

9A Conn. Prac., Land Use Law & Prac. § 34:6 (4th ed.)

Connecticut Practice Series TM | December 2017 Update
Land Use Law & Prac.
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Part III. Land Use Appeals and Litigation
Chapter 34. General Rules of Construction Applied in Administrative Appeals

§ 34:6. Construction of municipal ordinances, generally

A local ordinance is a municipal legislative enactment and the same concepts of construction which are used in interpreting statutes are applicable to ordinances.¹ Regulations of a land use agency are adopted by the agency acting in a legislative capacity even though the agency acts in an administrative capacity when applying them to specific properties. The authority for zoning commissions, planning commissions, and inland wetlands agencies to enact regulations is granted by statute.² While the regulations are passed by the agency rather than the legislative body of the municipality, they are equivalent to an ordinance. Where the regulations are contained in a municipal charter incorporating provisions of a special act, the charter is also interpreted like a statute.³ The same rules of construction as are used in interpreting statutes are applicable to municipal ordinances.⁴ Where there are two possible interpretations of an ordinance, the rational and reasonable interpretation is used.⁵ If there are two equally plausible interpretations of a regulation the court may give deference to the construction of the language by the agency which is charged with the enforcement of the regulation.⁶ However, where more than one interpretation is permissible, restrictions upon the use of lands are not to be extended by implication, and doubtful language is construed against rather than in favor of restrictions.⁷ A zoning ordinance is a local legislative enactment, and interpretation of it requires determining the legislative intent as found from the words used in the ordinance, interpreted using their natural and usual meaning.⁸

In construing a regulation the primary goal of the court is to ascertain the intent of the local agency acting as a legislative body as expressed in the regulations as a whole.⁹ In ascertaining intent of the regulations, both the language of the ordinance and its purpose are considered.¹⁰ Intention of the agency is found from the words used in the ordinance.¹¹ Where the language of the regulation is plain and unambiguous, the intention of the agency is to be determined from the words used.¹² The actual intent, as a state of mind, of the members of the agency is immaterial even if it were ascertainable.¹³

The language of the ordinance is construed so that no clause or provision is considered superfluous, void, or insignificant.¹⁴ The regulations are construed as a whole and in such a way as to reconcile all the provisions in them as far as possible.¹⁵ Regulations must be construed as a whole since particular words or sections of the regulations, considered separately, may be lacking in precision of meaning to afford a standard sufficient to sustain them.¹⁶

All relevant regulations are considered, and the regulations are construed as a whole but should be interpreted to avoid unreasonable or bizarre results.¹⁷

Words in the ordinance may be defined in it. Otherwise words used are construed according to the commonly approved usage of the language.¹⁸ Where the ordinance does not define a term, the usual dictionary definition is used.¹⁹ Where the words and phrases used are clear and unambiguous, the courts will not read into statutes by construction provisions which are not clearly stated.²⁰

The meaning of words not defined in a zoning ordinance is a question of law.²¹

The language in the ordinance is given a construction which is reasonable under all the circumstances.²² When ambiguous

language is used in a land use ordinance, its meaning and scope may be found by examining the language used with the other provisions in the ordinance, by ascertaining the object sought to be accomplished and by considering all other relevant circumstances.²³

A restrictive interpretation of a zoning regulation will not be made unless it is expressed in or implied from the plain meaning of the regulation.²⁴

Municipal regulations are not entitled to a presumption of consistency with the statutes, and they provide no guidance for interpreting statutes.²⁵

The presumption of validity of municipal ordinances requires that their invalidity must be established beyond a reasonable doubt.²⁶

Specific terms in a zoning ordinance covering the given subject matter will prevail over general language of the same or another regulation which might otherwise apply.²⁷ A summary of the considerations for the interpretation of zoning regulations is stated in two 2012 decisions of the appellate court.²⁸ Where there are two definitions in the regulations concerning the same subject, they should be read together, if possible, to give effect to each, but if both definitions are ambiguous or are not defined in the regulations, the court can consider other factors, including prior interpretations of the regulations by the agency.²⁹

