POWERS, DUTIES AND COMPOSITION OF PLANNING COMMISSION

A. Composition of Commission

Any municipality may create by ordinance a planning commission, which shall consist of five members, who shall be electors of such municipality holding no salaried municipal office and whose terms of office and method of election or appointment shall be fixed in the ordinance. The chief executive officer of the municipality and the engineer thereof or Commissioner of Public Works, if any, shall also be members of the commission, without voting privileges [ex officio].

B. Terms of Office

The terms of office shall be so arranged that the terms of not more than three members shall expire in any one year. **Vacancies** shall be filled by the Commission for the unexpired portion of the term.

C. Duties

The commission shall adopt and amend a plan of development, adopt subdivision regulations and hear applications for subdivisions and re-subdivisions. In addition, the local zoning regulations may require it to hear applications for special permits. The planning commission can, unless otherwise provided by ordinance, prepare and file surveys, maps or plans of proposed highways, streets, sidewalks or the relocation, grade, widening or improvement of existing highways, streets or sidewalks, or of any building or veranda lines proposed. (C.G.S. § 8-29) In addition to the above duties, planning commissions are entitled to review planning municipal improvements and issue a recommendation thereon. (C.G.S. § 8-24)

D. Officers

The commission shall elect a chairman and a secretary from its members, shall adopt rules for the transaction of business and shall keep a public record of its activities. The planning commission of each municipality shall file an annual report with the legislative body thereof. (C.G.S. § 8-19)

E. Alternates

Any municipality may provide by ordinance for the appointment or election of alternate members to its planning commission and how the alternates are to be chosen to sit as regular members. **When chosen to sit**, they shall have all the powers and duties of regular members. Such alternate members shall be electors and shall not be members of the zoning board of appeals or zoning commission. (C.G.S. § 8-19a)

F. Commission Jurisdiction

The area of jurisdiction of a planning commission created by a town includes any city or borough therein without a legally constituted planning commission for all planning purposes except those specified in C.G.S. § 8-24 [municipal improvements] and C.G.S. § 8-29 [preparation and filing of maps].

POWERS, DUTIES AND COMPOSITION OF ZONING COMMISSION

A. Composition of Board

A zoning commission shall consist of not less than five nor more than nine members, with minority representation as determined under section 9-167a, who shall be electors of such municipality. The number of such members and the method of selection and removal for cause and terms of office shall be determined by ordinance, provided no such ordinance shall designate the legislative body of such municipality to act as such zoning commission. An exception is made for towns having a population of less than five thousand, in which case the selectmen may be empowered by such ordinance to act as such zoning commission.

B. Powers and Duties

The powers and duties of a zoning commission are set forth in section 8-2 of the General Statutes. These powers and duties include:

1. To hear and decide site plan and special permit applications, where the local zoning regulations require it to do so; and
2. To hear and decide applications to amend the zoning regulations; and to draft said regulations in the first place; and
3. Where desired by an applicant, hold preapplication reviews of proposed projects.

C. Alternates

Any municipality may provide by ordinance for the appointment or election of alternate members to its zoning commission or combined planning and zoning commission. The ordinance shall also state how the alternates are to be chosen to sit as regular members. When chosen to sit, they shall have all the powers and duties of regular members. Such alternate members shall be electors and shall not be members of the zoning board of appeals or planning commission. (C.G.S. § 8-1b) An alternate, when not seated, can not participate in the discussion and vote on an application.

D. Vacancies

The manner for filling vacancies arising from any cause shall be provided by a vote of the municipality's legislative body, as provided by ordinance. (C.G.S. § 8-1) This applies to planning and zoning commissions as well. (C.G.S. § 8-4a)

E. Ex Officio Members

The General Statutes provide that the chief elected official of a municipality is an ex-officio member of any municipal agency, including a zoning commission. These provisions allow this official to participate in the agency's meetings including submitting motions. This official has no voting privileges.

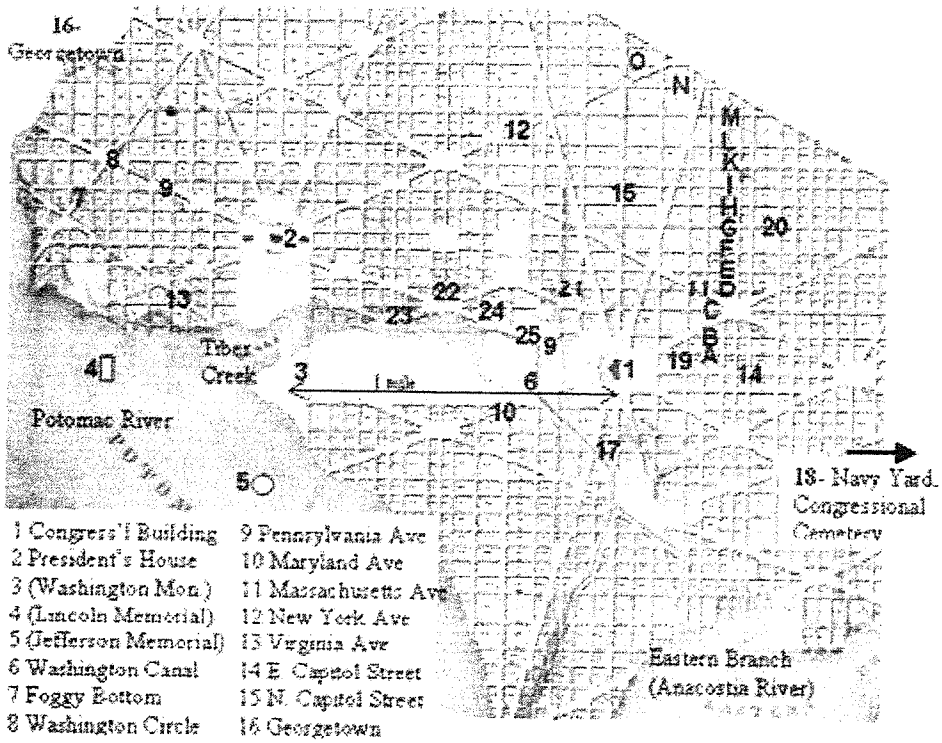
COMBINED PLANNING AND ZONING COMMISSION

Combining Planning Commission and Zoning Commission

Any town, city or borough, unless otherwise provided by special act, may by ordinance or by vote of its legislative body designate its zoning commission or its planning commission as the planning and zoning commission for such municipality, and such commission shall thereupon have all the powers and duties of both a planning commission and a zoning commission and shall supersede any previous planning commission or zoning commission.

Such vote shall establish the number of members to comprise such planning and zoning commission, which number of members shall be five, six, seven, eight, nine or ten, **not counting nonvoting members** [ex officio and alternates]. C.G.S. § 8-4a.

