



# ZONING NONCONFORMITIES Where Rules and Reality Diverge

*Legal and Practical Reasons for Flexible Approaches to  
Maintain and Protect Historic Buildings and Uses in Connecticut*

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# INTRODUCTION

Nonconforming uses and structures are buildings, lots, or land uses that were legally established under earlier law but no longer comply with the regulations currently in effect. These nonconformities are widespread in Connecticut, where formal zoning authority was not established until the passage of the state’s Zoning Enabling Act on July 1, 1925, nearly three centuries after the state’s first European settlement in 1633.

Since the enablement of zoning, local regulations have been regularly amended to respond to evolving public health standards, environmental conditions, technological advances, infrastructure needs, economic trends, and development goals. Each change, such as restricting certain types of land use, increasing minimum lot sizes, or revising setback or frontage requirements, has the potential to make previously compliant properties “nonconforming”. While these properties and uses remain lawful, the ability to modify, expand, or reuse them may be constrained by local rules that were not designed with them in mind.

Because much of Connecticut’s residential, commercial, and industrial development predates current zoning, nonconforming properties are not the exception — they are a significant part of the state’s existing building stock. Addressing how zoning changes affect these properties is essential to ensuring that land use regulation is practical, legally sound, and responsive to the realities of existing development. Clear and consistent policies on nonconformities can reduce regulatory uncertainty for property owners, support reinvestment in older neighborhoods, and ensure that zoning continues to serve the broader public interest without imposing unnecessary barriers to the use or improvement of existing buildings and sites.

This report provides a comprehensive, data-informed analysis of how Connecticut municipalities regulate nonconforming uses, structures, and lots, and to assess whether those regulations are consistent with state law, practical implementation needs, and the realities of existing development. It aims to support local elected officials and planners in navigating complex regulatory environments by identifying common patterns, statutory misalignments, and opportunities for improvement.

The report begins by reviewing the legal framework established by the Connecticut Zoning Enabling Act and subsequent court decisions. It then examines how municipalities address various categories of nonconformity—including use, dimensional standards, building expansion, and discontinuation—using data from zoning regulations across the state. Case examples and regulatory tables are provided to illustrate the range of local approaches. The report concludes with recommendations on best practices, training, and procedural reforms that can help municipalities modernize their regulations while respecting established property rights and promoting thoughtful land use planning.

# BACKGROUND

## *Equal Treatment*

A central requirement of Connecticut’s Zoning Enabling Act is the uniformity rule, which provides that zoning regulations “shall be uniform for each class or kind of buildings, structures or use of land throughout each district.” This means properties within the same zoning district must be subject to the same rules for land use, lot size and dimensions, building size, and other requirements.

The rule is rooted in the principles of Euclidean zoning, a system in which land is divided into distinct districts—such as residential, commercial, or industrial—with internally consistent requirements. While municipalities may create as many different zoning districts as they choose, each district must regulate land uses and structures of a given type in a uniform manner.

By requiring the consistent application of zoning standards within districts, the uniformity rule promotes clarity, predictability, and administrative fairness in local land use regulation. It remains a foundational element of zoning practice across Connecticut.

## *Limits of Uniformity*

While the uniformity rule is intended to promote predictability, consistency, and equal treatment within zoning districts, land and property do not exist in a historical vacuum. Much of Connecticut’s built environment predates zoning altogether, and land use needs have evolved significantly over the past century. As a result, strict adherence to uniform standards without flexibility can function less as a planning tool and more as a barrier to appropriate development. This section identifies five common challenges that arise when the uniformity rule is applied without regard to context.

### 1. **Inhibiting Walkable, Mixed-Use Communities**

When combined with the separation-of-uses framework inherent in Euclidean zoning, the uniformity rule can reinforce rigid distinctions between residential, commercial, and employment areas. This poses a challenge for communities seeking to support transit-oriented development, a diversity of household types, or aging residents who need access to services.

### 2. **Restricting Site-Specific Solutions**

Fixed dimensional standards, such as setbacks, lot sizes, and frontage requirements, may fail to reflect the irregularities of existing parcels or the realities of built-out neighborhoods. The uniformity rule limits the ability to apply simpler, formula-based approaches that would offer more predictable flexibility.

### 3. **Undermining the Viability of Legacy Development**

Much of Connecticut’s housing and commercial stock predates zoning or was built under earlier regulations. Applying modern uniform standards retroactively has rendered many of these buildings and lots nonconforming. These structures are legal but constrained, i.e., unable to expand, rebuild, or change use without variances or special approvals. Treating long-established development as if it were an exception, rather than part of the state’s physical and economic foundation, can impede reinvestment and modernization.

### 4. **Preserving Outdated Design Assumptions**

Dimensional standards may reflect notions of neighborhood appearance rather than current best practices. These standards may assume a suburban automobile orientation, even in areas where compact housing forms may be more efficient. For areas with public water and sewer infrastructure, strict dimensional standards can limit housing supply and raise costs, especially for older adults and smaller households.

### 5. **Failing to Accommodate Contemporary Property Use**

Modern property use has outpaced traditional zoning assumptions. Homeowners today may seek to install accessibility ramps, solar panels, generators, play structures, gardens, sheds, and recreational features—many of which encroach into required yards or exceed allowed coverage.

## ***The Scale of the Challenge***

Much of Connecticut’s built environment predates zoning. In 1930, only 22 municipalities had adopted zoning. Today, 167 of 169 municipalities have zoning regulations. According to the 2020 U.S. Census, 327,771 housing units in Connecticut—roughly 22% of the state’s housing stock—were built before 1940. While not all pre-war buildings are nonconforming, many of these homes were constructed when proximity to the street and compact lot layouts were seen as advantages. Today, these same features may conflict with zoning provisions intended for suburban or automobile-oriented development.

Nonconformities are not only a product of pre-zoning development. Many were created when new zoning regulations were first adopted or later amended to impose larger lot sizes, new dimensional requirements, or revised land use classifications. Zoning regulations have been repeatedly amended over the years, meaning that many properties have been subject to multiple generations of regulatory change. Each wave of rezoning or reclassification can increase the number of buildings, lots, and uses that become nonconforming.

Tracking the evolution of these zoning changes is a formidable task. Most municipalities have not maintained complete records of zoning text or map amendments since the inception of their codes. Among the ten Western Connecticut municipalities that do track changes, WestCOG found an average of 8.7 text amendments per year over a combined 350 years of

regulation. Based on observed amendment rates, one may estimate 105,000 text amendments have been made across Connecticut's 167 zoning municipalities to date.

While not every amendment creates a nonconformity, many do. Yet few, if any, municipalities maintain a centralized inventory of nonconformities. All that can be stated with certainty is that a vast number of properties do not comply with current regulations. This is not because they were built illegally, but because the regulatory environment has changed over time. Without tools for identifying, tracking, and managing nonconformities, municipalities and property owners alike face a disorderly system that undermines predictability and reinvestment in established neighborhoods.

## ***Responses to Uniformity***

Recognizing the development constraints created by uniformity, zoning commissions have excepted a range of land uses from height, bulk, and area (HBA) requirements. 161 of the 167 municipalities with zoning have at least one and as many as ten exceptions to the uniformity standards for HBA.

These municipalities have created over 380 different types of setback exceptions. These include ones applying to 1) commercial kennels and domestic poultry operations, 2) watercourses, shorelines and wind energy systems, 3) architectural features extending into setback zones, 4) building features that extend above maximum height limits, 5) accessory buildings in side yard setbacks, 6) a wide range of exceptions to front, side and rear yards such as swimming pools, utilities and generators and porches, and 7) a wide range of exceptions for nonconforming lots and nonconforming frontages to enable the long-term protection of dwelling units that predated current zoning lot size standards.

In 1959, the Connecticut General Assembly gave municipalities an additional tool to allow flexibility in zoning in the form of the special permit. Special permits allow for the incorporation of land uses beyond what would be permitted under strict Euclidean zoning, provided those uses meet special conditions and safeguards to ensure compatibility with the surrounding neighborhood. Special permit uses do not create separate zoning districts but do have commonality with planned development districts since they bypass traditional applications of the uniformity rule. In exchange for the flexibility gained, the special permit process adds steps to land use review: each special permit must undergo a public hearing and be evaluated for its impact on the neighborhood and many other community related impacts. This approach, as discussed later, is used to manage most proposals involving changes to nonconforming uses in Connecticut.

Later developments in state law have further enhanced flexibility in land use, and municipalities increasingly have gone beyond exceptions and special permits to create more

comprehensive frameworks for land use flexibility. These fall into three categories, which are listed below.

1. **Village District regulations**, enabled by CGS 8-2j, have been used to replace fixed dimensional standards with adaptive design approaches that honor the design and appearance of buildings that pre-existed zoning in Connecticut.
2. **Overlay Zones** have also been used to adjust the underlying zoning setback and lot size standards when areas of a municipality not encompassed within one zoning district require more flexible standards.
3. The use of **more flexible setback and frontage standards** for residential zones that pre-date the enactment of zoning.

This report focuses on the third approach since it represents the simplest and most cost-effective means of enabling development with the least regulatory burdens placed on the affected community.

Municipal approaches to zoning are diverse. The Town of Preston, for instance, explicitly follows the uniformity rule:

*“Within the districts established by these Regulations, there are lots, buildings and uses that do not conform to the building/structure, use and dimensional requirements of these Regulations and which are declared incompatible with the permitted uses in said districts. While such non-conformities are permitted to continue, it is the purpose of this section that such buildings and uses shall eventually be discontinued.”*

Such a strict application of the uniformity rule is in the minority these days, as most Connecticut municipalities (119) have adopted flexible regulations, if only to maintain historic buildings and uses that are often regarded as central to the character and cultural values of their community, rather than as undesirable nonconformities. In contrast with Preston, Washington, Connecticut strives to maintain, rather than eliminate, nonconforming uses. Its regulations apply flexible standards to historic buildings so they remain integral to the town’s character as follows:

*“**Nonconforming Structures.** The Town of Washington was incorporated 160 years before the adoption of its Zoning Regulations. It therefore contains many lawfully nonconforming structures, including some of the oldest and most historic structures in Town. It is the intention of the Regulations to allow such structures to continue to be used. It is further the intention of these Regulations to help preserve the historic integrity of the Town and to promote diverse housing opportunities for all income levels by allowing such structures to be*

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<sup>1</sup> Section 22, Nonconforming Lots, Buildings and Uses Preston, CT Zoning Regulations, 2024, p.133.

*modified, in limited situations, to maintain their viability for reasonable use under modern conditions.”<sup>2</sup>*

The next section will examine the types of nonconformities that present themselves in practice and the range of approaches municipalities in Connecticut have taken to address them.

## REGULATORY APPROACHES

### *Types of Nonconformities*

There are four basic forms of nonconformities:

- 1) Lots that fail to meet minimum lot size standards;
- 2) Buildings that fail to meet one or more zoning requirement for minimum frontage, front, side, or rear setback distances, lot coverage, floor area ratio, impervious cover or maximum building heights;
- 3) Structures such as porches, decks and swimming pools; or
- 4) Uses of land such as residence in a zone exclusively designated for industrial uses or a commercial enterprise in a residential zone.