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Footnotes

- ¹ Hall Manor Owner's Ass'n v. City of West Haven, 212 Conn. 147, 154, 561 A.2d 1373, 1377 (1989); Maciejewski v. Town of West Hartford, 194 Conn. 139, 151, 480 A.2d 519, 525 (1984); Aaron v. Conservation Commission of Town of Redding, 183 Conn. 532, 537, 441 A.2d 30, 34, 11 Env'tl. L. Rep. 20623 (1981); Kaeser v. Zoning Bd. of Appeals of Town of Stratford, 218 Conn. 438, 443, 589 A.2d 1229, 1232 (1991).
Witty v. Planning and Zoning Com'n of Town of Hartland, 66 Conn. App. 387, 390, 391, 784 A.2d 1011, 1014, 1015 (2001); Miller's Pond Co., LLC v. Rocque, 71 Conn. App. 395, 802 A.2d 184, 192 (2002), judgment aff'd, 263 Conn. 692, 822 A.2d 238 (2003); Evans v. Plan and Zoning Com'n of Town of Glastonbury, 73 Conn. App. 647, 651, 808 A.2d 1151, 1155 (2002); Alvord Inv., LLC v. Zoning Bd. of Appeals of City of Stamford, 282 Conn. 393, 416, 920 A.2d 1000 (2007); Zimnoch v. Planning and Zoning Com'n of Town of Monroe, 302 Conn. 535, 548, 29 A.3d 898 (2011).
- ² General Statutes §§ 8-2, 8-25, 22a-42.
- ³ Stamford Ridgeway Associates v. Board of Representatives of City of Stamford, 214 Conn. 407, 423, 572 A.2d 951, 960 (1990).
AEL Realty Holdings, Inc. v. Board of Representatives of City of Stamford, 82 Conn. App. 613, 618, 619, 847 A.2d 998, 1001, 1002 (2004) (charter provision given its plain meaning, limiting the authority of the legislative body to accepting or rejecting a proposed amendment to the master plan which was enacted by the planning board).
- ⁴ Pelliccione v. Planning and Zoning Com'n of Town of Ridgefield, 64 Conn. App. 320, 335, 780 A.2d 185, 196 (2001); Doyen v. Zoning Bd. of Appeals of Town of Essex, 67 Conn. App. 597, 604, 789 A.2d 478, 484 (2002); Connecticut Resources Recovery Authority v. Planning and Zoning Com'n of the Town of Torrington, 46 Conn. App. 566, 571, 700 A.2d 67, 70 (1997); Witty v. Planning and Zoning Com'n of Town of Hartland, 66 Conn. App. 387, 390, 391, 784 A.2d 1011, 1015 (2001); Evans v. Plan and Zoning Com'n of Town of Glastonbury, 73 Conn. App. 647, 652, 808 A.2d 1151, 1155 (2002); Cunningham v. Planning and Zoning Com'n of Town of Plainville, 90 Conn. App. 273, 279, 280, 876 A.2d 1257 (2005). See also Fedus v. Zoning and Planning Com'n of Town of Colchester, 112 Conn. App. 844, 848, 964 A.2d 549 (2009), containing a thorough discussion of the rules of construction as applied to site plans; Rapoport v. Zoning Bd. of Appeals of City of Stamford, 301 Conn. 22, 34, 19 A.3d 622 (2011).
- ⁵ Pelliccione v. Planning and Zoning Com'n of Town of Ridgefield, 64 Conn. App. 320, 337, 780 A.2d 185, 196 (2001); Maciejewski v. Town of West Hartford, 194 Conn. 139, 151–152, 480 A.2d 519, 525–526 (1984); Town of Enfield v. Enfield Shade Tobacco, LLC, 265 Conn. 376, 385, 828 A.2d 596, 601 (2003); Trumbull Falls, LLC v. Planning and

Zoning Commission of Town of Trumbull, 97 Conn.App. 17, 23 _ A.2d _ (2006); Michos v. Planning and Zoning Com'n of Town of Easton, 151 Conn. App. 539, 545, 546, 96 A.3d 575 (2014).

6 Id., 265 Conn. at 385, 828 A.2d at 589; Wood v. Zoning Bd. of Appeals of Town of Somers, 258 Conn. 691, 698, 699, 784 A.2d 354, 360 (2001); Newman v. Planning and Zoning Com'n of Town of Avon, 293 Conn. 209, 214, 976 A.2d 698 (2009); Cockerham v. Zoning Bd. of Appeals of Town of Montville, 146 Conn. App. 355, 365, 77 A.3d 204 (2013), certification denied, 311 Conn. 919, 85 A.3d 653 (2014) and certification denied, 311 Conn. 919, 85 A.3d 654 (2014).

7 Smith Bros. Woodland Management, LLC v. Planning and Zoning Com'n of Town of Monroe, 88 Conn. App. 79, 86, 868 A.2d 749, 755 (2005); Balf Co. v. Planning and Zoning Com'n of Town of Manchester, 79 Conn. App. 626, 636, 830 A.2d 836, 843 (2003); Fillion v. Hannon, 106 Conn. App. 745, 751, 943 A.2d 528 (2008) (the courts consider the common understanding of the meaning of terms expressed in the law and in dictionaries); King's Highway Associates v. Planning and Zoning Com'n of Town of North Haven, 114 Conn. App. 509, 526, 527, 969 A.2d 841 (2009).