The manner for filling vacancies arising from any cause shall be provided by a vote of the municipality's legislative body, such as by ordinance. C.G.S. § 8-4a



DISQUALIFICATION

The question of disqualification centers on maintaining the public's trust in its public officials. Anything which tends to weaken this trust and to undermine the sense of security of individual rights which a citizen is entitled to feel runs against this public policy. It is the mere appearance of impropriety which must be avoided. Thus, it is not required that an actual conflict of interest exists, only that there appears to be such a conflict.

No member of any planning commission, zoning commission or combined commission, and no members of any municipal agency exercising the powers of these commissions, whether existing under the general statutes or under any special act, **shall appear for or represent** any person, firm or corporation or other entity in any matter pending before the planning or zoning commission or zoning board of appeals or agency exercising the powers of any such commission or board in the same municipality, whether or not he is a member of the commission hearing such matter.

No member of any planning commission, zoning commission or combined commission **shall participate in the hearing or decision** of the commission of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense.

In the event of such disqualification, such fact shall be entered on the records of the commission and, unless otherwise provided by special act, replacement shall be made from alternate members.

(C.G.S. § 8-21 & C.G.S. § 8-11)

PUBLIC MEETINGS

A. Purpose

As a public agency, a planning and zoning commission is subject to the provisions of the Freedom of Information Act. Often referred to as the sunshine law, its purpose is to allow the public to view the workings of the government. The hope is that better government will result because the workings of the act will provide a better informed public as well as a more open and honest governing process.

B. Meeting Defined

"A public meeting is any **hearing*** or other proceeding of a public agency, or gathering of, or communication by or to a quorum of a multi-member agency, to discuss or act on any matter over which it has authority. The following are not public meetings: meetings of certain personnel search committees; collective bargaining strategy and negotiating sessions; caucuses; chance or social gatherings not intended to relate to official business; administrative or staff meetings of a single-member agency (e.g., mayor); and communications limited to notice of agency meetings or their agendas.

No registration or other requirements may be imposed on a member of the public seeking attendance at a public meeting.

⇨ It should be noted that the Freedom of Information Commission does distinguish between a meeting and a hearing, with a meeting occurring even if there is not a quorum present.

C. Scheduling Meetings

By January 31 of each year, the commission must file a schedule of its regular meetings for that year. It should be filed with the Secretary of State and with the Town Clerk. Either the chairman or secretary of the board has the duty to do so. No meeting can take place sooner than 30 days from the filing of the schedule. (C.G.S. § 1-225) Meetings can be adjourned or continued, provided proper notice is given. This is done by complying with the requirements for special meetings. (C.G.S. § 1-228 & 1-229)

D. Agenda

The agenda for a regularly scheduled meeting must be filed not less than 24 hours before the time of the meeting. A copy of the agenda must be posted in the office of the board or, if there is none, in the Town Clerk's office. Of course, additional postings would be permissible. Additional items can be added to the agenda upon a 2/3 vote of the members of the commission.

E Special Meetings

Notice of any special meeting of the board must be posted 24 hours before the meeting is to take place. It must state the time and place of the special meeting. The notice should be filed in the Town Clerk's office. While

only a requirement for emergency special meetings, the business to be transacted at the special meeting should be included on the notice and the agenda should be similarly limited.

F. Executive Session

Sometimes, due to the confidential nature of the topic being discussed, it becomes necessary to exclude the public from the meeting. This is done by a 2/3 vote of the board to go into executive session. The reason for doing so must be stated. Only those reasons listed in CGS sec. 1-200(6) are proper. They include pending litigation and personnel matters. Only commission members and those staff personnel, attorneys or other non-agency personnel who are providing testimony or opinions to the board can attend the session. These non-agency people can only be present when they are actually giving testimony or opinions to the commission.

G. Mailing of Notice

Any person can receive a written notice by mail of any regular or special meeting of the board. He must request to receive such notice by notifying the commission. This notice must be sent out one week prior to the meeting date. (C.G.S. § 1-227)

H. Recording by Public

Members of the public and the press do have the right to record public meetings this includes photography, tape and video recordings. This right is not without limits. The Board has the right to govern such recording so that it is as inconspicuous as possible and that it does not disturb the proceedings. Any rules governing this behavior should be set in writing. (C.G.S. § 1-226)

I. Stenographer

In any meeting of the commission where there will be discussed any formal petition, application, or request submitted to it, the meeting must be recorded by a sound recording device. The failure to so record does not necessarily render its decision void. However, it may subject any appeal of the decision to the lengthy process of introducing evidence at trial. [P.A. 05-287].

J. Remote and Hybrid Meetings & Hearing

Public Act 21-2 has amended the Freedom of Information Act in order to allow public agencies to meet via electronic means as long as certain guidelines and procedures are followed. These include having the agenda provide information in how to join the meeting electronically. A copy of this Act is included in this booklet.

PUBLIC HEARINGS

A. Purpose

Since the granting of a zone change, special exception, and re-subdivision application may seriously affect the property rights of those owning land near or within the area involved, it is important that the commission be appraised of the real effect its decision will have and that the public have a forum to express its opinions and the reasons therefore. A public hearing serves the purpose of meeting these goals.

B. Time Limitations

The commission is required to schedule a public hearing for any special permit, re-subdivision or zone change application taken to it. At its discretion, it may schedule a public hearing for a site plan or subdivision application. For all of these applications the hearing must commence within 65 days *after receipt* of any appeal, petition, application or request.

Except for a site plan application, the hearing must be completed within 35 days after it starts and the decision of the commission must be made within 65 days after completion of the hearing. For a site plan application, the hearing must be completed and decision must be made within 65 days after it starts.

Any of the above time periods may be extended with the consent of the applicant provided the total of any and all extensions is for no longer than 65 days. (P.A. 03-177)

The *day of receipt* of any application or request is the day of the next regularly scheduled meeting of such commission or board, immediately following the day of submission to such board or commission or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. (C.G.S. § 8-7d)

C. Rehearing

A planning and zoning commission is not required to hear any application for the same zone change or substantially the same zone change for a period of 12 months after a decision by the commission. It may do so if it so chooses. (C.G.S. § 8-3)

D. Recessed Public Hearing

A public hearing may be recessed to another location under certain circumstances. This would include a situation where the chosen place for the meeting is inadequate for the number of people who wish to attend, and therefore, for public safety reasons, the board is directed to use another facility for its public hearing. In such a situation, leaving a person or notice at the original location directing people to the new location will serve to protect the board from any later claims of improper or illegal action (CT ZBA, p. 25-26)

E. Stenographer

In any hearing before the board in which there is a right to appeal its decision to the Superior Court, a competent stenographer must be retained in order to take the evidence, or cause the evidence to be recorded by a sound recording device. The failure of the board to comply with this requirement does not void its decision. However, it does allow any party on appeal to court to introduce evidence of what transpired before the board (C.G.S. § 8-7(a))

A failure to record the hearing can prevent a commission member who did not attend any portion of the hearing process from taking part in the decision making phase. The reason for this is that without a recording of the public hearing, such a member could not adequately familiarize himself with the proceedings and thus would be incapable of making an informed decision on the matter before the commission.