These four types of nonconformities exist because they were created before the adoption or amendment of zoning regulations that imposed new requirements. Such lots are often referred to as “grandfathered” and are allowed to continue as legal parcels despite their noncompliance with current standards.<sup>3</sup>

These categories are not mutually exclusive. A property may have multiple nonconformities with respect to the lot, building, structure, or use. Figure 1 (p. 9) illustrates how thirteen potential combinations of nonconformities may occur with just these four categories. Additionally, as regulations have evolved into new areas, so, too, has the potential for the

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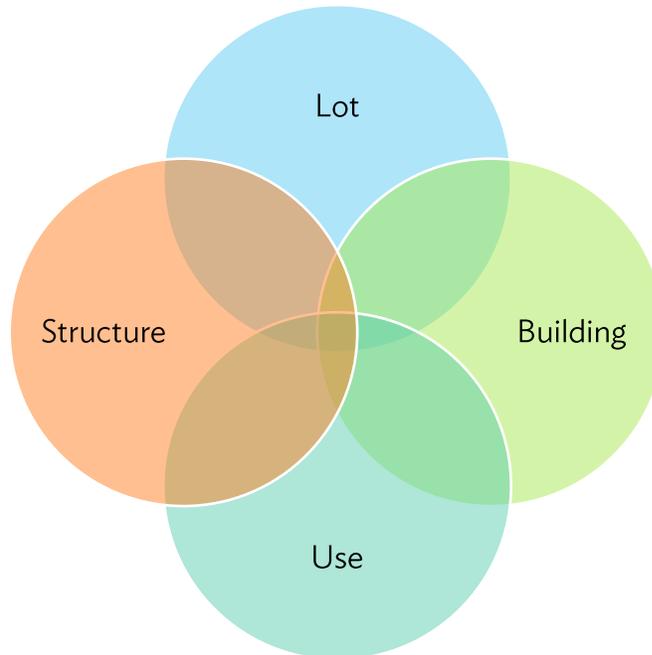
<sup>2</sup> Section 17, Nonconforming Lots, Land, Structures and Uses, Washington, CT Zoning Regulations, 2021, p. 107.

<sup>3</sup> Connecticut Zoning Enabling Act, Section 8-13a. **Nonconforming buildings, structures and land uses.** (a)(1) When a building or other structure is so situated on a lot that it violates a zoning regulation of a municipality that prescribes the location of such a building or structure in relation to the boundaries of the lot or when a building or structure is situated on a lot that violates a zoning regulation of a municipality that prescribes the minimum area of the lot, and when such building or structure has been so situated for three years without the institution of an action to enforce such regulation, such building or structure shall be deemed a nonconforming building or structure in relation to such boundaries or to the area of such lot, as the case may be. For purposes of this section, “structure” has the same meaning as in the zoning regulations for the municipality in which the structure is located or, if undefined by such regulations, “structure” means any combination of materials, other than a building, that is affixed to the land, including, without limitation, signs, fences, walls, pools, patios, tennis courts and decks.

(2) A property owner shall bear the burden of proving that a structure qualifies as a nonconforming structure pursuant to subdivision (1) of this subsection.

creation of nonconformities. Zoning amendments have created nonconformities with respect to parking, signage, impervious cover, and other standards.

*Figure 1. Combinations of the four basic nonconformity types*



In short, nonconformities may be created whenever zoning regulations are amended to be more prescriptive or stringent. Such amendments may occur for a variety of reasons, from addressing emerging public health and safety concerns and environmental challenges to economic and architectural considerations. In addition, ongoing revisions to the state’s zoning enabling act — especially those related to water quality protection, climate change, and housing affordability — have also required updates to municipal zoning regulations.

### ***Development Restrictions***

Nonconforming lots in Connecticut are generally subject to greater restrictions than those imposed on conforming lots, buildings, structures and uses. These can include:

- **Building Permits:** Unlike conforming uses, before a property owner can develop a nonconforming use or building, either a special permit or variance may be required before expanding or modifying an existing building.
- **Lot Mergers:** In most jurisdictions, nonconforming lots under common ownership with adjoining lots may be required to merge to conform to zoning requirements.
- **Use Limitations:** Certain uses of nonconforming lots may be prohibited if they conflict with current standards for the zoning district in which they are located. In other

instances, nonconforming uses may be allowed only if approved by obtaining a special permit including a public hearing.

Development of nonconforming structures can also be controlled by local zoning. Within the 167 Connecticut municipalities that have adopted zoning regulations:

- 138 municipalities allow expansion of a nonconforming structure if the expansion does not violate a front, side, or rear setback;
- 27 prohibit any expansion; and
- 3 municipalities have no regulations governing this issue (Table 8, p. 21).

## ***Exemptions and Protections***

By statute, the owner of a nonconforming property may maintain that property in its condition even though it may not meet current zoning requirements. The level of protection varies across Connecticut and includes:

- **Grandfather Clauses:** Allows the use or development of nonconforming lots under the standards that were in place at the time of their creation.
- **Variations:** Grants relief from zoning requirements when strict enforcement would cause undue hardship and the proposed use would not harm the public interest. 16 of the 119 municipalities that allow for the change of a nonconforming use to another more compatible use do so through the variance procedure administered by zoning boards of appeal.
- **Special permits:** 73 of the 119 municipalities that allow for continuation of nonconforming uses do so through a special permit (or exception) (see Table 2, p. 12).
- **By Applicable Permit Procedure:** 25 of 119 municipalities allow a change of one nonconforming use to another comparable in its impacts through whatever permit is appropriate based on the concerns raised by the existing use. For example, some municipalities may allow a change of one nonconforming use to another by zoning permit, or where more details are needed by a site plan review or by a special permit if the commission determines that a public hearing would be useful to gather neighborhood concerns before deciding on the proposed new nonconforming use. These approaches to regulating nonconformities suggest limited administrative procedures exist in these 25 municipalities to manage routine requests for rulings on nonconformities.
- **Prohibitions:** 48 municipalities prohibit a change of one nonconforming use to another nonconforming use. Only changes that bring nonconforming uses fully into compliance with zoning are permitted. Such an approach can have consequences on economic development, neighborhood stability and the character of the affected community as discussed below. Furthermore, the Connecticut Supreme Court has endorsed the

legitimacy of switching out one nonconforming use for another if it results in a more conforming condition.<sup>4</sup>

## Nonconforming Use Exceptions: The Challenges

Most zoning regulations in Connecticut (71%) do allow a change from one nonconforming use to another nonconforming use. The approval process most often relies on special permits (61%). Twenty-five municipalities (21%) leave it to the judgement of the commission to decide on the appropriate permit procedure, and sixteen (13%) use the variance authority from the zoning board of appeals (Table 1).

*Table 1. Procedures for Approving a Change of Nonconforming Use to Another Nonconforming Use in Connecticut (2025)*

Permit Procedure	No Zoning	Allow Change of Nonconforming Use to Other Similar NC Use		Total
		No	Yes	
Special Permit			56	56
By Applicable Permit Procedure			25	25
Variance			16	16
Special Exception			15	15
Site Plan			3	3
Zoning Permit			2	2
Site Plan & Special Permit			1	1
Site Plan & Special Exception			1	1
Not Allowed	2	48		50
<b>Total</b>	<b>2</b>	<b>48</b>	<b>119</b>	<b>169</b>

Source: WestCOG staff analysis of municipal zoning regulations, June 2025. This analysis excludes nine political subdivisions that exist in Litchfield (Bantam), Killingly (Danielson), Old Saybrook (Fenwick), Groton (Gorton City, Groton Long Point & Noank Fire District), Griswold (Jewett City), Newtown (Borough of Newtown) and Stonington (Borough of Stonington). See Appendix 6 for a summary of regulations governing nonconforming uses & buildings in these political subdivisions.

While municipal zoning regulations vary, they are consistent in one regard: no regulation lists acceptable nonconforming uses suitable to replace an existing nonconforming use, even when the replacement use is less nonconforming than the current use. As of this report, 1,327 different land uses are regulated by special permit in Western Connecticut. Cataloging all nonconforming uses that could match potential other nonconforming uses is beyond the scope of responsibility for any zoning commission. Given this challenge, it is logical that the

<sup>4</sup> Point O’Woods Association Inc, v. Zoning Board of Appeals of the Town of Old Lyme, 178 Conn. 364 (1979) Connecticut Supreme Court, Decided July 17, 1979.

special permit procedure is best suited to identify nonconforming uses no more impactful than the present use.

A range of factors, such as impacts on traffic, hours of operation, employment levels, neighborhood compatibility, and property values, are used to determine if a proposed new use under special permit is acceptable. While special permit procedures stipulate conditions for approval, most municipalities supplement these generic criteria with specific nonconforming use criteria.

There are two approaches to regulating nonconforming uses; the simple approach boils down to a “I like it, or I don’t like it.” In contrast, the more rigorous approach relies on more quantifiable factors that influence the acceptability of a change of one nonconforming use to another of lesser impact. Sixty-seven municipalities have adopted a simple evaluation formula to determine if the proposed nonconforming use is less objectionable or less nonconforming than the current nonconforming use.<sup>5</sup> This strategy relies on a one factor formula (Table 2). The challenge posed by reliance on one word or phrase – such as “objectionable”, “conforming”, “more appropriate” or “less impacting – is the lack of specificity provided to zoning commissions, zoning boards of appeal or to applicants seeking project approval.

*Table 2. Evaluation Criteria Used to Determine if a Proposed Nonconforming Use Can Replace an Existing Nonconforming Use When only one Decision-making Criteria Exists in Zoning Regulations*

<b>Criterion</b>	<b>Municipalities (#)</b>
No more objectionable	17
Less Nonconforming	13
Proposed use equally or more appropriate	12
Substantially the same in Nature in Purpose	8
Special Permit conditions apply	6
New Use is less Intense or less Impacting	4
No greater neighborhood impact	3
Building designed for such use	1
Use Can't be Prohibited	1
Proposed use limited to a use permitted in district	1
No criteria listed	1
<b>Total</b>	<b>67</b>

In contrast, the remaining fifty-two municipalities that allow swapping of nonconforming uses have adopted differing sets of decision-making criteria. These address a wide range of land use, environmental, neighborhood, and property value impacts with many overlaps, resulting in the 28 distinct criteria items listed in Table 3. By addressing traffic volumes, parking, noise,

<sup>5</sup> This approach was upheld as a valid purpose of zoning in the case of Point O’Woods Association Inc, v. Zoning Board of Appeals of the Town of Old Lyme, 178 Conn. 364 (1979) Connecticut Supreme Court, Decided July 17, 1979.

## Regulatory Approaches

hours of operation, changes in customer or employee levels, zoning commissions and zoning boards of appeal can better assess the general suitability of the proposed use in the neighborhood. Unlike the one factor decision making approach shown in Table 2, the fifty-two municipalities use anywhere from two to nine different evaluation factors to make their decision. On average, those with adopted multi-factor decision making use four different criteria with neighborhood suitability, traffic, parking, and property value being the most common.