8 Lawrence v. Zoning Bd. of Appeals of Town of North Branford, 158 Conn. 509, 511, 264 A.2d 552, 553 (1969); Fox v. Zoning Bd. of Appeals of Town of West Hartford, 146 Conn. 70, 73, 147 A.2d 472, 474 (1958); Connecticut Resources Recovery Authority v. Planning and Zoning Com'n of the Town of Torrington, 46 Conn. App. 566, 571, 700 A.2d 67, 69, 69 (1997).

Wood v. Zoning Bd. of Appeals of Town of Somers, 258 Conn. 691, 699, 784 A.2d 354, 360 (2001); Town of Enfield v. Enfield Shade Tobacco, LLC, 265 Conn. 376, 380, 381, 828 A.2d 596, 598, 599 (2003).

9 Essex Leasing, Inc. v. Zoning Bd. of Appeals of Town of Essex, 206 Conn. 595, 601, 539 A.2d 101, 104 (1988); McCrann v. Town Plan and Zoning Commission of Town of Bloomfield, 161 Conn. 65, 73, 282 A.2d 900, 905 (1971).

10 Hutchison v. Board of Zoning Appeals of Town of Stratford, 140 Conn. 381, 385, 100 A.2d 839, 841 (1953); Planning and Zoning Commission of Town of Westport v. Synanon Foundation, Inc., 153 Conn. 305, 310, 216 A.2d 442, 444 (1966).

11 Harlow v. Planning and Zoning Com'n of Town of Westport, 194 Conn. 187, 193, 479 A.2d 808, 812 (1984); Lawrence v. Zoning Bd. of Appeals of Town of North Branford, 158 Conn. 509, 511, 264 A.2d 552, 553 (1969); Miller's Pond Co., LLC v. Rocque, 71 Conn. App. 395, 408, 802 A.2d 184, 191 (2002), judgment aff'd, 263 Conn. 692, 822 A.2d 238 (2003).

12 Weigel v. Planning and Zoning Commission of Town of Westport, 160 Conn. 239, 246, 278 A.2d 766, 769 (1971).

13 Park Regional Corp. v. Town Plan and Zoning Commission of Town of Windsor, 144 Conn. 677, 682, 136 A.2d 785, 787 (1957); Fox v. Zoning Bd. of Appeals of Town of West Hartford, 146 Conn. 70, 73, 147 A.2d 472, 474 (1958).

14 Essex Leasing, Inc. v. Zoning Bd. of Appeals of Town of Essex, 206 Conn. 595, 601, 539 A.2d 101, 104 (1988); Melody v. Zoning Bd. of Appeals of Town of Glastonbury, 158 Conn. 516, 521, 264 A.2d 572, 575 (1969).

15 Weigel v. Planning and Zoning Commission of Town of Westport, 160 Conn. 239, 246, 278 A.2d 766, 769 (1971); Kleinsmith v. Planning and Zoning Commission of Town of Greenwich, 157 Conn. 303, 313, 254 A.2d 486, 491 (1968); City of New London v. Zoning Bd. of Appeals of Town of Waterford, 29 Conn. App. 402, 406, 615 A.2d 1054, 1057 (1992); Connecticut Resources Recovery Authority v. Planning and Zoning Com'n of the Town of Torrington, 46 Conn. App. 566, 571, 700 A.2d 67, 69 (1997); Kopylec v. Zoning Bd. of Appeals of Town of North Branford, 125 Conn. App. 754, 757, 9 A.3d 442 (2010) (the interpretation of zoning regulations is a question of law and the regulations should be interpreted to reconcile all provisions).

16 Forest Const. Co. v. Planning and Zoning Commission of Town of Bethany, 155 Conn. 669, 679, 236 A.2d 917, 923 (1967).

17 Borrelli v. Zoning Bd. of Appeals of City of Middletown, 106 Conn. App. 266, 270, 271, 941 A.2d 966 (2008); Newman v. Planning and Zoning Com'n of Town of Avon, 293 Conn. 209, 214, 217, 976 A.2d 698 (2009).

18 Fisher v. Board of Zoning Appeals of Town of Monroe, 143 Conn. 358, 361, 122 A.2d 729, 730 (1956).
Schwartz v. Planning and Zoning Com'n of Town of Hamden, 208 Conn. 146, 153, 543 A.2d 1339, 1344 (1988);
Kroll v. Steere, 60 Conn. App. 376, 382, 759 A.2d 541, 545, 546 (2000).