F. Cross-Examination

It has been recognized by the courts that proceedings before a land use agency are informal and that the commission is not bound by the strict rules of evidence. The guiding rule is that no one may be deprived of the right to produce relevant evidence or to cross-examine witnesses produced by his adversary or to be fairly appraised of the facts upon which the commission is expected to act. The right to cross-examine only means that a person be given the opportunity to do so, not that they actually do it.

G. Post Hearing Evidence

Correspondence submitted after a public hearing cannot be considered by the board unless necessary safeguards are provided, such as a fair opportunity to inspect the documents, cross-examine witnesses and offer rebuttal evidence. An exception is made for evidence submitted by town staff or officials who may provide comments on evidence already submitted to the commission.

H. Hours for Holding Public Hearings

Any municipality may, by ordinance, establish an hour when a public hearing shall be held. (C.G.S. § 8-1d)

I. Land Owner Registry

Public Act 06-80 provides that if an application is filed to amend the zoning regulations, a notice of such application must be mailed at least 7 days prior to the hearing on said application. The notice must be mailed to any landowner within the town whose name appears on a registry maintained by the town.

The existence of this registry must be advertised by the town. Inclusion on this list is by request of the landowner.

NOTICE

A. Purpose

It has been held by the courts that the purpose of the notice requirement is to fairly and sufficiently apprise those who may be affected by the proposed action so as to enable them to prepare intelligently for the hearing. Every application submitted to the commission for a zone change, re-subdivision or for a special permit, requires a public hearing and thus, requires that a notice be published in a newspaper of general circulation. If a public hearing is scheduled for a subdivision or site plan application, notice must also be published. (C.G.S. § 8-7d)

B. Time Limitations

Notice of the public hearing must be published in a newspaper having substantial circulation in the municipality. The notice must be published twice, at intervals of at least 2 days apart. The first notice must be published not more than 15 days, nor less than 10 days before the hearing date. The second notice not less than 2 days before the hearing. (C.G.S. § 8-7d) The beginning and ending dates are not counted.

C. Content of Notice

It has been held by the courts that in order for a notice to be adequate, it must fairly and sufficiently apprise those who may be affected of the nature and character of the proposed action. This will allow for intelligent preparation for participation at the hearing. The notice is not required to contain an accurate forecast of the precise action which will be taken on the subject matter referred to in the notice.

The property which is the subject of the hearing must be identified either by address or by a metes and bounds property description. A reference to a tax assessor's map was found to be insufficient. Notice must also contain the time and place of the hearing.

D. Board Must Publish Notice

The Board must publish notice of the hearing. Any other publication, whether by a private party or by stories regarding the scheduled hearing contained in local newspapers, are ineffective even if they result in the public being fully informed.

E. Failure to Publish Adequate Notice

Failure by a board or commission to give adequate notice of a public hearing renders the entire proceeding null and void and one having no legal effect. However, it has been held that while failure to give proper notice nullifies any action taken by the board, it does not constitute inaction which could lead to an automatic approval of an application. (CT ZBA p. 33 as amended)

F. Failure to Publish Notice in Accordance with Regulations

Any additional notice requirements imposed by the zoning regulations, such as requiring a sign on the property to be effected or adjacent owners to be notified by mail, must be complied with. Failure to do so will result in its action being held void and without effect. Qualey v. PZC, 41 Conn. L. Rptr. 12 (2006).

G. Failure to Give Notice by Mail

Failure to give notice by mail can result in the board's proceeding being voided. However, if it is shown that the person who did not receive notice by mail was actually informed of the hearing and did attend, then the hearing will not be voided.

H. Notice to Adjoining Town

The commission is required to notify the Clerk of any adjoining municipality of the pendancy of any application concerning a project on any site which is within 500 feet of its border, or in which a significant portion of the traffic to the completed project will use streets within the adjoining municipality, or in which a significant portion of the sewer or water drainage from the site will flow through and significantly affect the adjoining municipality's sewage and drainage system or in which water runoff from the site will impact streets and property in the adjoining municipality.

Notice must be made by registered mail within 7 days of the receipt of the application. The adjoining municipality is permitted to appear and be heard at any hearing. (C.G.S. § 8-7d(f))

I. Notice to Regional Agency

When the zoning commission of any municipality proposes to establish or change a zone or any regulation affecting the use of a zone any portion of which is within five hundred feet of the boundary of another municipality located within the area of operation of a regional planning agency, the zoning commission shall give written notice of its proposal to the regional planning agency or agencies of the region in which it and the other municipality are located. Such notice shall be made by certified mail, return receipt requested not later than thirty days before the public hearing to be held. (C.G.S. § 8-3b)

DECISIONS

A. Time Limitations

The planning & zoning commission is directed to decide any application before it within 65 days after the close of the public hearing (CGS sec. 8-7d(a)). If it fails to do so with respect to a zone change or special permit application, there is no automatic approval since the statute fails to provide such a remedy. Presumably, the applicant could bring an action to court seeking a court order requiring the board to make its decision. However, if the application concerns a subdivision or site plan, then a failure to timely decide the application can lead to it being automatically approved. Center Shops of East Granby Inc. v. PZC, 253 Conn. 183 (2000).

For any application involving a referral to an inland wetlands agency, if the time for rendering a decision would lapse prior to the 35th day after the wetlands commission issued its decision, then the time period in which the zoning commission must render its decision is extended 35 days after the wetlands decision is made. (C.G.S. § 8-7d(e))

Until its decision is final, a board may reconsider it as many times as it deems proper. The decision becomes final once it is published in a newspaper having general circulation.

B. Publication of Notice of Decision

Notice of the decision of the board must be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to the applicant. This must be done within 15 days after a decision has been rendered. The notice required is a simple statement of the action taken by the board together with the date of such action.

If the commission fails to timely publish the notice of its decision, then the applicant has an additional 20 days in which to do so.

Failure to timely publish the notice of decision in compliance with this requirement may render the commission's decision void. (C.G.S. § 8-7d)

C. Reasons for Decision

A planning & zoning commission is required to state upon its records the reasons for its decision and the zoning by-law, ordinance or regulation which is relied on or applied. A reason can be based on the personal knowledge of commission members.

The fact that a board fails to give its reasons for decision does not render its decision void. Instead, on appeal, the court will search the record for any reason. It is advisable to state the reasons, as a less ambitious court may simply fail to find a valid reason. However, if the zoning regulations require that the reasons for a decision be stated in writing, a failure to comply with this local requirement can void the decision. Tannenbaum v. ZBA, 43 Conn. L. Rptr. 735.