*Table 3. Evaluation Criteria Used to Determine if a Proposed Nonconforming Use Can Replace an Existing Nonconforming Use When Multi Factor Decision-making Criteria Exist in Zoning Regulations*

<b>Criterion</b>	<b>Municipalities (#)</b>
Is the use suitable for the neighborhood?	29
Are there no greater traffic impacts?	22
Are there no greater parking or loading requirements?	20
What are the impacts on property and property values?	17
What are the proposed hours of operation?	16
Does it protect public health, safety & general welfare?	13
Is it a less nonconforming use?	12
Is the exterior appearance of the building changed?	11
Is the proposed use equally or more appropriate?	8
Does the proposal involve no greater building size?	8
Is it consistent with nature & purpose of the existing use?	8
Are there environmental impacts (flooding, pollution, buffers)?	6
Is it consistent with orderly development of neighborhood?	6
Is it consistent with uses in the zone or other zone?	5
Are there impacts from more employees, residents or customers?	5
Is there a change in the intensity of use?	5
Is the building designed for the use?	4
Is the use consistent with one that is excluded from the zone?	3
Is it a less objectionable use?	3
Are there noise & lighting impacts?	3
Must the applicant abandon prior use?	2
Are there noise impacts?	2
Is the use subject to special permit conditions?	2
Is the use subject to site plan approval?	2
Are there noise and vibration impacts?	2
Does the proposed use involve outside activities?	1
How many proposed uses are permitted?	1
Is it consistent with the Plan of Conservation & Development?	1
<b>Total (28 decision-making criteria)</b>	<b>217</b>

One key zoning objective is to reduce or eliminate nonconformity when a new use is proposed. Of the 119 municipalities that allow changes to nonconforming uses, 73 rely on the special permit procedure to do so. This approach provides greater control over the impacts created by new uses. Although zoning boards of appeal may be delegated the authority to administer the special permit process—similar to a zoning commission—this is rarely done in Connecticut. As a result, zoning boards of appeals typically rely on single criterion: is the proposed use less objectionable? If the goal is to reduce nonconforming uses, the special permit procedure is the more effective route. In contrast, when a nonconforming use is changed to another nonconforming use through a variance (via the zoning board of appeals), that use remains nonconforming.

### ***Nonconforming Dimensional Requirement Exceptions***

Conversion of one nonconforming use to another may also involve nonconforming dimensional requirements. The most common of these nonconformities are front, side and rear setbacks, and height exceptions for buildings. Yet there are exceptions to dimensional requirements that have emerged over the last fifty years, such as environmental setbacks, animal husbandry setbacks, accessory building setbacks, solar panel and generator setbacks. This proliferation of exceptions illustrates how zoning across Connecticut has produced a patchwork of use-specific dimensional standards tailored to individual circumstances. Without these exceptions, the scope of nonconformities would be much larger.

Table 4 indicates setbacks and height exceptions are the most common ones in Connecticut. However, many municipalities give environmental setback exceptions for such things as watercourses, solar arrays, wind turbines, greenbelts, shorelines, conservation and open space zones and public access ways. Similarly animal related setback exceptions that require minimum distances from neighbor’s property line include a range of specific standards for chickens, horses, kennels, commercial kennels, farm animals, buildings housing farm animals, commercial dog care facilities, commercial horse stables, dog day care, large pets, and riding academies. Chickens and horse related activities represent 55% of the animal husbandry related setback exceptions that exist in Connecticut. A combination of unwanted noise (i.e., especially roosters), unwanted smells wafting across property lines, and threats to water quality from manure near watercourses are a few of the reasons for using setbacks exceptions. These exceptions may be presumed to exist for a reason, namely the existence of many properties that were developed before the adoption of current setback exceptions.

*Table 4. Exceptions to Dimensional Requirements in Connecticut Zoning Regulations (2025)*

<b>Height, Setback, and Lot Cover Exceptions</b>	<b>Municipalities (#)</b>
Setback exceptions for all yards	85
Height Restriction exceptions	62

Height, Setback, and Lot Cover Exceptions	Municipalities (#)
Side & Rear Yard Setback exceptions	59
Front yard setback exceptions	51
Accessory building setback exceptions	40
Non-conforming use exceptions (see Table 2)	26
Environmental setback exceptions	25
Animal related setback exceptions	22
Miscellaneous exceptions	8
Building /Lot cover exceptions	2
<b>Total</b>	<b>380</b>

Three approaches have been adopted by zoning commissions to meet the needs of those owning lots that do not conform with setback standards (see Table 6, p. 17):

1. Providing exceptions to setback standards based on the size of the nonconforming lots (six municipalities have adopted this approach);
2. Providing exceptions to setback standards for nonconforming lots based on requiring conformity to another residential zone of comparable lot size (three municipalities); and
3. Allowing exceptions to setback standards for nonconforming lots based on formulas for determining side yard setbacks as a function of lot width (two municipalities).

These three approaches have the advantage of planning: applicants and the commission know in advance what setbacks will be allowed – rather than directing property owners to request variances through the zoning board of appeals. Allowing some development on nonconforming lots is also an innovative strategy for expanding housing and adaptive reuse opportunities across Connecticut. Dwelling units that cannot be expanded vertically or horizontally unnecessarily constrain development especially when there are no health, safety, or environmental restrictions affecting development.<sup>6</sup>

Twenty-six municipalities have established flexible setback requirements for nonconforming lots or nonconforming lot frontages. Torrington aside, these municipalities are either rural or suburban in character. Except for five municipalities (Litchfield, Sterling, Thompson, Thomaston, and Woodbury), the remainder adopted zoning regulations more than sixty years ago including ten that did so over eighty-five years ago. Their long history of working with nonconformities may explain, in part, the greater use of structured formulas for accommodating homeowner requests for flexible setback requirements.

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<sup>6</sup> Eight Connecticut municipalities have established townwide septic system cleanout timetables to ensure the long-term functioning of these systems into perpetuity. For details on this approach see the WestCOG report titled [Safeguarding Public Water Supply Watersheds Local Strategies to Prevent Chemical, Petroleum and Stormwater Contamination of Connecticut's Drinking Water Resources](#), 2024, p. 6.

## Regulatory Approaches

### Nonconforming Dimensional Requirement Exceptions

*Table 5. Exceptions to Setback, Ground Cover and Buildable Area requirements for Nonconforming Lots and Frontage in Twenty-Six Connecticut Municipalities (2025)*

<b>Municipality</b>	<b>Zoning First Adopted</b>	<b>Nonconforming (NC) Lot &amp; Frontage Exceptions</b>
Warren	1934	NC Lot Buildable Area exception
Stonington Town & Borough	1961	NC Lot exception for all setbacks
Thompson	1975	NC Lot exception for all setbacks
Torrington	1957	NC Lot exception for all setbacks
Westport	1930	NC Lot exception for all setbacks
Sterling	2009	NC Lot exception for all setbacks
Woodbury	1969	NC Lot exception for all setbacks
Oxford	1959	NC Lot exception for rear/side setbacks
Wethersfield	1926	NC Lot exception for rear/side setbacks
Cornwall	1940	NC Lot exception for rear/side setbacks
Southbury	1937	NC Lot exception for side yard setbacks
Thomaston	1971	NC Lot frontage setback exceptions
North Branford	1954	NC Lot frontage setback exceptions
Shelton	1940	NC Lot frontage setback exceptions
Redding	1950	NC Lot reduced groundcover
Guilford	1953	NC Lot setback exceptions by lot size
Columbia	1947	NC Lot setback exceptions by lot size
Enfield	1925	NC Lot setback exceptions by lot size
Ledyard	1963	NC Lot setback exceptions by lot size
Litchfield	1970	NC Lot setback exceptions by lot size
Mansfield	1959	NC Lot setback exceptions by lot size
East Haddam	1961	NC Lot setback exceptions by lot width
Montville	1970	NC Lot setback exceptions by lot width
Portland	1933	NC Lot setback exceptions by Zone
Hamden	1930	NC Lot setback exceptions by Zone
Hebron	1947	NC Lot setback exceptions by Zone

Table 6 is an example of the approach taken by Columbia, Connecticut, where the Rural Agricultural District (RA) requires a minimum lot size of 50,000 square feet and front and rear yard setbacks of 50 feet and side yard setbacks of 25 feet. Columbia has a graduated setback standard based on the degree of conformity with the RA zone setback standards. The greater the nonconformity in lot size the greater the flexibility in the required minimum setbacks for front, side and rear yards.<sup>7</sup>

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<sup>7</sup> This zoning regulation doesn't conflict with the uniformity rule since it is applied uniformly to all dwelling units that meet its qualifications. This approach is analogous to having separate setback standards for accessory structures compared to the principal dwelling unit.

## Regulatory Approaches

### Nonconforming Dimensional Requirement Exceptions

Table 6. Columbia, Connecticut Exceptions for Primary or Accessory Structure or the addition of an accessory structure for Nonconforming Lots

Type of lot	Lot Area (sq. ft)	Minimum Front/Rear Setback	Minimum Side Setback	Maximum Height	Maximum Lot Coverage
Frontage lots	<18,500	30'	15'	35' except the portion of the structure closer than 25' from side property lines or closer than 50' from front or rear property lines, shall be 25' in height	15%
	18,501-25,000	30'	15'		The greater of 2,775 sq. ft. or 13.5%
	25,001-37,500	40'	20'		The greater of 3,375 sq. ft. or 12.0%
	37,501-49,999	40'	20'		The greater of 4,500 sq. ft. or 10.0%
Rear lots		30'	30'	Same as above	10%

Applies to residential structures on nonconforming lots of record in a residential district with lots that do not contain at least 30,000 sq. ft. with a minimum width of 100 ft. in any direction free of waterbodies, wetlands, and slopes exceeding 20% over more than 10% of contiguous area

In contrast to the formula-based approach used by the eleven municipalities that rely on predetermined allowable setbacks based on the existing lot frontage width or lot size, thirteen municipalities allow development on a case-by-case basis within the required setbacks. For these municipalities the actual setback exception is not specified in the regulations. It is determined based on a review of each proposal. One of the advantages of the “Columbia approach” is its recognition of human need for space with the least amount of regulatory oversight required to achieve zoning objectives.

Columbia’s setback formula for nonconforming lots also recognizes the water and septic system constraints of small lots. To avoid water pollution Columbia prohibits relocation or expansion of the septic system or the relocation or addition of a new well.

### **Expansion or Enlargement of Nonconforming Structures**

A third challenge created by the uniformity rule are the constraints placed on expanding or enlarging nonconforming structures. In Connecticut 82% of zoning commissions allow for the expansion or enlargement of nonconforming structures. The remaining municipalities either explicitly prohibit such expansions or have not considered this issue within their regulations (Table 7, p. 18).

#### **Regulatory Approaches**

Expansion or Enlargement of Nonconforming Structures

The most common approach is to focus development on that portion of the building that will not violate any setback or height requirement. In practice this approach results in building additions, often in the rear of the building, where setback constraints are generally less problematic. Twenty-four municipalities place additional restrictions on building expansions, including twelve that either limit the gross floor area to be added or limit the assessed value that can be added to the existing building, and twelve that allow for conforming expansions but limit potential uses based on such factors as 1) the consent of the neighbor, 2) when legally required to meet the building code, or 3) only applicable to structures and not the building itself. In addition, fourteen municipalities (8.4%) allow building enlargements to be no nearer to the lot line than the existing building or in some cases a setback 20% less than what is required. Presumably these setback exceptions are intended to maintain the visual separation of the building from the front and side yards and provide greater regulatory flexibility for those living on space constrained small lots (see Figure 2).