19 Smith Bros. Woodland Management, LLC v. Planning and Zoning Com'n of Town of Monroe, 88 Conn. App. 79, 87,

868 A.2d 749, 756 (2005); *Azzarito v. Planning and Zoning Com'n of Town of New Canaan*, 79 Conn. App. 614, 623, 830 A.2d 827, 834 (2003); *Heim v. Zoning Bd. of Appeals of Town of New Canaan*, 289 Conn. 709, 960 A.2d 1018 (2008) (if a statute or regulation does not sufficiently define a term, it is appropriate to look to the common understanding of the term as expressed in a dictionary); *Fillion v. Hannon*, 106 Conn. App. 745, 751, 943 A.2d 528 (2008); *Levine v. Town of Sterling*, 300 Conn. 521, 532, 16 A.3d 664 (2011); *Tendler v. Town of Bethel Zoning Bd. of Appeals*, 51 Conn. L. Rptr. 466, 470, 2011 WL 1016946 (Conn. Super. Ct. 2011) (definition of office where the term was not defined in the zoning regulations); *Muller Park Realty Co., LLC v. Zoning Bd. of Appeals City of Norwalk*, 50 Conn. L. Rptr. 143, 2010 WL 2821990 (Conn. Super. Ct. 2010); *Mountain Brook Ass'n, Inc. v. Zoning Bd. of Appeals of Town of Wallingford*, 133 Conn. App. 359, 370, 37 A.3d 748 (2012) (definitions of facility and shed); *Moon v. Zoning Bd. of Appeals of Town of Madison*, 291 Conn. 16, 21, 966 A.2d 722 (2009); *Kobyluck Bros., LLC v. Planning and Zoning Com'n of Town of Waterford*, 167 Conn. App. 383, 396, 2016 WL 4035985 (2016) (discussing when and how dictionary definitions can be used).

20 *Harlow v. Planning and Zoning Com'n of Town of Westport*, 194 Conn. 187, 193, 479 A.2d 808, 812 (1984); *Dowling v. Zoning Bd. of Appeals of Town of Old Lyme*, 187 Conn. 689, 694, 447 A.2d 1172, 1174 (1982).

21 *Jeffery v. Planning and Zoning Bd. of Appeals of Town of Greenwich*, 155 Conn. 451, 454, 232 A.2d 497, 500 (1967).

22 *Petruzzi v. Zoning Bd. of Appeals of Town of Oxford*, 176 Conn. 479, 483, 408 A.2d 243, 246 (1979); *Planning and Zoning Commission of Town of Westport v. Synanon Foundation, Inc.*, 153 Conn. 305, 309, 216 A.2d 442, 443 (1966); *Hutchison v. Board of Zoning Appeals of Town of Stratford*, 140 Conn. 381, 385, 100 A.2d 839, 841 (1953).

23 *Pascale v. Board of Zoning Appeals of City of New Haven*, 150 Conn. 113, 117, 186 A.2d 377, 379, 94 A.L.R.2d 414 (1962).

24 *Children's School, Inc. v. Zoning Bd. of Appeals of City of Stamford*, 66 Conn. App. 615, 626, 785 A.2d 607, 616 (2001); *Santini v. Zoning Bd. of Appeals of City of Bridgeport*, 149 Conn. 290, 291, 179 A.2d 621, 622 (1962).

25 *Fyber Properties Killingworth Ltd. Partnership v. Shanoff*, 228 Conn. 476, 486, 636 A.2d 834, 839 (1994).

26 *Pollio v. Planning Com'n of Town of Somers*, 232 Conn. 44, 49, 652 A.2d 1026, 1029, 1030 (1995); *Harris v. Zoning Com'n of Town of New Milford*, 259 Conn. 402, 425, 788 A.2d 1239, 1255 (2002).

27 *Mohican Valley Concrete Corp. v. Zoning Bd. of Appeals of Town of Fairfield*, 75 Conn. App. 45, 59, 815 A.2d 145, 155 (2003).

28 *Mountain Brook Association, Inc. v. Zoning Board of Appeals of Town of Wallingford*. 133 Conn. App. at 367–369; *Egan v. Planning Bd. of City of Stamford*, 136 Conn. App. 643, 648–650, 47 A.3d 402 (2012) (citing this text).

29 *Cockerham v. Zoning Bd. of Appeals of Town of Montville*, 146 Conn. App. 355, 367, 368, 77 A.3d 204 (2013), certification denied, 311 Conn. 919, 85 A.3d 653 (2014) (“separately owned” as part of a definition of nonconforming lot).