D. Effective Date

No special permit or exception shall become effective until a copy of it, certified by the commission, is recorded in the land records of the municipality where the property is located. The town clerk must index it in the grantor's index under the name of the property owner.

The recorded copy must state a description of the property affected, the nature of the special permit, including the zoning by-law, ordinance or regulation, and the name of the record owner.

A zone change or amendment shall become effective at such time as is fixed by the planning & zoning commission, provided a copy of such regulation, boundary or change is filed in the office of the town, city or borough clerk, as the case may be, and notice of the decision of such commission is published in a newspaper having a substantial circulation in the municipality before such effective date. The effective date of the zone change must be later than the date the notice is published.

In any case in which such notice is not published within the fifteen-day period after a decision has been rendered, any applicant or petitioner may provide for the publication of such notice within ten days thereafter.
(C.G.S. § 8-3)

E. Finality of a Decision

Once a decision of the commission in published, it is final. It cannot be reconsidered for any reason. Prior to a decision being published, it can be reconsidered and changed, but only for good reason. Reconsideration of a decision should be done sparingly and with great caution. Sharp v. ZBA, 43 Conn. App. 512.

F. Collective Statement

Only the collective statement of the commission will be considered by a reviewing court as a reason or basis for a commission's decision. Individual statements by commission members will not be seen as a valid basis for the decision. However, where a majority of the members of a commission state similar reasons for the decision, a court may see this as a collective statement and thus, a reason for the decision. RYA Corp v. PZC, 87 Conn. App. 658.

G. Completeness of Application

The completeness of an application is a decision for the Commission and not a staff decision. Once an application is received, it should be put before the Commission which can then decide whether the application as submitted is complete. Farmington-Girard LLC v. PZC, SC 20374 (2021).

SITE PLANS

A. Authority to Require Site Plan

Section 8-3(g) of the General Statutes provides that a zoning commission may require that a site plan be filed with it as an aid in determining whether a proposed use, structure or building conforms to the regulations.

B. Action on Application

A site plan may only be denied if it fails to comply with the requirements already set forth in the regulations. If a change is adopted in the zoning regulations after a site plan has been approved, said site plan does not need to conform to such change. Failure to act on a site plan application within 65 days of receipt will result in it being automatically approved. This time period applies whether or not a public hearing is held on the application.

C. Time to Complete

All work in connection with a site plan must be completed within five years after the date of approval. Failure to do so will result in the site plan's automatic expiration. In the case where the site plan is for a project of 400 or more dwelling units, the time to complete is extended to ten years. Work is defined as being the completion of all physical improvements required by the plan. The Commission, upon proper application, can grant extensions of time to complete the plan, up to a total of 5 additional years.

For commercial, industrial or retail projects involving at least 400,000 square feet, the zoning commission may set the date all work must be completed. The date must be no less than five years and no more than ten years from the date of approval. If a date of less than ten years is chosen, then the commission can grant extensions up to a period of ten years from the date of approval.

The State legislature has also provided for extensions for the completion of a site plan on a temporary basis in order to address difficult economic periods.

D. Notice and Hearing Requirements

No hearing is required, but if one is given, the commission must adhere to the 65-day time requirement with the applicant's option of allowing another 65-day extension. A copy of the decision must be sent to the applicant within 15 days from the day the decision is made. Notice must also be published.

E. Compliance with Zoning Regulations

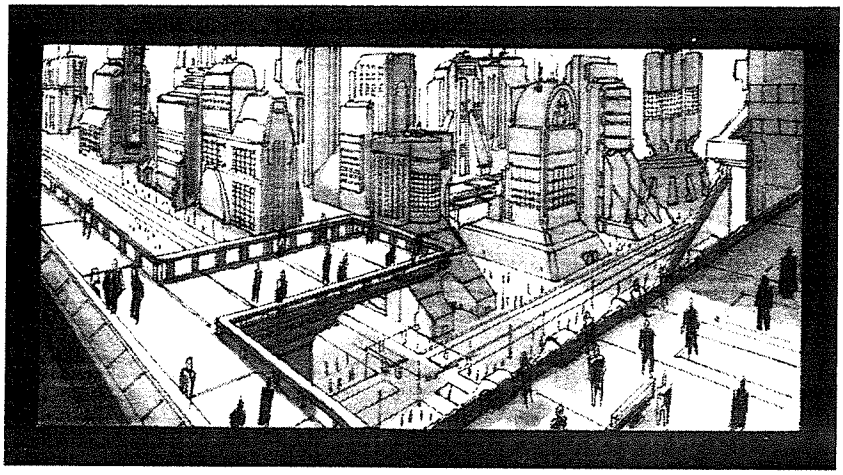
If a site plan application complies with all of the requirements in the zoning regulations, it must be approved. Conditions can not be attached to an approval of a site plan application as it is a use expressly permitted by the regulations. Furthermore, a site plan can not be denied due to off-site traffic and safety issues, the one exception being traffic entry and exiting of the site. 2772 BPR LLC v. PZC, 207 Conn. App. 377 (2021).

F. Bonding

To satisfy any bond or surety requirement, a commission shall accept surety bonds, cash bonds, passbook or statement savings accounts and other surety including, but not limited to, letters of credit, provided such bond or surety is acceptable to the commission.

The Commission can not require that a bond be posted upon approval of the site plan. Instead, the bond or surety can be posted at the discretion of the person posting such bond or surety at any time before all modifications of the site plan are complete. The commission may require a bond or surety for erosion control prior to the commencement of any such modifications.

No certificate of occupancy shall be issued before a required bond or surety is posted. For any site plan that is approved for development in phases, the surety provisions of this section shall apply as if each phase was approved as a separate site plan. [C.G.S. § 8-3(g)(2)]



G. Maintenance Bonds

Notwithstanding the provisions of any special act, municipal charter or ordinance, no commission shall require a bond or other surety to guarantee the maintenance of roads, streets or other improvements associated with such site plan for maintenance occurring after such improvements have been accepted by the municipality for a period longer than one year. [C.G.S. § 8-3(g)(2)]

H. Release of Bond

If the person posting a bond or surety under this section requests a release of all or a portion of such bond or surety, the commission or its agent shall, not later than sixty-five days after receiving such request, (A) release any such bond or surety or portion thereof, provided the commission or its agent is reasonably satisfied that the modifications for which such bond or surety or portion thereof was posted have been completed, or (B) provide the person posting such bond or surety with a written explanation as to the additional modifications that must be completed before such bond or surety or portion thereof may be released. [CGS § 8-3(g)(2)]

SPECIAL PERMITS

A. Distinction Between Special Permits and Variances

A variance is authority given to an owner to use his property in a manner forbidden by the zoning regulations. A special permit allows for the permitted use of a parcel of property.