*Table 7. Expanding Nonconforming Buildings: An Analysis of the Approaches Adopted by Connecticut’s 167 Zoning Regulations*

<b>Approaches to Expanding Nonconforming Buildings</b>	<b>Municipalities (#)</b>	<b>% of Total</b>
Allow Conforming Expansions (see Figure 2: Case 2)	96	57.5%
Allow Nonconforming Expansion with Conditions (see Figure 2: Case 1)	14	8.4%
Allow Conforming Expansions with Conditions	12	7.2%
Allow Conforming expansions with size or value limits	12	7.2%
Allow Nonconforming expansions without Conditions (see Figure 2: Case 3)	3	1.8%
Total Municipalities that allow expansions	138	82.0%
Fail to address Nonconforming expansions	3	1.8%
Prohibit Expansion of Nonconforming buildings	27	16.2%
<b>Total Municipalities with Zoning Regulations</b>	<b>167</b>	<b>100.0%</b>

Strikingly, twenty-seven municipalities do not allow expansion of nonconforming buildings. Arguably, a building with space on at least one or more of its four sides should have the right to expand that portion not violating setback standards. This restrictive approach to nonconforming buildings may, in some instances, result from a conflation in local regulations of nonconforming uses with nonconforming buildings, nonconforming structures, or with nonconforming lots. Many local regulations do not clearly distinguish the four basic types of nonconformities or combinations. This is one reason why a model regulation for nonconformities would be valuable in Connecticut.

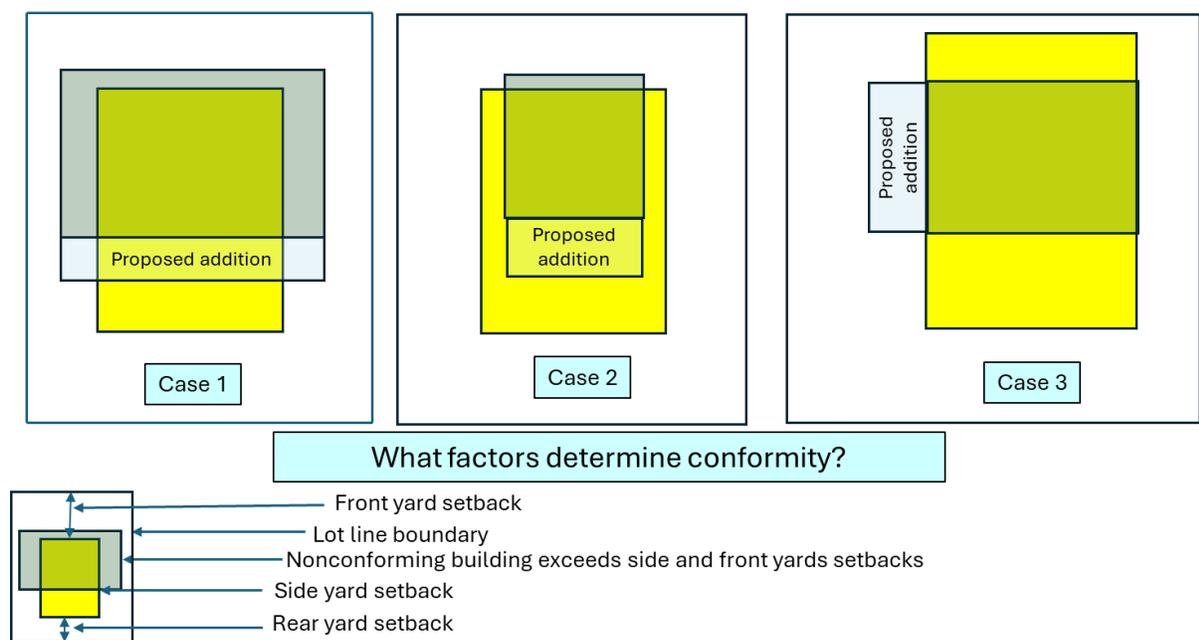
Regulations that bar enlargements or expansions that do not increase nonconformities may reflect a misunderstanding of a key Connecticut Supreme Court decision, *Zachs v. Zoning*

## Regulatory Approaches

Board of Appeals of Town of Avon. That decision established three factors that must be considered when determining whether a change to a nonconforming use is an illegal expansion of the original use. The court opined:

*“In deciding whether the current activity is within the scope of a nonconforming use consideration should be given to three factors: (1) the extent to which the current use reflects the nature and purpose of the original use; (2) any differences in the character, nature and kind of use involved; and (3) any substantial difference in effect upon the neighborhood resulting from differences in the activities conducted on the property.”<sup>8</sup>*

**Figure 2. Three Cases for Expansion of Nonconforming Buildings**



Of course, the definition of expansion versus a mere intensification of an existing nonconforming use is always case and fact specific. One of the fundamental issues facing zoning commissions is whether expanding a building on that portion of the building conforming for setbacks represents an expansion of the use or merely an intensification of the use that currently exists. The Connecticut Supreme Court has held that each nonconformity must be evaluated on its own merits. Nonconforming use issues are distinct from nonconforming lots, nonconforming building, and nonconforming structures. The four types of nonconformities cannot be conflated.<sup>9</sup>

<sup>8</sup> Zachs v. Zoning Board of Appeals of Town of Avon, 589 A.2d351, 218 Conn. 324, decided April 16, 1991.

<sup>9</sup> Parker v Zoning Commission of the Town of Washington, 209 Conn. App. 631, 269, A.3d 157, (Conn. App. 2022)

## Regulatory Approaches

### Expansion or Enlargement of Nonconforming Structures

Local regulations may deviate from this statutory language. For instance, many zoning commissions have adopted their own interpretations of when a building lost to fire must be discontinued. North Haven’s zoning regulations state:

*“Nothing in the regulations shall prevent the reconstruction and structural alteration of a nonconforming building which is destroyed by fire or casualty, provided the cost of such reconstruction or structural alteration is less the 50 percent of the fair market value of such property and such reconstruction, or alteration, is commenced within six months of the date of such damage or destruction and completed within two years of such date.”<sup>10</sup>*

This example illustrates that state law on land use is not self-implementing: it must be followed by zoning amendment. It also illustrates the need for continuing land use commissioner training to address statutory requirements for protecting the rights of property owners in Connecticut.

## ***Preservation and Discontinuation of Nonconformities***

Connecticut municipalities broadly support the continued maintenance and repair of nonconforming buildings. However, when these buildings are damaged or destroyed—especially by fire, storm, or other disasters—zoning regulations often take a more restrictive turn. Despite state law that protects the rights of property owners, many local zoning codes impose reconstruction thresholds that conflict with those protections.

WestCOG’s review found that 97 zoning codes contain provisions that prohibit the restoration of a nonconforming building if more than 50% of its fair market value is lost due to fire or another casualty. These rules, sometimes called “50% destruction” thresholds, require a property owner to comply with current zoning regulations if the damage exceeds that level. 25 of these 97 municipalities go further and require dimensional conformity (e.g., setbacks, building height, lot coverage) if the building’s value loss exceeds 50%. Although framed as reasonable metrics, such rules appear to lack a clear statutory basis.

This may reflect the fact that 73% of the municipalities that prohibit the reconstruction of nonconforming buildings in the event of fire or other casualty first adopted zoning before 1961, when the legislature removed municipal authority to impose such limits. This protection was reinforced by Public Act 89-277 (1989), which prohibited municipalities from terminating nonconforming uses based solely on nonuse, and again in 2017, when Section 8-2(a) was amended to clarify that:

*“Such regulations shall not terminate or deem abandoned a nonconforming use, building or structure unless the property owner of such use, building or structure voluntarily*

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<sup>10</sup> Section 8.3 Non-Conforming Buildings and Uses, North Haven Zoning Regulations, 2024, p. 100.

*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.”*

In addition, 15 municipalities impose strict time limits, requiring that a damaged or destroyed building must be reconstructed or at least commenced within a certain timeframe or else lose its nonconforming status. These reconstruction deadlines have no statutory grounding and directly conflict with the property owner’s right to decide when and if the structure has been discontinued. Forcing action “by the clock or by the purse” effectively undermines the protections the legislature put in place.

*Table 8. Reasons for Nonconformities to Conform to Zoning Regulations in Connecticut (2025)*

#	Reason for discontinued nonconformity	Municipalities (#)
1	When changed to a conforming use	107
2	Nonconforming building is destroyed: If 50%+ building value lost or not restored by a specific time (see Appendix 1)	97
3	Abandoned building, land, or use ceases for a specified time	47
4	Nonconforming building is moved	43
5	Nonconforming structure ceases	34
6	Nonconforming building ceases for specified time	29
7	Owner voluntarily discontinues use	25
8	Land ceases nonconforming use	14
9	Owner fails to notify nonconformity was eliminated	6
10	Danger to public health and safety	6
11	Conformity occurs with voluntary demolition	5
12	Failure to meet time limits on building repair	3
13	Demolition of a building is not evidence of intent	2
<b>Total</b>		<b>418</b>

Note: See Appendix 4 for a municipal level analysis of this data.

Beyond physical destruction, many municipalities seek to extinguish nonconforming rights through abandonment rules. 81 municipalities rely on time-based cessation standards to discontinue nonconforming uses or structures. Of these, 47 municipalities declare a nonconforming use abandoned if it ceases operations for a specified time period, typically two years or less, regardless of the owner’s intent. The remaining 34 municipalities apply similar rules to nonconforming structures. These approaches directly violate the 1989 amendment, which declared that zoning 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.”

The Connecticut courts have affirmed this principle. In *Urban Girls, Inc. v. Zoning Board of Appeals of Bridgeport*, the Superior Court held that zoning regulations “shall not provide for the termination of any nonconforming use solely as a result of not use for a specific period of time without regard to the intent of the property owner to maintain said use.” That decision aligns with Section 8-2(a), reinforcing the view that abandonment is a matter of property owner intent—not municipal presumption.

55 municipalities acknowledge that the property owner may voluntarily discontinue a nonconforming use. Of these, 25 explicitly state that this determination lies solely with the owner. The other 30 impose procedural obligations that attempt to redefine “voluntary.” These include requirements that the owner affirmatively declare an intent to continue the use or respond to a municipal notice within a set period (e.g., one year), after which the commission may declare the use discontinued. These provisions, which shift the burden onto the property owner, are not supported by statute.

Hartford’s zoning code offers an instructive example. Its abandonment provision allows the city to declare a nonconforming use discontinued if: (1) the owner fails to file a certificate of nonconformance within six months of cessation, (2) intent to abandon is inferred based on multiple discretionary factors, or (3) the zoning enforcement officer determines the use imperils public health or safety. These rules, which seek to substitute municipal judgment for owner intent, are inconsistent with state law and may invite legal challenge.

Another approach used by 43 municipalities forces conformity when a nonconforming building is moved to a different site on the lot. If the structure is relocated, which often is due to flooding, unstable soils, crumbling foundations, or other physical threats, these municipalities require the relocated structure to fully comply with current setback, height, and coverage standards. Yet in many cases, lots that are nonconforming for dimensional standards cannot accommodate compliant relocation, creating an impossible situation for the property owner. Moving a building is often a necessity—not a luxury—and may be the only way to protect the structure or meet modern safety codes.

