

### § 4.31 Size of Structure; Maximum and Minimum Requirements

Most zoning ordinances define "building" and "structure," and the latter term covers the former. Bulk regulations governing "size of buildings and other structures" are specifically authorized by the enabling statute. Whether a structure is a building as defined in the ordinance depends upon the facts and circumstances of each case and the definition in the regulations.<sup>1</sup> While maximum size requirements for buildings and structures would be valid in almost any conceivable situation, since it is directly related to overcrowding of land with collateral effects on the public, there are apparently no Connecticut cases on this issue, perhaps for that reason. Minimum floor or building size requirements, while technically allowed by section 8-2 of the General Statutes, are illegal in some cases. In *Builders Service Corporation, Inc. v. Planning and Zoning Commission of Town of East Hampton*,<sup>2</sup> it was held that in the absence of any evidence showing a rational relationship between the minimum floor area requirements in the zoning regulations and any of the legitimate objectives of zoning in section 8-2, the minimum area requirement was illegal. The opinion recognized that section 8-2 authorized the enactment of minimum floor area regulations,<sup>3</sup> but concluded that since zoning regulations must be based upon the police power, that if there was no rational basis between the regulation and protecting public health, safety and welfare then the regulation was illegal. After analyzing the regulation in question, the court concluded that it had no relationship to promoting public health, conserving the value of buildings, and did not promote affordable housing opportunities for all citizens of the municipality. The opinion also indicates that different minimum building size requirements in the zoning districts of the town would be illegal.<sup>4</sup> The court followed a similar decision of the New Jersey Supreme Court<sup>5</sup> which also held that minimum building sizes in single-family zones were invalid because unrelated to the purposes of zoning.

Where other ordinances or regulations have higher standards than zoning ordinances, then the provisions of the other regulations control as to setbacks, areas of open space, building height, number of stores and area of the lot to remain unoccupied.<sup>6</sup>

### § 4.32 Floor Area Ratio Provisions

Some zoning regulations contain floor area ratio requirements, which are an additional restriction controlling the maximum size of buildings.

#### § 4.31

1. *Middlesex Theatre, Inc. v. Commissioner of State Police*, 128 Conn. 20, 23, 20 A.2d 412, 413 (1941).

2. 208 Conn. 267, 306, 545 A.2d 530, 550 (1988).

3. *Id.* at 278, 545 A.2d at 536.

4. *Id.* at 295, 296, 545 A.2d at 545.

5. *Home Builders League of South Jersey, Inc. v. Berlin Township*, 81 N.J. 127, 405 A.2d 381 (1979).

6. C.G.S.A. § 8-13.