B. Standards

The proposed special use must satisfy standards set forth in the zoning regulations themselves. The board's function is to determine whether the applicant's proposed use is expressly permitted and whether the standards set forth are satisfied. These standards cannot be waived, nor can additional conditions be added. If a special permit application is found by the board to satisfy all of the standards set forth in the zoning regulations, it has no choice but to approve the application. However, the board does have discretion over whether the standards have been met. A special permit application can be denied if it fails to meet any of the general standards needed for approval. [St. Joseph's High School v. Planning & Zoning Commission, 176 Conn. App. 570(2017)]

C. Notice, Hearing and Decision Requirements

These are the same as for the other applications and appeals which require the scheduling of a public hearing. It should be noted that Connecticut General Statutes Sec. 8-3d states that in order for a special permit to become effective, it must be recorded on the town's land records.

D. Time Limits

A time limit in which work must be commenced in connection with a special permit can be set. Failure to comply with this time limit can result in the expiration of the permit approval. This must be differentiated from when a limit is set on the duration of the special permit itself. It has been held by our State Appellate Court that a time limit can be placed on the duration of a special permit where the time limit would serve to protect the health, safety and property values. International Investors v. PZC, 202 Conn. App. 582 (2021).

E. Renewal and Revocation of Special Permit

It is well settled that a special permit attaches to the land. However, an approval of a special permit can be conditioned on its renewal by the Commission on a regular basis. Renewal of the permit must be granted where the circumstances have not substantially changed and where all aspects of the permit are being complied with.

The failure to comply with all of the requirements and conditions attached to the approval of a special permit can allow for its revocation. Since a special permit is considered a property right, a Commission must afford a hearing and proper notice to the holder of the permit before it can be revoked. [Shaw v. Westport, 39 Conn. L. Rptr. 648 and N&L Assoc. v. PZC 39 Conn. L. Rptr. 467]

ZONE CHANGES

A. Power to Enact

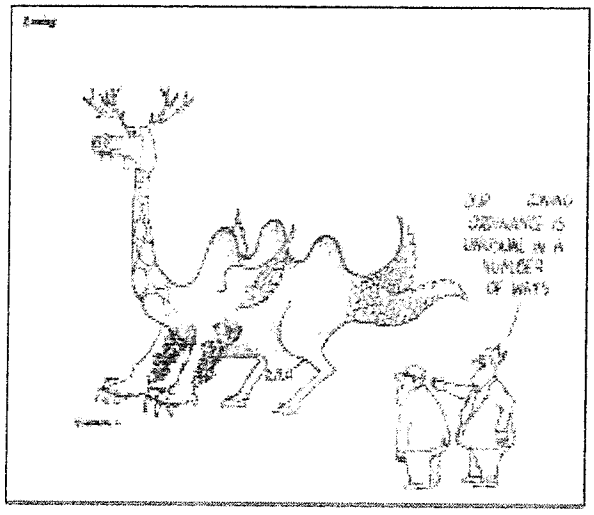
The zoning commission has the duty to provide for the manner in which the zoning regulations and the boundaries of zoning districts are to be amended or changed.

B. Need for Public Hearing

No zoning regulation of boundary can become effective until after a public hearing is held by a majority of the commission members or a committee thereof appointed for that purpose consisting of at least five members.

C. Approval of a Zone Change

A majority of all the members of the commission, and not just those who are present, must vote in favor of a proposed zone change for it to be approved. However, if a protest is filed at the public hearing against a proposed zone change, signed by 20% or more of the area of the lots included in or within 500 feet of the proposed change, a two-thirds vote of all the members is needed for the change or amendment to be approved.



D. Referral to Regional Planning Agency

Section 8-3b of the General Statutes states that when a commission proposes to establish a zone or any regulation affecting the use of a zone within 500 feet of the boundary of another municipality, and that municipality is within the area of operation of a regional planning agency, the commission shall give notice to that regional planning agency in writing within 35 days of the public hearing.

State law now allows notification by e-mail to regional planning agencies. The e-mail must be sent to the electronic address stated on the regional planning agency's website not later than 30 days before the hearing on the proposed amendment. However, if an electronic reply is not received, then notice by

certified mail is required, which must be sent not later than 25 days before the public hearing. *See Public Act 11-89.* This report is purely advisory.

E. Referral to Planning Commission

In any municipality with separate zoning commission and planning commissions, any proposed zoning regulations or boundary changes must be referred to the planning commission for a report. The referral must be made at least 35 days prior to the date assigned for the public hearing on the zone or boundary change. The failure of the planning commission to report prior to or at the hearing is taken as an approval of the change.

A statement of the vote of the planning commission approving, disapproving or proposing a modification of such proposal must be publicly read at any public hearing held thereon. The full report of the planning commission regarding any such proposal must include the reasons for the commission's vote thereon and must be incorporated into the record of any public hearing held thereon.

Any proposal disapproved by the planning commission may still be adopted by the zoning commission by a vote of not less than two-thirds of all the members of the zoning commission.

F. Special Zone Changes

In order to provide a more flexible option for development, many zoning regulations contain provisions which permit floating zones, overlay zones and planned development districts. All of these share the characteristic of allowing mixed uses on locations agreed to by the property owner / developer and the zoning commission. While the courts have found floating zones to be the most like traditional zoning districts, the same can not be said for overlay zones and planned development districts.

Because overlay zones leave the underlying zone intact, courts have found them to be more akin to a special permit and have reviewed them under similar standards of judicial review. As for a planned development district, if the targeted area is small and/or encompasses only one parcel, it may be viewed by a court as an illegal spot zone.

G. Notice, Hearing and Decision Requirements

These are the same as for the other applications and appeals which require the scheduling of a public hearing. In addition, a copy of the proposed amendment must be posted in the town clerk's office 10 days before the public hearing. If an application is made by the Commission to amend its own regulations, there is no time limit on how long the public hearing can remain open.

ENFORCEMENT

A. Enforcement Agent

Section 8-12 and 8-12a of the General Statutes sets forth the manner in which zoning regulations are to be enforced. They are to be enforced by the officer or official board designated in the regulations. The zoning commission itself can act as its own enforcement agent. The enforcement officer, once a search warrant is obtained, has the authority to inspect private property in order to check for zoning compliance and can order any violation found to be corrected.

B. Penalties

If a violation is found to exist, the owner or tenant of the premises may be subject to either criminal penalties, civil sanctions or both. Section 8-12 specifically provides for a fine of not less than $10.00 nor more than $100.00 for each day that a violation exists. However, if the violation was willful, the fine increases from not less than $100.00 nor more than $250.00. The violator could also be imprisoned for not more than 10 days.