Only a handful of municipalities in Connecticut allow for a nonconforming structure to be moved to another nonconforming location on the same lot when no compliant alternative exists. This flexibility is essential when structures must be raised above the base flood elevation or moved out of flood-prone areas. The failure to account for these conditions suggests that many zoning regulations have not evolved in response to contemporary challenges or recent statutory reforms.

Zoning codes in 164 of Connecticut’s 167 municipalities still contain one or more of these provisions—destruction thresholds, time limits, and presumptive abandonment rules—aimed at phasing out nonconforming uses and structures, all of which conflict with current law. The

result is a persistent tension: municipalities seek to promote conformity, while property owners—backed by state statute and case law—retain the right to maintain existing uses and structures. This tension often comes to a head after a fire, natural disaster, change in family or business circumstances, or physical disrepair, when the continued viability of a nonconforming building is most at risk.

Chief Justice William Maltbie of the Connecticut Supreme Court captured this balance in an early zoning case:

*“In any consideration of zoning, we must start with that very ancient principle inherent in Anglo-Saxon law and embodied in the constitution of every state in this nation, as well as in the constitution of the United States, that no man’s property may be taken for public use without just compensation. That guarantee of the right of the individual to the enjoyment of his property applies not only to prevent the actual taking possession of it, but it also protects him against any substantial deprivation of such use as he cares to make of it.”*

Local efforts to eliminate nonconformities through rules that disregard the intent of the property owner and that lack statutory grounding pose both legal and fairness concerns, risking takings claims and potentially stifling the maintenance, adaptation, or reconstruction of historic and otherwise valuable buildings. Continued education, training, and reform are needed to bring local regulations into alignment with state law and the fundamental rights of property owners.

## **Registration of Nonconforming Buildings and Structures**

Section 8-13(a)(2) places the responsibility on the property owner to prove a structure qualifies as a nonconforming structure. This law reflects the difficulty of keeping up with the wide array of structures that are often built without a building or zoning permit or that may have predated various amendments to the regulations. The Connecticut zoning enabling act states that “structure” “has the same meaning as in the zoning regulations for the municipality in which the structure is located or, if undefined by such regulations, “structure” means any combination of materials, other than a building, that is affixed to the land, including, without limitation, signs, fences, walls, pools, patios, tennis courts and decks.”<sup>11</sup> Absent a record to prove the date a structure was installed, the burden of proof falls on the property owner.

Terry Tondro, a well-known land use attorney, explained the challenge as follows:

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<sup>11</sup> Section 8-13(a) of the Connecticut Zoning Enabling Act. This requirement took effect on October 1, 2013 with Public Act 13-9, An act concerning enforcement protection for nonconforming structures, Effective October 1, 2013. That law states, “A property owner shall bear the burden of proving that a structure qualifies as a nonconforming structure pursuant to subdivision (1) of this subsection [note reference is codified as Section 8-13(a)1]. The requirements of meeting that burden have not been litigated and only a handful of municipalities have provided guidance.

*In many cases it will not be clear whether an alleged nonconforming use or structure was established before adoption of the regulation forbidding it. The nonconforming issue may only arise when the property is sold, for example (when a title search will show that the property does not comply with the zoning regulations), or when it is subject of an eminent domain action, or when the municipality or neighbors bring an enforcement action. These events may not occur for several years after the use has been established, when memories have faded. The problem may be even more difficult if the issue involves an alleged extension of nonconforming use.”<sup>12</sup>*

There is no requirement for a municipality to maintain a list of nonconforming buildings, structures or uses comparable to the statutory requirement holding the property owner responsible for proving their building or the use is nonconforming. Consequently, few, if any, zoning commissions have maintained a complete list of revisions made to their regulations since their adoption of zoning.

Five municipalities (Ansonia, Beacon Falls, Chester, Hartford and West Hartford) have addressed this by requiring property owners to register their nonconforming building or use with the municipality to gain certain zoning protections associated with buildings that pre-existed the adoption of zoning regulations or subsequent amendments. Two municipalities (Beacon Falls and Chester) require registration of nonconforming land uses within one year of the date they have become nonconforming. Proving a nonconformity exists is not easy unless a property owner self-declares that one exists and is given adequate notice of his or her responsibility to do so.<sup>13</sup> These burdens placed on property owners are administratively challenging given the difficulty in determining what constitutes adequate evidence of nonconformity and what constitutes adequate notice to disclose one’s nonconformity.

These challenges to determine what is adequate evidence are insurmountable without explicit standards that establish the types of evidence deemed acceptable to the zoning commission and the courts. Based on this analysis of the 164 municipal zoning regulations governing nonconformities, there are no published standards for determining whether a property owner has met his or her burden of proof that they own a nonconforming lot, building, structure, or use.

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<sup>12</sup> Terry Tondro, Connecticut Land Use Regulation, Second Edition, 1992, p. 151.

<sup>13</sup> See *Helbig v Zoning Commission*, Connecticut Supreme Court, 185 Conn. 294, Decided August 18, 1981. That decision held that the Noank Fire District had exceeded its authority by imposing vague requirements for determining a nonconforming use which failed “to meet the constitutional mandate that a regulation be as reasonably precise as the subject matter requires and as reasonably adequate and sufficient to guide the commission and to enable those affected to know their rights and obligations.” While that decision predated Public Act 13-9, it provides a road map for zoning commissions wishing to avoid unconstitutional requirements that exceed their legislated enabled authority.

# CONCLUSION

The pace of change at which zoning regulations are amended outstrips the ability of zoning commissions to track all the nonconformities that exist within their municipality.

Nonconforming uses, buildings, structures, and lots are common: as discussed earlier, an estimated 105,000 text amendments have been adopted over the last 100 years across the state's 167 municipalities with zoning regulations. To understand whether the nonconformities created by these regulatory changes should be protected or removed depends on the purpose of the zoning provisions in question.

Zoning was established to protect public health, safety, and general welfare. Whether it is achieving that broad policy objective depends on the strategic vision of each municipality. In this context, the municipal plan of conservation and development is intended to guide the process – even though it is only loosely linked to zoning regulations and poorly supported by the state legislature's long term land use planning objectives, or even the Connecticut Supreme Court's interpretation of those objectives. The result is that nonconformities are poorly managed at the municipal level. There has been limited legislative guidance on protecting the state's vast inventory of nonconforming dwellings, commercial and industrial facilities that predate zoning. When the state's zoning enabling act was established in 1925, the goal was to create uniform standards that applied in each zoning district. That goal runs afoul of the 300-year history of development in Connecticut that precedes zoning.

In 1989, the Connecticut legislature dramatically altered the concept of uniformity when it placed property rights above the need for the elimination of nonconforming uses. This was and continues to be an extremely important adjustment in zoning practice in Connecticut and yet most zoning commissions have not properly implemented the intent of Public Act 89-277. Property owners, and only the property owners, are the final arbiters of their own intentions to maintain or discontinue their property interests. In 2017 the state legislature, apparently not satisfied with the results of Public Act 89-277, further strengthened the rights of property owners under section 8-2 (a) as previously described.

Establishing more flexible regulations for nonconforming lots, buildings, structures and uses is an emerging area of zoning practice in Connecticut. Given the enormous number of nonconformities—not to mention dozens of other less noticed nonconforming issues such as parking, signage, lot cover, performance standards, etc.—it is not surprising that dozens of municipalities have attempted to provide relief to property owners through regulatory workarounds. Examples of approaches to better protect nonconforming uses and buildings are found in at least twenty-six municipalities. Protecting the state's cultural and historic resources requires a reassessment of the current fragmented approach to protecting older housing stock as well as commercial and industrial buildings integral to the character and culture of

## Conclusion

Connecticut. While zoning must be mindful of public health or environmental protection concerns associated with inadequate lot size and setbacks, there must be equal efforts to revitalize these housing and commercial resources through expanded sewer services or the adoption of more sophisticated onsite wastewater treatment plants.

At the opposite end of the spectrum, several municipalities have eliminated setback requirements when duplex units are developed using a zero-lot line approach. This is particularly useful where public sewers exist. Similarly, requiring corner lots to adhere to more restrictive setbacks than the remainder of the district ensures driver safety by providing proper driver visibility at intersections. With these exceptions, there is no reason setback standards are needed beyond specific public health and public safety measures. Arguably setbacks are useful for creating uniform patterns of neighborhood design. However, the concept of neighborhood design is highly malleable based on community expectations for what is an attractive living environment – not exclusively driven by public health, safety or general welfare. From this perspective, setback standards may no longer serve a community’s interest in all contexts.

Uniform setback standards may limit opportunities for infill development and redevelopment, especially in areas with the infrastructure to support higher-density development (e.g., where public water and public sewers exist). In contrast, municipalities that rely on septic systems for wastewater management must rely on science-based setbacks to protect drinking water wells to reduce the discharge of nitrogen and phosphorus into nearby rivers, streams and wetlands.

Rather than work to eliminate nonconforming buildings and uses, each municipality should consider the economic consequences of losing the cultural and historical legacies provided by the vast inventory of pre-World War II housing stock that continues to provide some of the most affordable housing that exists in Connecticut.<sup>14</sup> With this perspective, zoning commissions should consider innovative strategies identified in this report to comply with the uniformity rule without compromising the existence of nonconforming residences, businesses and industries make Connecticut an attractive place to live.

Another critical flaw identified in this statewide review of nonconforming use regulations is the lack of due process and notification procedures to ensure property owner’s rights are protected from regulations that discontinue nonconforming uses. Again, this issue underscores the need for model regulations to address nonconforming uses, buildings, structures and lots. Our analysis found few municipalities that have incorporated Connecticut

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<sup>14</sup> It should be noted that, Terry Tondro, one of Connecticut’s leading land use attorneys and former law professor at the University of Connecticut Law School declared, “The Connecticut statutes do not prohibit the continuation of nonconformities; if anything, they encourage their continuation through the anti-amortization provision in CGS Section 8-2.” See Terry Tondro, *Connecticut Land Use Regulation*, Second Edition, 1992, p. 147.

## **Conclusion**

Supreme Court and Appellate Court decisions that limit the scope of authority granted to zoning commissions ruling on changes to nonconforming uses and buildings.

Similarly, many zoning commissions have established requirements without clear statutory grounding for the restoration of nonconforming buildings destroyed or partially destroyed by fire or other natural or manmade disaster. Many municipalities require property owners to abandon a nonconforming building if it is demolished, even when the Connecticut zoning enabling statute states that only the property owner can declare his or her building is discontinued.

In those municipalities that allow for the substitution of one nonconforming use by another of equal to lesser impacts, Connecticut residents could benefit by the adoption of statewide evaluation criteria for determining when such substitutions are in the public interest. Today, a diverse mix of approaches exists to regulate such substitutions, however often with little evidentiary foundation to aid in commission decision making or public understanding of the basis for government decisions. See Appendix 7 for a checklist of actions zoning commissions can use to ensure compliance with Connecticut's enabling legislation and case law regulating nonconforming buildings, structures, uses and lots.

To the extent zoning commissions can revitalize the vast infrastructure of nonconforming buildings, structures, lots, and uses, Connecticut can expand housing opportunities without any new construction – simply expansions or extensions of existing buildings. By adoption of simplified review and approval procedures, property owners are more likely to continue investing in Connecticut's older housing stock and maintaining their historical business ventures in Connecticut.

