

Fair Housing Workgroup: §8-2 Draft Proposal

SUMMARY:

TECHNICAL CHANGES: The proposed language realigns the order of the statute to make it easier for zoning commissions to meet their obligations under the law:

- Subsection (a) – overall delegation of zoning authority to municipalities and powers of zoning commissions
- Subsection (b) – mandatory reg requirements – the “shalls”
- Subsection (c) – permissive reg requirements – the “mays”
- Subsection (d) – prohibitions – the “shall nots”
- Subsection (e) – authority of a municipality to exempt property from any regs under the chapter

SUBSTANTIVE CHANGES: In addition to the changes to structure, the document also makes three substantive changes:

1. Removes the requirements that zoning regulations be made with reasonable consideration as to “the character of the district”, which is undefined.
2. Strengthens the provisions regarding the requirement that zoning regulations “encourage” the development of housing opportunities and the development of housing which meets certain housing needs, by replacing “shall encourage” with “shall INCLUDE”
3. Adds enforcement language for the housing-related requirements for zoning regulations. This provision requires municipalities, beginning July 1, 2019 and then at least every five years, to demonstrate that their zoning regulations include the housing-related requirements. If compliance is not shown, the municipality will lose eligibility for discretionary state funding until they have satisfied the requirements.

CLARIFYING CHANGES: One other change, which we believe is clarifying in nature, is also worth noting. The bracketed sentences in lines 10-11 and 39-42 both address the authority to allow for cluster developments in zoning regulations. We combined these two provisions into one sentence and placed it under the “permissive regs” section in lines 68-69. We also removed the reference to the plan of Conservation & Development in lines 39-42, as there is already an existing requirement in lines 27-29 that a commission must consider the plan when adopting regulations.

[Such bulk regulations may allow for cluster development, as defined in section 8-18.]

[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.]

New rewrite – Zoning regulations may.....(1) to the extent consistent with soil types, terrain, and infrastructure capacity for the community, provide for cluster development, as defined in section 8-18;

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<u>Ref.</u>	<u>Description of Change</u>	<u>Rationale</u>
(a)	<p>Creates a standalone subsection that describes the overall delegation of zoning authority</p> <p>Removes duplicative language in lines 8-9</p>	<p><i>Technical</i> – realigns statute into distinct sections for increased readability and comprehension</p> <p><i>Clarifying</i> - combined two provisions concerning cluster development into one provision</p>
(b)	<p>Creates a standalone subsection that contains all mandatory regulation requirements</p> <p>Removes requirement that zoning regulation must be made with reasonable consideration as to “the character of the district”</p> <p>Removes duplicative language</p> <p>Replaces “shall encourage” with “shall include” in the provisions regarding the requirement that zoning regulations “encourage” the development of housing opportunities and the development of housing which meets certain housing needs</p>	<p><i>Technical</i> - realigns statute into distinct sections for increased readability and comprehension</p> <p><i>Substantive</i> – phrase is undefined, and remaining provision is sufficient to ensure that consideration is given to each district’s unique suitability for certain uses</p> <p><i>Clarifying</i> – combined two provisions concerning cluster development into one provision</p> <p><i>Substantive</i> – strengthens the provisions by clarifying that the regulations must allow for the development of certain housing opportunities and meeting certain housing needs</p>
(c)	<p>Creates a standalone subsection that contains all permissive regulation requirements</p> <p>Combines two provisions regarding cluster development into one new provision</p>	<p><i>Technical</i> – realigns statute into distinct sections for increased readability and comprehension</p> <p><i>Clarifying</i> – reduces duplication. Bracketed language both address the authority to allow for cluster development in regulations. Both provisions are combined into one sentence and placed it under the “permissive regs” section. The reference to the plan of c & d in is removed, as there is already an existing requirement that a commission must consider the plan of c & d when adopting regulations.</p>
(d)	<p>Creates a standalone subsection that contains all regulation prohibitions</p>	<p><i>Technical</i> – realigns statute into distinct sections for increased readability and comprehension</p>

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<u>Ref.</u>	<u>Description of Change</u>	<u>Rationale</u>
(e)	Creates a standalone subsection that includes the authority of a municipality to exempt property from any regs under the chapter	<i>Technical</i> – realigns statute to be easier to understand
(f)	Adds enforcement language for the housing-related requirements for zoning regulations. Requires municipalities, beginning July 1, 2019 and then at least every five years, to demonstrate that their zoning regulations include the housing-related requirements. If compliance is not shown, the municipality will lose eligibility for discretionary funding until they have satisfied the requirements.	<i>Substantive</i> – provides an enforcement mechanism by creating a penalty if towns do not comply with law