It is entirely within the court's discretion whether to award any of these penalties, fees or attorney's fees. In practice, the usual remedy granted for a civil action brought to enforce the zoning regulations is the issuance of an **injunction** against the violator. If the violation does not cease after the issuance of the injunction, then a contempt action can be brought.

The Superior Court can impose a civil penalty in the amount of $2,500.00 (payable to the treasurer of the municipality) upon a violator who has failed to comply with an order issued by the zoning enforcement officer. If the court renders such a judgment and finds the violation to be willful, then the court must also award that the municipality's attorney's fees be paid by the violator.

By ordinance, a municipality can establish a schedule of fines for zoning violations. The amount of the fines cannot exceed $150.00 for each day the violation continues, and a hearing procedure must be established for anyone who desires to contest a violation claim. (C.G.S. § 8-12a)

C. Permits

Another enforcement tool is found in CGS sec. 8-3(f). This statute states that before any building permit can be issued, the zoning enforcement officer must first certify in writing that the building, use or structure is in conformity with the zoning regulations. A certificate of occupancy also requires such a certification.

D. Estoppel

"[I]n special circumstances, a municipality may be estopped from enforcing its zoning regulations.... In municipal zoning cases, however, estoppel may be invoked (1) only with great caution, (2) only when the resulting violation has been unjustifiably induced by an agent having authority in such matters, and (3) only when special circumstances make it highly inequitable or oppressive to enforce the regulations.... Moreover, it is the burden of the person claiming the estoppel to show that he exercised due diligence to ascertain the truth and that he not only lacked knowledge of the true state of things but had no convenient means of acquiring that knowledge...." Cortese v. Planning and Zoning Board of Appeals, 274 Conn. 411, 417 (2005).

Mere delay by a zoning commission or its agents to enforce the zoning regulations does not necessarily result in the waiver of its ability to enforce those regulations. However, estoppel may occur if the zoning commission or its agent says or does something that is calculated to induce another to act, and that other person does indeed take action which changes his position. (Planning and Zoning in Connecticut, p. 294)

E. Procedure

Normally, where a violation is found, the issue is handled by sending a notice to the offending party with the goal of resolving the issue informally. If this fails, a cease and desist order can be issued pursuant to C.G.S. sec. 8-12. In addition, a fine can be imposed pursuant to C.G.S. Sec. 8-12a. These actions can be appealed to the zoning board of appeals. If the ZBA appeal upholds the enforcement action and the violation persists, then a civil action can be brought in Superior Court requesting that an injunction be issued, together with any appropriate fines and penalties. If the civil action is successful and the violation continues, a contempt of court action can be brought.

F. Failure to Enforce Zoning Regulations

A reluctance or failure on behalf of a zoning commission to enforce its regulations can leave the municipality subject to a lawsuit. The courts have allowed property owners to sue their local government where it has been shown that a failure to enforce the zoning regulations is likely to imperil the environment. Thetreault v. Wolford, 36 Conn. L. Rptr. 162. A lengthy delay in bringing an enforcement action is not an obstacle to enforcement, nor is the failure to bring an enforcement action against any and all violators. Zoning enforcement, like all public safety enforcement, allows for some prosecutorial discretion on the part of the enforcement agent.

PLAN OF DEVELOPMENT

A. Contents of Plan

Once a planning commission has been validly created it is authorized to prepare, adopt and amend a plan of development for the community. The plan should show the commission's recommendation for the most desirable use of land within the municipality. It should also contain the commission's recommendation for the most desirable density of population as well as its recommendation for a system of principle thoroughfares, bridges, streets and other public ways. It should further contain recommendations for airports, parks, playgrounds and other public grounds and proposals for the location, relocation and improvement of public buildings. Recommendations should also be included for the location and extent of public utilities, public housing and any other items which the commission, in its judgment, feels will be beneficial to the community. (C.G.S. § 8-23)

B. Hearing and Notice

Prior to the adoption of the plan of development or any part or amendment thereto the commission is required to hold at least one public hearing thereon. Notice requirements are the same as for other public hearings. The notice published in the newspaper must make reference to the filing of the plan, or parts thereof or amendments thereto, in the office of the Town Clerk.

C. Referral to Regional Planning Agency and Legislative Body

At least 35 days prior to the holding of the required public hearing, the matter must be referred to the regional planning agency for comment. The matter must also be posted on the municipality's website. Once the public hearing is held, the planning commission may make revisions before forwarding the plan or amendment thereto to the legislative body for endorsement. If the plan, or an amendment thereto, is not endorsed, a two thirds affirmative vote of all members of the planning commission will be needed to adopt said plan or amendment.

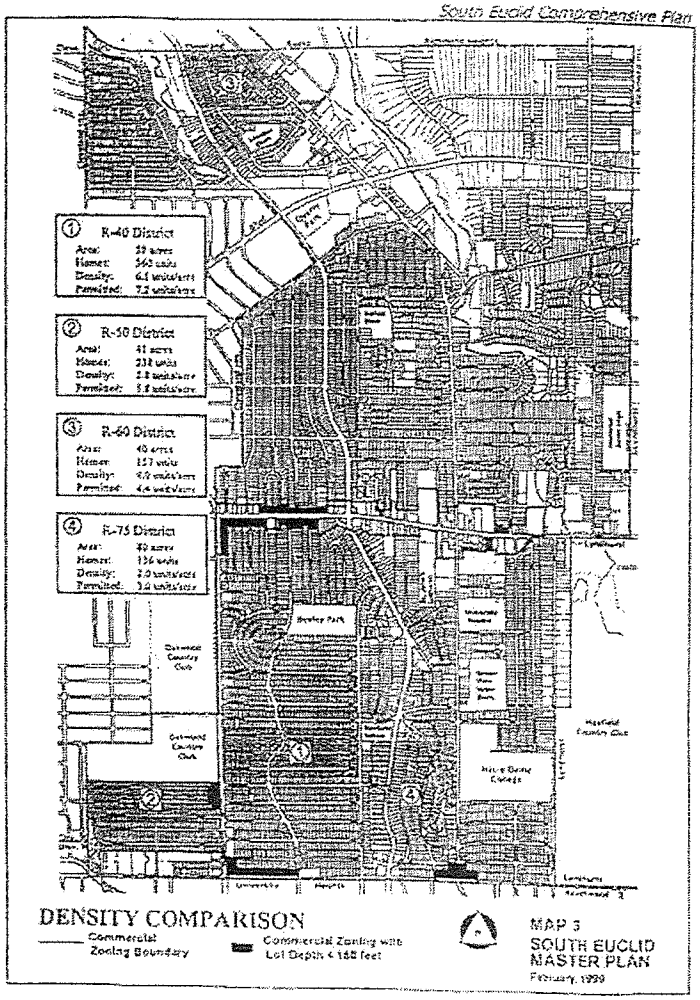
D. Amendment of Plan of Development

A planning commission is required to amend its plan of development at least once every 10 years. If the plan is not so amended, the chief elected official of the municipality must notify the Secretary of the Office of Policy and Management and the Commissioners of Transportation, Environmental Protection and Community Development of this event and explain why the plan was not amended.