## RECOMMENDATIONS

This study reveals the need for three initial actions to be taken:

- 1) **Develop model regulations for nonconformities:** The focus should be on regulations consistent with state zoning enabling legislation and Connecticut case law.
- 2) **Develop a training program on nonconformities:** The training should be based on the proposed model regulations for land use commissioners including planning and zoning commissions, zoning commissions and zoning boards of appeal.
- 3) **Develop fact sheets explaining the legal rights of property owners.** Three fact sheets should address a property owner's right and responsibility to; a) maintain or intensify a nonconforming use, b) develop within the constraints posed by a nonconforming lot and, c) maintain nonconforming buildings and structures within the constraints established by state statutes and case law.

Even though numerous legislative efforts have clarified that nonconforming uses, buildings, structures and lots are not to be eliminated, most zoning commissions continue to maintain regulations out of compliance with the zoning enabling act. To correct this problem, the following recommendations supplement the three actions mentioned above.

- 1) **Convene a statewide conference on Nonconformities:** The conference should review Connecticut's laws governing nonconforming uses including relevant case law and current practices inconsistent with these laws. Without such an effort, many properties will continue to face constraints that are inconsistent with state law.
- 2) **Regular comprehensive review of zoning regulations:** On a ten-year cycle, zoning commissions should review, and revise, as necessary, their regulations for consistency with ongoing revisions to the state zoning enabling act and decisions of the Connecticut Supreme Court and the Court of Appeals. This effort should include maintaining a summary annual list of laws and case laws pertinent to zoning commissions. This responsibility would best be provided by the Office of Policy and Management to assist with municipal efforts to ensure zoning regulations comply with case law and ongoing amendments to the zoning enabling act. Why is this necessary? An enormous number of Connecticut zoning commissions have never conducted a systematic review of their regulations for conformity with state law and case law.
- 3) **Council of Governments to provide technical assistance:** The nine councils of government should work with municipal planners and zoning enforcement officers, to assist zoning commissions to develop and publish a chronology of zoning text and map amendments. Once established, the dates and references for these amendments should be included in the published zoning regulations. Without a system for tracking and publishing zoning amendments it becomes an administrative challenge for zoning commissions, developers or property owners to determine the scope of nonconformities affecting any given development proposal.

# APPENDICES













Value Based =13: Time Based =64: Time and Value Based =15: Miscellaneous = 5

Codes for each Criteria Controlling Elimination of Nonconforming Buildings or Structures

**NCD**= Nonconforming Building Destroyed; **NCDR** = Nonconforming Building destroyed: h work commences with time and/or building value specified; **NCDRC** = Nonconforming Building destroyed: completion with time and/or surviving building value specified; **NCDBP** = Nonconforming Building Destroyed & Building Permit Required in time specified; **NCDJ** = Nonconforming Building destroyed but restoration depends on judgement of Commission; **NCIPHS** = Nonconforming Building or Use imperils public health & safety; **NCD** = Nonconforming Building Destroyed with to time or building value specified; **AVGL** = Assessed value based on Grand List; **FMV** = Fair Market Value

*Appendix 2. Estimated Text and Map Amendments Since the Inception of Zoning in Connecticut by Municipality (2025)*

Municipality	Year Zoning Adopted (ZA)	Date Zoning Regs (ZR) Enacted	Current Year	Years since ZA	Days Since Adoption of ZR	Average Text Changes/Year (WestCOG)	Text Changes since ZA
Column #	1	2	3	4	5	6	7
Calculations				(3-1)	(4÷365 <sup>1</sup> / <sub>4</sub> )	(WestCOG)	(4×6)
West Hartford	1924	3/22/1924	2025	101	36,890	8.7	879
Darien	1925	12/10/1925	2025	100	36,525	8.7	870
Enfield	1925	3/1/1925	2025	100	36,525	8.7	870
Fairfield	1925	8/26/1925	2025	100	36,525	8.7	870
New Britain	1925	9/26/1925	2025	100	36,525	8.7	870
Norwich	1925	6/26/1925	2025	100	36,525	8.7	870
Bridgeport	1926	6/1/1926	2025	99	36,160	8.7	861
Greenwich	1926	2/1/1926	2025	99	36,160	8.7	861
Hartford	1926	2/19/1926	2025	99	36,160	8.7	861
New Haven	1926	12/15/1926	2025	99	36,160	8.7	861
Stamford	1926	7/22/1926	2025	99	36,160	8.7	861
Wethersfield	1926	5/24/1926	2025	99	36,160	8.7	861
East Hartford	1927	3/2/1927	2025	98	35,795	8.7	853
Meriden	1927	10/13/1927	2025	98	35,795	8.7	853
Middletown	1927	2/7/1927	2025	98	35,795	8.7	853
Trumbull	1927	3/1/1927	2025	98	35,795	8.7	853
New London	1928	6/4/1928	2025	97	35,429	8.7	844
Waterbury	1928	9/25/1928	2025	97	35,429	8.7	844
Danbury	1929	7/22/1929	2025	96	35,064	8.7	835
Norwalk	1929	10/16/1929	2025	96	35,064	8.7	835
Glastonbury	1930	6/20/1930	2025	95	34,699	8.7	827
Hamden	1930	12/4/1930	2025	95	34,699	8.7	827
Milford	1930	6/11/1930	2025	95	34,699	8.7	827
Newington	1930	8/26/1930	2025	95	34,699	8.7	827
Westport	1930	9/1/1930	2025	95	34,699	8.7	827
West Haven	1931	4/22/1931	2025	94	34,334	8.7	818
Windsor	1931	5/1/1931	2025	94	34,334	8.7	818
New Canaan	1932	6/14/1932	2025	93	33,968	8.7	809
Roxbury	1932	5/5/1932	2025	93	33,968	8.7	809
Woodbridge	1932	12/24/1932	2025	93	33,968	8.7	809
Portland	1933	10/17/1933	2025	92	33,603	8.7	800
Simsbury	1933	10/1/1933	2025	92	33,603	8.7	800
New Hartford	1934	11/9/1934	2025	91	33,238	8.7	792
Union	1934	3/31/1934	2025	91	33,238	8.7	792
Warren	1934	10/31/1934	2025	91	33,238	8.7	792
East Haven	1936	9/4/1936	2025	89	32,507	8.7	774
New Fairfield	1937	9/6/1937	2025	88	32,142	8.7	766
Orange	1937	1/1/1937	2025	88	32,142	8.7	766
Sherman	1937	5/1/1937	2025	88	32,142	8.7	766
Southbury	1937	12/15/1937	2025	88	32,142	8.7	766
Derby	1938	12/30/1938	2025	87	31,777	8.7	757
East Hampton	1938	4/7/1938	2025	87	31,777	8.7	757

Municipality	Year Zoning Adopted (ZA)	Date Zoning Regs (ZR) Enacted	Current Year	Years since ZA	Days Since Adoption of ZR	Average Text Changes/Year	Text Changes since ZA
Manchester	1938	5/2/1938	2025	87	31,777	8.7	757
Rocky Hill	1938	11/21/1938	2025	87	31,777	8.7	757
South Windsor	1938	3/7/1938	2025	87	31,777	8.7	757
Avon	1939	3/31/1939	2025	86	31,412	8.7	748
Washington	1939	12/15/1939	2025	86	31,412	8.7	748
Cornwall	1940	6/6/1940	2025	85	31,046	8.7	740
Shelton	1940	4/8/1940	2025	85	31,046	8.7	740
Easton	1941	6/25/1941	2025	84	30,681	8.7	731
Old Lyme	1941	1/11/1941	2025	84	30,681	8.7	731
Middlebury	1942	4/1/1942	2025	83	30,316	8.7	722
Wolcott	1942	4/30/1942	2025	83	30,316	8.7	722
Berlin	1944	5/8/1944	2025	81	29,585	8.7	705
Somers	1945	5/12/1945	2025	80	29,220	8.7	696
Stratford	1945	3/12/1945	2025	80	29,220	8.7	696
Ridgefield	1946	10/1/1946	2025	79	28,855	8.7	687
Wilton	1946	6/15/1946	2025	79	28,855	8.7	687
Bristol	1947	5/21/1947	2025	78	28,490	8.7	679
Columbia	1947	9/13/1947	2025	78	28,490	8.7	679
Hebron	1947	10/6/1947	2025	78	28,490	8.7	679
Ansonia	1948	1/1/1948	2025	77	28,124	8.7	670
Cromwell	1948	6/4/1948	2025	77	28,124	8.7	670
Monroe	1948	12/11/1948	2025	77	28,124	8.7	670
Old Saybrook	1948	7/8/1948	2025	77	28,124	8.7	670
Cheshire	1949	8/31/1949	2025	76	27,759	8.7	661
Andover	1950	6/16/1950	2025	75	27,394	8.7	653
Bloomfield	1950	15-Mar-50	2025	75	27,394	8.7	653
Farmington	1950	4/27/1950	2025	75	27,394	8.7	653
Redding	1950	5/26/1950	2025	75	27,394	8.7	653
Weston	1950	4/27/1950	2025	75	27,394	8.7	653
Bolton	1951	8/1/1951	2025	74	27,029	8.7	644
Coventry	1951	10/2/1951	2025	74	27,029	8.7	644
Bethany	1952	4/21/1952	2025	73	26,663	8.7	635
East Windsor	1952	4/28/1952	2025	73	26,663	8.7	635
Guilford	1953	6/1/1953	2025	72	26,298	8.7	626
Madison	1953	4/10/1953	2025	72	26,298	8.7	626
East Lyme	1954	5/4/1954	2025	71	25,933	8.7	618
Marlborough	1954	3/12/1954	2025	71	25,933	8.7	618
North Branford	1954	9/23/1954	2025	71	25,933	8.7	618
North Haven	1954	1/1/1954	2025	71	25,933	8.7	618
Suffield	1954	6/15/1954	2025	71	25,933	8.7	618
Waterford	1954	6/1/1954	2025	71	25,933	8.7	618
Durham	1955	8/15/1955	2025	70	25,568	8.7	609
Granby	1955	4/29/1955	2025	70	25,568	8.7	609
Harwinton	1955	4/28/1955	2025	70	25,568	8.7	609
Watertown	1955	5/1/1955	2025	70	25,568	8.7	609
Branford	1956	12/3/1956	2025	69	25,202	8.7	600
Colebrook	1956	8/2/1956	2025	69	25,202	8.7	600

