allowed to examine and cross examine witnesses (through the Chair).
4. Adopt and adhere to a basic protocol for conducting the hearing (Robert's Rules, e.g.) – direct all questions to Chair, speak clearly and not until recognized by Chair. Bottom line: create a clean, organized record for appeal.
 - Commission's by-laws generally require compliance with Robert's Rules.

B. “EX PARTE” COMMUNICATIONS – COMMUNICATIONS OUTSIDE THE HEARING ROOM.

1. Avoid them. They create a presumption of prejudice; switches burden on appeal to Commission to show that communication did not affect decision.
2. If you are contacted, decline to discuss the matter, put the contact on the record.

C. RECEIPT OF POST-HEARING EVIDENCE.

1. No statutory authority to receive evidence (including public comment) after close of hearing; receipt and consideration of such information can invalidate decision. Basis for this rule is that receipt of such evidence equals an additional public hearing, and also denies due process.
2. Exception for receipt of staff reports or guidance based on information already in the record; exception probably does not apply when staff report contains new information.

D. ROLE OF STAFF.

1. Department's role is to act as your advisor and consultant; it provides guidance on technical issues, City policies, precedents, and procedures; historical information on the regulations and on particular sites.
2. Important to understand the differing roles of staff (guidance) v. Petitioner representatives (advocacy).

E. TESTIMONY BY EXPERTS.

1. Commission need not believe any witness, even an expert. But as to technical matters, Commission cannot ignore the only expert evidence on a technical issue without putting on the record the basis for its disagreement with the expert and allowing the applicant and public opportunity to address concerns. Milardo, 27 Conn. App. 214, 222.
2. If Commission intends to use its own expertise or knowledge of a site, it must disclose that expertise or knowledge during the hearing, as well as material facts on which it is relying, and give the applicant a chance to respond or rebut. (See 40 Conn. App. 501, 509)
3. But the Commission may rely on its own knowledge and experience and observations of a site, including matters involving traffic congestion and traffic safety.

F. SITE VISITS.

1. Site visits are authorized and advisable.
2. A site visit is not part of the public hearing, and thus compliance with the formal notice requirements for public hearings is not required, and agency members may vote on an application even though they have not attended this site inspection. Grimes v. Conservation Comm'n, 49 Conn. App. 95 (1998). Agency members, however, must disclose at the next hearing session after the site visit any information they obtained during the site inspection.
3. The Commission members should limit themselves to “what” and “where” questions. No comment by the public or the applicant should be allowed at the site visit -- except in response to “what” and “where” questions.

4. If a quorum of members plans to attend the site inspections, it should be warned as a special meeting, open to the public.

If landowner refuses to allow public to attend the site inspection, this may be an FOI violation. Practical solution – amend Zoning Regulations and application forms to state that property owner, by filing or consenting to the application, also consents to a public site inspection upon reasonable notice and at a reasonable time.

5. Repeated site visits do not necessarily show conflict of interest. Cioffoletti v. Planning & Zoning Comm'n, 209 Conn. 544.

G. RIGHT OF MEMBERS ABSENT FROM HEARING TO PARTICIPATE IN DECISION.

1. In order to participate and vote on petition, a member (or an alternate duly seated) should review entire record (including documents and hearing tapes) and state that on the record. If not, the member can be disqualified by court. This jeopardizes the decision.

H. CONFLICTS OF INTEREST, DISQUALIFICATION.

1. Prejudgment – Do not take a public position on an application before application has been heard or considered. This does not mean that a member cannot hold opinions or express preliminary concerns. Avoid statements before or during hearing suggesting you've made up your mind.
2. No member of a planning commission, zoning commission or zoning board of appeals may appear for or represent any person in any matter pending before any of those three agencies. Members of any other land use commission (including wetlands agencies) cannot appear for or represent others before their own commissions. (C.G.S. §§ 8-11, 8-21, 7-148f, 22a-42(c))
3. No member of any land use commission may participate in hearing or decision on any matter in which member is directly or indirectly interested in a personal or financial sense. (Id.)

When in doubt, get out.

I. THE DECISION.

1. Land use commissions need to adhere to standards and criteria set forth in their respective regulations.
2. The Commission should adopt a collective statement of reasons.
 - a. General rule -- court will not go behind reasons stated by the Commission. (But recent court decisions have moved away from this rule.)
3. Statement of an individual member's reasons is not the collective reasoning of the Commission.
4. Better practice – state reasons; it focuses the Commission on the evidence and on its standards as set out in the Regulations.

J. CONCLUSION.

- Questions.
- Thank you for your dedication and service to the City!

8-2 Section text
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Sec. 8-2. Regulations. (a) The zoning commission of each city, town or borough is authorized to regulate, within the limits of such municipality, the height, number of stories and size of buildings and other structures; the percentage of the area of the lot that may be occupied; the size of yards, courts and other open spaces; 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 the height, size and location of advertising signs and billboards. Such bulk regulations may allow for cluster development, as defined in section 8-18. 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 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 may provide that certain classes or kinds of buildings, structures or uses 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 made in accordance with a comprehensive plan and in adopting such regulations the commission shall consider the plan of conservation and development prepared under section 8-23. Such regulations shall be designed to lessen congestion in the streets; to secure safety from fire, panic, flood and other dangers; to 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 facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration as to the character 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 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 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 housing choice and economic diversity in housing, including housing for both low and moderate income households, and shall encourage 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 made with reasonable consideration for their impact on agriculture, as defined in subsection (q) of section 1-1. Zoning regulations may 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 energy-efficient patterns of development, the use of solar and other renewable forms of energy, and energy conservation. The regulations may also 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 limited to, cluster development, higher density development and performance standards for roads, sidewalks and underground facilities in the subdivision. Such regulations may 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 for notice requirements in addition to those required by this chapter. Such regulations may 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 the operation of any family child care home or group child care home in a residential zone. No such regulations shall 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 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 conditions and requirements on 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 are substantially different from conditions and requirements imposed on single-family dwellings and 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 multifamily dwellings, lots containing multifamily dwellings, cluster developments or planned unit developments. Such regulations shall not prohibit the continuance of any nonconforming use, building or structure existing at the time of the adoption of such regulations. Such regulations shall not provide for the termination of any 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. 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.