In addition to any action by a planning commission to amend the plan of development, any owner or tenant residing within the municipality may petition the commission to amend the plan. This is done by submitting a proposal in writing to the commission. The Commission shall review and may approve, modify and approve or reject the proposal in accordance with the public hearing requirements set forth in section 8-23(g) of the General Statutes.

E. Authority of Plan of Development

Under general law, the plan of development does not control the zoning commission in its enactment of zoning regulations, nor does it control the zoning board of appeals in its granting of variances. It is merely advisory. Instead, only the comprehensive plan must be followed. It consists of the zoning regulations themselves. That being said, a decision that is consistent with the plan of development is more likely to be affirmed by a court.



F. State Conservation Plan of Development

Care should be taken that a municipality's plan conforms to the State plan. While the State plan does not control a Commission's actions in amending its own plan, discrepancies between the plans can hinder discretionary State funding of municipal transportation and public water and sanitation projects.

SUBDIVISIONS & RESUBDIVISIONS

A. Authority to Control

Section 8-25 of the General Statutes provides that no subdivision of land shall be made until a plan for such subdivision has been approved by the planning commission or planning and zoning commission. Any person, firm or corporation that makes a subdivision without the approval of the commission shall be fined not more than $500.00 for each lot sold or offered for sale.

B. Subdivision Defined

Subdivision means the division of a tract of land into three or more parcels or lots, whether for future or immediate sale or building development after the adoption of subdivision regulations. Excluded from this definition are divisions of land for the purpose of municipal, conservation or agricultural purposes. Also excluded are boundary line adjustments no matter how much land is involved. The term includes resubdivisions. This definition cannot be altered by a commission.

C. Re-Subdivision Defined

Resubdivision means a change in a map of an approved or recorded subdivisions or resubdivision if such change (a) affects any street layout shown on such map, (b) affects any area reserved thereon for public use or (c) diminishes the size of any lot shown thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map. (C.G.S. § 8-18)

D. Adoption of Subdivision Regulations

The adoption of regulations is a condition precedent to the exercise by a planning commission of any control over the planning of a subdivision. A commission can neither approve nor deny subdivision plans until after it has adopted regulations to guide it. The commission is controlled by its regulations. Any subdivision plan which complies with the regulations must be approved. A commission has no discretion to deny such an application.

E. Contents of Regulations

The regulations adopted by the commission must provide that the commission, in its discretion, can require provision for open space, parks and playgrounds. They can also provide for sedimentation and erosion control. In adopting regulations, the commission may also prescribe the extent to which and the manner in which all streets shall be graded and improved and public utilities provided.

1. **Open Space** can either be required to be set aside or a payment can be made in lieu thereof. Any payment, or combination of payment and set-aside land, shall be equal to not less than 10% of the fair market value of the land to be placed in a special fund set up for the purpose of buying open space. (C.G.S. § 8-25b) The value of the land is its **un-subdivided** value. The 10% figure is

based upon value, and not upon area or size of the land involved. The acceptance of any land designated as open space becomes official only after said designation is accepted by a municipality's legislative body. [C.G.S. § 12-107e(a)].

2. **Bonds** – In lieu of installing any required public improvements and utilities, the commission may accept a bond in the amount to secure actual construction, maintenance and installation of the improvements. To satisfy any bond or surety requirement in this section, the commission shall accept surety bonds, cash bonds, passbook or statement savings accounts and other surety including, but not limited to, letters of credit, provided such bond or surety is in a form acceptable to the commission and the financial institution or other entity issuing any letter of credit is acceptable to the commission. Such bond or surety may, at the discretion of the person posting such bond or surety, be posted at any time before all public improvements and utilities are constructed and installed, except that the commission may require a bond or surety for erosion control prior to the commencement of any such construction or installation. **No lot shall be transferred to a buyer before any required bond or surety is posted.** For any subdivision that is approved for development in phases, the surety provisions of this section shall apply as if each phase was approved as a separate subdivision. Notwithstanding the provisions of any special act, municipal charter or ordinance, no commission shall require a bond or surety to securitize the maintenance of roads, streets or other improvements associated with such subdivision for maintenance occurring after such improvements have been accepted by the municipality. [C.G.S. §8-25(d) (1)]

3. **Release of Bond** - If the person posting a bond or surety under this section requests a release of all or a portion of such bond or surety, the commission shall, not later than sixty-five days after receiving such request, (A) release any such bond or surety or portion thereof, provided the commission or its agent is reasonably satisfied that the modifications for which such bond or surety or portion thereof was posted have been completed, or (B) provide the person posting such bond or surety with a written explanation as to the additional modifications that must be completed before such bond or surety or portion thereof may be released. [C.G.S. § 8-25(d)(2)]

F. Waiver

A commission is authorized to incorporate as part of its regulations a provision whereby it can waive certain requirements contained therein. A ¾ vote of all the members of the commission is required to do so. The reason for the waiver should be that conditions exist which affect the subject land but do not generally affect other land in the area. The regulations must specify the conditions under which a waiver may be considered and must provide that no waiver will be granted that would have a significant adverse effect on adjacent property or on public health and safety. Reasons must be stated on the record for granting a waiver. [C.G.S. §8-26(a)]

G. Approval of Subdivision and Re-Subdivision Plans

All plans for subdivisions and resubdivisions must be submitted to the commission with an application in the form prescribed by the commission. The commission has the authority to determine whether the existing division of any land constitutes a subdivision or a resubdivision. Fees can be charged for the processing of an application, the minimum being $50.00 for the application and the maximum being $25.00 per lot.

If a subdivision plan meets all of the specific requirements in the subdivision regulations, it must be approved. General requirements or guidelines cannot form the sole basis for a denial of an application. However, in one case, the State Appellate Court upheld the denial of a subdivision application for the sole reason that the property was not 'suitable for development' as it had steep slopes. [Jackson Inc. v. Planning & Zoning Commission, 118 Conn. App. 202]

Because subdivisions involve the use of land for a permitted purpose, concerns over off-site traffic, safety and health can not form the basis for denying a subdivision application. Only where a subdivision road would access existing public highways can such concerns be considered by a commission, but only at the place of intersection. [Pansey Road LLC v. PZC, 283 Conn. 369]

H. Enforcement

Failure to obtain subdivision approval can result in a fine of $500.00 for each lot sold. (C.G.S. § 8-25) In order to collect this fine, a court action would be necessary. Another available remedy would be to file a civil action seeking a court order enjoining the sale or subdivision of property until subdivision approval is obtained. (R.Fuller, Connecticut Land Use Law and Practice § 42.3) Furthermore, without proper planning and zoning approvals, a certificate of occupancy could be denied.