## Appendices

Municipality	Year Zoning Adopted (ZA)	Date Zoning Regs (ZR) Enacted	Current Year	Years since ZA	Days Since Adoption of ZR	Average Text Changes/Year	Text Changes since ZA
East Granby	1956	6/1/1956	2025	69	25,202	8.7	600
Plainville	1956	10/28/1956	2025	69	25,202	8.7	600
Westbrook	1956	8/28/1956	2025	69	25,202	8.7	600
Winchester	1956	5/24/1956	2025	69	25,202	8.7	600
Canton	1957	6/1/1957	2025	68	24,837	8.7	592
Colchester	1957	10/14/1957	2025	68	24,837	8.7	592
Groton	1957	6/21/1957	2025	68	24,837	8.7	592
Hartland	1957	11/1/1957	2025	68	24,837	8.7	592
Killingworth	1957	5/25/1957	2025	68	24,837	8.7	592
Putnam	1957	1/1/1957	2025	68	24,837	8.7	592
Seymour	1957	1/25/1957	2025	68	24,837	8.7	592
Southington	1957	5/20/1957	2025	68	24,837	8.7	592
Tolland	1957	7/5/1957	2025	68	24,837	8.7	592
Torrington	1957	12/24/1957	2025	68	24,837	8.7	592
Bozrah	1958	1/9/1958	2025	67	24,472	8.7	583
Burlington	1958	3/7/1958	2025	67	24,472	8.7	583
Haddam	1958	10/1/1958	2025	67	24,472	8.7	583
Naugatuck	1958	5/26/1958	2025	67	24,472	8.7	583
Newtown	1958	8/25/1958	2025	67	24,472	8.7	583
Wallingford	1958	11/7/1958	2025	67	24,472	8.7	583
Bethel	1959	9/29/1959	2025	66	24,107	8.7	574
Mansfield	1959	4/28/1959	2025	66	24,107	8.7	574
Oxford	1959	5/4/1959	2025	66	24,107	8.7	574
Salisbury	1959	6/8/1959	2025	66	24,107	8.7	574
Sprague	1959	7/1/1959	2025	66	24,107	8.7	574
Windsor Locks	1959	7/26/1959	2025	66	24,107	8.7	574
Beacon Falls	1960	5/16/1960	2025	65	23,741	8.7	566
Brookfield	1960	6/15/1960	2025	65	23,741	8.7	566
Plymouth	1960	1/6/1961	2025	65	23,741	8.7	566
Salem	1960	4/14/1960	2025	65	23,741	8.7	566
East Haddam	1961	9/12/1961	2025	64	23,376	8.7	557
Middlefield	1961	9/18/1961	2025	64	23,376	8.7	557
Stafford	1961	8/7/1961	2025	64	23,376	8.7	557
Stonington	1961	7/20/1961	2025	64	23,376	8.7	557
Bridgewater	1962	7/10/1962	2025	63	23,011	8.7	548
Lebanon	1962	4/1/1962	2025	63	23,011	8.7	548
Prospect	1962	9/26/1962	2025	63	23,011	8.7	548
Ledyard	1963	10/11/1963	2025	62	22,646	8.7	539
Lyme	1964	11/12/1964	2025	61	22,280	8.7	531
N. Stonington	1964	5/21/1964	2025	61	22,280	8.7	531
Preston	1964	4/1/1964	2025	61	22,280	8.7	531
Clinton	1965	6/15/1965	2025	60	21,915	8.7	522
Kent	1965	9/13/1965	2025	60	21,915	8.7	522
Vernon	1965	7/1/1965	2025	60	21,915	8.7	522
Essex	1966	7/1/1966	2025	59	21,550	8.7	513
Franklin	1966	8/1/1966	2025	59	21,550	8.7	513
Scotland	1967	6/28/1967	2025	58	21,185	8.7	505

## Appendices

Municipality	Year Zoning Adopted (ZA)	Date Zoning Regs (ZR) Enacted	Current Year	Years since ZA	Days Since Adoption of ZR	Average Text Changes/Year	Text Changes since ZA
Chaplin	1968	2/8/1968	2025	57	20,819	8.7	496
Ellington	1968	8/2/1968	2025	57	20,819	8.7	496
Chester	1969	3/3/1969	2025	56	20,454	8.7	487
Woodbury	1969	4/1/1969	2025	56	20,454	8.7	487
Barkhamsted	1970	8/17/1970	2025	55	20,089	8.7	479
Lisbon	1970	7/6/1970	2025	55	20,089	8.7	479
Litchfield	1970	7/12/1970	2025	55	20,089	8.7	479
Montville	1970	10/14/1970	2025	55	20,089	8.7	479
Willington	1970	12/15/1970	2025	55	20,089	8.7	479
New Milford	1971	12/1/1971	2025	54	19,724	8.7	470
Sharon	1971	11/6/1971	2025	54	19,724	8.7	470
Thomaston	1971	4/28/1971	2025	54	19,724	8.7	470
Ashford	1972	8/1/1972	2025	53	19,358	8.7	461
Brooklyn	1972	5/24/1972	2025	53	19,358	8.7	461
Deep River	1972	11/15/1972	2025	53	19,358	8.7	461
Hampton	1972	7/31/1972	2025	53	19,358	8.7	461
Plainfield	1972	9/28/1972	2025	53	19,358	8.7	461
Windham	1972	4/20/1972	2025	53	19,358	8.7	461
Canaan	1973	6/1/1973	2025	52	18,993	8.7	452
Griswold	1973	7/1/1973	2025	52	18,993	8.7	452
Norfolk	1973	7/30/1973	2025	52	18,993	8.7	452
Voluntown	1973	8/22/1973	2025	52	18,993	8.7	452
Canterbury	1974	4/5/1974	2025	51	18,628	8.7	444
Killingly	1975	5/26/1975	2025	50	18,263	8.7	435
Thompson	1975	3/31/1975	2025	50	18,263	8.7	435
Morris	1978	12/13/1978	2025	47	17,167	8.7	409
Goshen	1988	8/28/1988	2025	37	13,514	8.7	322
Woodstock	1992	1/1/1992	2025	33	12,053	8.7	287
North Canaan	1999	7/5/1999	2025	26	9,497	8.7	226
Pomfret	2003	2/27/2003	2025	22	8,036	8.7	191
Sterling	2009	9/4/2009	2025	16	5,844	8.7	139
Bethlehem	None	None					
Eastford	None	None					
<b>Total</b>				<b>12,163</b>	<b>4,442,536</b>	<b>8.7</b>	<b>105,818</b>

*Appendix 3. Reported Text Changes to Zoning Regulations in Western Connecticut (2025)*

Municipality	Do Zoning Regulations Include a List of Amendments?	Years of Text Tracking Previous to 2025	Number of Text Changes	Average Text Changes per Year	Year Zoning Enacted	Estimated Text Changes Since Enactment of Zoning
Bethel	Yes	17	60	3.5	1959	233
Bridgewater	No				1962	
Brookfield	Yes	4.5	36	8.0	1960	520
Danbury	No				1929	
Darien	Yes	24	97	4.0	1929	388
Greenwich	Yes	44	618	14.0	1926	1,391
New Canaan	Yes	15	117	7.8	1932	725
New Fairfield	No				1937	
New Milford	Yes	45	111	2.5	1971	133
Newtown	No				1958	
Norwalk	No				1929	
Redding	No				1950	
Ridgefield	Yes	50	328	6.6	1946	518
Sherman	No				1937	
Stamford	Yes	72	740	10.3	1926	1,018
Weston	No				1950	
Westport	Yes	15.5	351	22.6	1930	2,151
Wilton	Yes	28	277	9.9	1946	782
<b>Total</b>	<b>10</b>	<b>315</b>	<b>2,735</b>	<b>8.7</b>	<b>1943</b>	<b>7,859</b>

Estimated average text changes per municipality since enactment of zoning: 785.

Source: WestCOG staff analysis of the 18 municipal the most recent zoning regulations, July 2025.

Note: This analysis determined the number of changes to zoning text and zoning maps as found in the appendices of the ten municipalities that document this information. Zoning was adopted in Western Connecticut municipalities from as recently as 54 years ago (New Milford adopted zoning in 1971) to 99 years ago (Greenwich and Stamford adopted zoning in 1926). None of the ten municipalities that publicly track zoning text changes have done so since the date zoning was enacted. Stamford is the only municipality that comes close to achieving that objective with text changes tracked for 72 of the 99 years during which zoning existed. More importantly, eight municipalities in Western Connecticut do not include zoning text changes in their most recently published zoning regulations.

Assumptions: The assumption behind this analysis is the rate of zoning text changes made on annual basis across Connecticut mirrors that found in Western Connecticut. It is possible the annual estimate of 8.7 text changes per year over-estimates the frequency at which zoning regulations are revised. In the more rural areas of Connecticut, development pressures and zoning commission workload are less than that found in suburban and rural areas of Connecticut. However, even an average annual number of text changes per year of 4.35 (50% of the estimated 8.7 text changes per year used in Appendix 2) the result would still be 52,909 text changes across Connecticut since the inception of zoning. This is still an enormous volume of text changes which in turn creates a wide array of nonconformities.

Appendix 4. Zoning Regulations Governing Nonconforming Buildings, Structures, and Uses of Land (2025)

Municipality	Changed to conforming use	Nonconforming bldg. destroyed	Abandoned bldg., land or use	NC use eliminated by moving	Nonconforming structure ceases	NC use ceases: time specified	Voluntarily discontinued	Land Ceases Use	Health and safety Imperiled	Failure to notify eliminates NC	Voluntary demolition = Conformity	Time limit on bldg. repair	Demolition not evidence of intent	Total
Andover			1									1		2
Ansonia	1				1			1			1			4
Ashford	1	1												2
Avon	1					1						1		3
Barkhamsted	1													1
Beacon Falls	1					1		1						3
Berlin	1	1												2
Bethany	1									1				2
Bethel	1	1	1											3
Bethlehem														0
Bloomfield		1	1											2
Bolton		1								1				2
Bozrah		1												1
Branford	1	1		1										3
Bridgeport	1	1												2
Bridgewater	1	1	1											3
Bristol	1	1												2
Brookfield							1							1
Brooklyn	1	1												2
Burlington	1		1											2
Canaan	1													1
Canterbury	1		1											2
Canton	1													1
Chaplin		1												1
Cheshire	1			1			1							3
Chester	1													1
Clinton	1	1												2
Colchester		1												1
Colebrook	1			1										2
Columbia	1	1								1				3
Cornwall	1													1
Coventry	1	1	1							1				4
Cromwell	1													1
Danbury	1		1											2
Darien	1	1	2											4

Municipality	Changed to conforming use	Nonconforming bldg. destroyed	Abandoned bldg., land or use	NC use eliminated by moving	Nonconforming structure ceases	NC use ceases: time specified	Voluntarily discontinued	Land Ceases Use	Health and safety Imperiled	Failure to notify eliminates NC	Voluntary demolition = Conformity	Time limit on bldg. repair	Demolition not evidence of intent	Total
Deep River	1				1		1			1				4
Derby		1	2	1										4
Durham				1						1				2
East Granby	1													1
East Haddam			1											1
East Hampton		1												1
East Hartford	1	1												2
East Haven	1		1	1		1								4
East Lyme	1	1						1						3
East Windsor	1	1	1											3
Eastford														0
Easton	1													1
Ellington			1											1
Enfield	1	1		1		1								4
Essex	1	1	1			1								4
Fairfield	1	1				1								3
Farmington	1	2	1	1										5
Franklin	1	1	1			1								4
Glastonbury	1	1	1											3
Goshen		1	2											3
Granby	1						1							2
Greenwich	1					1						1		3
Griswold	1		1											2
Groton (city & town)	1		1	1		1								4
Guilford			1	1										2
Haddam		1	1			1								3
Hamden		1		1										2
Hampton	1	1												2
Hartford	1	1			1		1		1					5
Hartland		1			1									2
Harwinton	1		1	1										3
Hebron			1		1		1							3
Kent							1						1	2
Killingly	1				1									2
Killingworth		1	1											2
Lebanon	1	1		1										3
Ledyard	1	1	1	1										4
Lisbon	1						1							2

Municipality	Changed to conforming use	Nonconforming bldg. destroyed	Abandoned bldg., land or use	NC use eliminated by moving	Nonconforming structure ceases	NC use ceases: time specified	Voluntarily discontinued	Land Ceases Use	Health and safety Imperiled	Failure to notify eliminates NC	Voluntary demolition = Conformity	Time limit on bldg. repair	Demolition not evidence of intent	Total
Litchfield	1					1								2
Lyme		1				1		1						3
Madison	1	1						1						3
Manchester		2		1										3
Mansfield		1				1								2
Marlborough														0
Meriden	1						1							2
Middlebury				1	1			1						3
Middlefield	1					1	1							3
Middletown	1								1					2
Milford		1	1	1			1	1						5
Monroe	1	1		1		1								4
Montville	1						1						1	3
Morris	1	1												2
Naugatuck	1	2		1										4
New Britain														0
New Canaan		1			1									2
New Fairfield	1	1			1			1	1					5
New Hartford	1										1			2
New Haven	1	1		1		1								4
New London	1		1			1								3
New Milford	1	1			1									3
Newington		1			1									2
Newtown			1				1							2
Norfolk	1													1
North Branford			1	1										2
North Canaan	1	1		1				1						4
North Haven	1	1												2
North Stonington		1	1	1										3
Norwalk				1	1									2
Norwich	1				1									2
Old Lyme			2	1										3
Old Saybrook	1	1		1										3
Orange		1		1	1			1						4
Oxford														0
Plainfield	1	1							1					3
Plainville	1			1		1	1							4
Plymouth	1	1				1								3

Municipality	Changed to conforming use	Nonconforming bldg. destroyed	Abandoned bldg., land or use	NC use eliminated by moving	Nonconforming structure ceases	NC use ceases: time specified	Voluntarily discontinued	Land Ceases Use	Health and safety Imperiled	Failure to notify eliminates NC	Voluntary demolition = Conformity	Time limit on bldg. repair	Demolition not evidence of intent	Total
Pomfret		1		1	1									3
Portland		1												1
Preston	1	1				1								3
Prospect					1									1
Putnam	1	1	1								1			4
Redding	1													1
Ridgefield	1													1
Rocky Hill	1	1		1	1									4
Roxbury	1	1			1									3
Salem	1						1							2
Salisbury	1													1
Scotland	1					1								2
Seymour							1							1
Sharon	1													1
Shelton		1			1									2
Sherman		2		1	1			1						5
Simsbury				1										1
Somers	1		1			1	1							4
South Windsor	1				1									2
Southbury		1		1	1									3
Southington	1													1
Sprague		1		1										2
Stafford	1	1	1		1									4
Stamford		1	1				1							3
Sterling		1												1
Stonington		1	1		1		1		1					5
Stratford	1					1	1							3
Suffield	1	1		1										3
Thomaston			1			1								2
Thompson		1												1
Tolland	1	1		1										3
Torrington	1													1
Trumbull	1	1				1	1							4
Union	1	1			1									3
Vernon		1												1
Voluntown		1			1									2
Wallingford	1			1							1			3
Warren	1	1												2

Municipality	Changed to conforming use	Nonconforming bldg. destroyed	Abandoned bldg., land or use	NC use eliminated by moving	Nonconforming structure ceases	NC use ceases: time specified	Voluntarily discontinued	Land Ceases Use	Health and safety Imperiled	Failure to notify eliminates NC	Voluntary demolition = Conformity	Time limit on bldg. repair	Demolition not evidence of intent	Total
Washington		1												1
Waterbury		1	1											2
Waterford	1		1		1		1	1						5
Watertown	1							1						2
West Hartford	1	1			1			1						4
West Haven						1			1					2
Westbrook	1					1	1							3
Weston	1	2	1	1										5
Westport		1			1									2
Wethersfield		1												1
Wilmington		1			1		1							3
Wilton	1	1		1										3
Winchester	1			1		1					1			4
Windham	1	1			1		1							4
Windsor	1		1	1										3
Windsor Locks		1			1	1								3
Wolcott		1		1	1									3
Woodbridge	1	1			1									3
Woodbury	1	1		1										3
Woodstock	1													1
<b>Grand Total</b>	<b>107</b>	<b>97</b>	<b>47</b>	<b>43</b>	<b>34</b>	<b>29</b>	<b>25</b>	<b>14</b>	<b>6</b>	<b>6</b>	<b>5</b>	<b>3</b>	<b>2</b>	<b>418</b>

## *Appendix 5. Hartford, Connecticut Zoning Regulations*

**H. Cessation or Abandonment of Nonconforming Use or Characteristic** (1) Where a property owner has not filed for a certificate of nonconformance any time before 6 months after the date of cessation of a nonconforming use, any nonconforming use or characteristic that has in fact not existed for a period of 6 months from the time of cessation shall thereafter conform to the provisions of these regulations or from the effective date of the applicable prohibiting regulation, whichever is later; provided that no valid nonconforming use in existence on February 26, 1968, shall be terminated solely as a result of non-use without regard to the intent of the property owner to maintain that use. This commission finds and determines that the fact that a nonconforming use or characteristic has not in fact existed for a period of 6 months from the time of cessation, where the property owner fails to file for a certificate of nonconformance, as contemplated in the preceding sentence, demonstrates sufficient evidence of voluntary discontinuance and intent not to reestablish such use for the purposes of general statutes 8-2.(2) Any nonconforming use or characteristic shall conform to the provisions of these regulations if such use or characteristic is intentionally and voluntarily discontinued and such discontinuance is accompanied by intent to abandon. The voluntary nature of a discontinuance and accompanying intent to abandon shall be found in one or more of the following actions or inactions: an abandonment of premises after removal of equipment and machinery and leaving property vacant; using property for a conforming use; voluntary demolition of a nonconforming building or structure; failure to apply for licenses necessary for the continuation of a nonconforming use or to appeal from the denial of a permit; failure to file for a certificate of nonconformance; failure to operate the use in accordance with existing laws at any point since the establishment of the nonconforming use; and similar situations. (3) Mere non-use caused by either infirmity of the property owner or depression in economic activity or inability (after reasonable effort) to find a tenant who would continue a nonconforming use, shall not demonstrate intent to abandon on its own. (4) A nonconforming use or nonconforming characteristic may be ordered to be terminated by the zoning enforcement officer when it directly imperils the public health or safety, in the determination of the zoning enforcement officer. This commission deems such imperilment to be inconsistent with any allowed use, including allowed nonconforming uses, in the zoning regulations, and also finds that a property owner's allowing such imperilment to occur constitutes a voluntary discontinuance of such use pursuant to general statutes section 8-2 because of the aforementioned inconsistency with allowed uses, and also finds that a property owner's allowing such imperilment to occur demonstrates a clear intent to abandon any allowed use for the purposes of general statutes section 8-2 because of the aforementioned inconsistency. In making a determination as to whether a nonconforming use or characteristic shall be terminated for such imperilment, the zoning enforcement officer shall take as prima facie evidence of such imperilment any violation of the anti-blight and property maintenance

### **Appendices**

program, outlined in chapter 9, article V of the code, as amended from time to time, and citations issued by police for disturbances or other activities associated with the use or structure. The property owner shall be subject to daily penalties for zoning violations, and the city shall retain other remedies and enforcement powers, all as further articulated in 1.4.6.

Appendix 6. Regulation of Nonconforming Uses and Factors Forcing Conformity for Nonconforming Uses, Buildings, Structures and Land in Connecticut Submunicipal Districts

District (Municipality)		Groton Long Point (Groton)	Noank Fire District (Groton)	City of Groton (Groton)	Fenwick (Old Saybrook)	Danielson (Killingly)	Jewett City (Griswold)	Borough of Stonington (Stonington)	Bantam (Litchfield)	Borough of Newtown (Newtown)	Total
Changes to Nonconforming	Allow Change of Use for Non-Conforming Use to other NC Use	Yes	Yes	Yes	No	Yes	Yes	No	Yes	No	6
	How Allowed?	SP	SP	SP & STP		SP	ZP		STP		
	Who Manages it?	ZBA	ZC	ZC		ZC	PZC		PZC		
	Address Floodplain Nonconformities	Yes	No	Yes	Yes	No	No	No	No	No	
Factors Used to Force Conformity for Non-Conforming Uses, Buildings, Structures or Land	Changed to Conforming use	1	1	1	1		1	1	1	1	8
	Nonconforming Bldg. Destroyed	1	1		1			1		1	5
	Abandoned Bldg., Land or use			1	1	1	1	1		1	6
	NC Use eliminated by moving	1	1					1			3
	Nonconforming Structure Ceases										0
	NC Use ceases time specified	1			1						2
	Voluntarily discontinued										0
	Land Ceases Use										0
	Health & Safety Imperiled			1							1
	Failure to notify eliminates NC				1						1
	Voluntary demolition = Conformity			1				1			2
	Time Limit on Bldg. repair										0
<b>Total</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>5</b>	<b>1</b>	<b>3</b>	<b>28</b>	

Note: ZC= Zoning Commission; PZC = Planning and Zoning Commission; ZBA = Zoning Board of Appeals; SP = Special Permit; STP= Site Plan Approval; NC = Nonconformity

## Checklist for Compliance with Nonconforming Building, Structure, Lot, and Use Requirements in Connecticut

Item#	Requirements for Effective Management of Nonconformities	Sources: Case Law, Laws and WestCOG
1	Include definitions for the 4 basic types of nonconformities.	Munroe v. ZBA, 2003
2	Include provisions for property owner’s right to voluntarily discontinue a nonconforming use, building, or structure.	PA 17-139; PA 89-277
3	Include a chronology of zoning amendments since adoption of zoning and include within the regulations.	WestCOG report.
4	Address distinction between expansion v. intensification of nonconforming uses.	High Watch Recovery Center v. PZC. 2025
5	Distinguish between nonconforming buildings, uses, lots and structures in nonconforming section of regulations.	Zachs v. ZBA of Town of Avon. 1991.
6	Where appropriate, adopt uniform exceptions to dimensional rules for nonconforming lots consistent with the Health Code.	Columbia, CT zoning regulations
7	Establish a comprehensive list of accessory structures subject to “structure specific” dimensional standards.	WestCOG report.
8	Adopt parking space exceptions for lots or uses with insufficient space when located in transit or village districts.	PA 21-29
9	Eliminate requirement to abandon or cease nonconforming uses or buildings without property owner’s consent.	PA 17-39
10	Allow for change of one nonconforming use to another of equal or less impact.	Point O’ Woods Assn. v. ZBA, 1979
11	Adopt multi-factor special permit criteria for changes from one nonconforming use to another.	WestCOG report.
12	Require immediate cessation of nonconforming uses, buildings or structures when public safety concerns exist.	Police powers under Zoning enabling act.
13	Consider non-punitive registration of nonconforming uses once Item#3 has been completed.	WestCOG report.
14	Allow exceptions for additions to nonconforming buildings to meet codes (e.g., ADA ramps, Bldg. code or FEMA rules)	WestCOG report & prevailing practice
15	Ensure commission members receive training on managing nonconforming uses, buildings, structures & uses.	PA 21-29

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