I. Recording of Plans

Any plan for subdivision shall, upon approval, or when taken as approved by reason of the failure of the commission to act, be filed or recorded by the applicant in the office of the town clerk within ninety days of the expiration of the appeal period under section 8-8, or in the case of an appeal, within ninety days of the termination of such appeal by dismissal, withdrawal or judgment in favor of the applicant. Any plan not so filed or recorded within the prescribed time shall become null and void, except that the commission may extend the time for such filing for two additional periods of ninety days and the plan shall remain valid until the expiration of such extended time. [C.G.S. sec. 8-25]

All such plans shall be delivered to the applicant for filing or recording no more than thirty days after the time for taking an appeal from the action of the commission has elapsed, and in the event of an appeal, no more than thirty days after the termination of such appeal by dismissal, withdrawal or judgment in favor of the applicant. No such plan shall be recorded or filed by the town clerk or district clerk or other officer authorized to record or file plans until its approval has been endorsed thereon by the chairman or secretary of the commission, and the

filing or recording of a subdivision plan without such approval shall be void. (C.G.S § 8-25)

K. Time to Complete a Subdivision

Section 8-26c of the General Statutes states that all work in connection with a subdivision must be completed within 5 years after the approval of the plan. Work is defined as all physical improvements required by the plan, other than the staking out of lots. This includes the construction of roads, storm drains, sewers, recreation areas, telephone and electrical services and landscaping. For subdivision projects consisting of 400 or more dwelling units, this time period is extended to 10 years.

Failure to comply with this time limit can result in the expiration of the approval. This expiration is not completely automatic. The planning commission must take affirmative steps to accomplish the expiration of a subdivision approval. A decision to do so must be made, notice of this decision published and also recorded in the land records. [C.G.S. § 8-26c(c)]

L. Referral to Wetlands Agency

If an application for subdivision approval, as well as site plan and special permit approval, involves an activity regulated by the wetlands commission, the applicant is required to submit an application to the wetlands commission for a permit no later than the day the application is filed with the planning commission or zoning commission. No decision may be made on any of these applications until a report has been submitted to it by the wetlands commission. (C.G.S. § 8-3(g), 8-3(c) and 8-26)

If the time for rendering a decision would lapse prior to the 35th day after the wetlands commission issued its decision, then the time period in which the planning commission or zoning commission must render its decision is extended 35 days after the decision of the wetlands agency. [C.G.S. § 8-7d(e)] In other words, the time to render a decision will be at least 35 days.

M. Referral to Regional Planning Agency

If a subdivision will abut or include land in two or more municipalities, one or more of which are within a region having a regional planning agency, then a referral must be made to the regional planning agency. The regional planning agency shall have 35 days to make a report. If it fails to, then its approval will be presumed. This report is purely advisory. (C.G.S. § 8-26b)

N. Compliance with Later Amendments to Regulations

Whether or not a subdivision lot must comply with subsequent changes to the zoning regulations depends upon whether the lot has been improved with a building. If a subdivision lot has been built on, said lot will be subject to any amendments made to the zoning regulations. If the lot is vacant, compliance with any changes to the zoning regulations which are adopted after the approval of the subdivision of which it is a part is not required. (C.G.S. § 8-26a) The term 'vacant' means that no building permit was issued and no foundation completed.

MUNICIPAL IMPROVEMENTS

Before any municipal agency or legislative body approves a proposal to make certain municipal improvements, it must submit this proposal to the planning commission for a review and recommendation. The commission has 35 days after the day of submission to review the proposal and issue a recommendation. Its failure to do so will be taken as an approval of the proposal.

If the proposal is not approved by the commission, the municipal agency or legislative body can only approve the proposal under a 2/3 affirmative vote. This section does not apply to the maintenance or repair of existing property or public ways. (C.G.S. § 8-24)

The recommendations issued by a planning commission on a municipal improvement referral are not considered to be appealable decisions. The reason given for there being no judicial review of these referrals is that they are not considered to be a final decision but only a recommendation. Fort Trumbull v. PZC, 226 Conn.338.

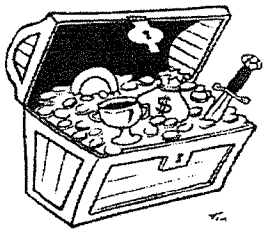
~~~~~~~~~~~~

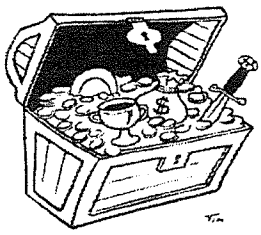
UNACCEPTED STREETS

Any municipality having a planning commission may, by ordinance, prohibit or regulate the issuance of building permits for the erection of buildings or structures on lots abutting unaccepted highways or streets. No such ordinance shall prevent the issuance of a building permit for the construction of farm or accessory buildings which are not in violation of any lawful zoning or building regulations of the municipality.

Any building erected in violation of any such ordinance shall be deemed an unlawful structure, and the municipality, through the appropriate officer, may bring action to enjoin the erection of such structure or cause it to be vacated or removed.

Any person, firm or corporation erecting a building or structure in violation of any such ordinance may be **fined** not more than **two hundred dollars** for each building or structure so erected in addition to the relief herein otherwise granted to the municipality. (C.G.S § 8-27)
~~~~~~~~~~~~





APPLICATION AND PERMIT FEES

Any municipality may, by ordinance, establish a schedule of reasonable fees for the processing of applications by a municipal zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals or inland wetlands commission. Such schedule shall supersede any specific fees established by a planning commission under section 8-26[1]. (C.G.S. § 8-1c)

In addition to a specific fee, an applicant can be required to pay the cost of reasonable fees associated with the necessary review by consultants with expertise in land use or any technical aspects of the application. Any unspent portion of the application fee must be returned to the applicant not later than 45 days after completion of the technical review.

The zoning commission may require a filing fee to be deposited with the commission to defray the cost of publication of the notice required for a hearing. (C.G.S. § 8-3)

An additional fee is to be collected for every application to be paid to the State Department of Energy and Environmental Protection. Of this $60.00 fee, $2.00 can be retained by the municipality while the rest is sent to the DEEP on a quarterly basis. (C.G.S. Sec. 22a-27j)

---

[1] Connecticut General Statute 8-26 permits a planning commission to establish a schedule of fees sufficient to cover the costs of processing subdivision applications. This would include the expense of publication of notices and decisions and the costs of inspecting subdivision improvements.

NONCONFORMING USES

A. Definition

A nonconforming use is defined as a use which lawfully existed prior to the enactment of a zoning ordinance and is maintained after the effective date of the ordinance. This definition has been expanded to include a building whose location on a lot does not conform to the regulations. If so situated for three years, it shall be deemed to be nonconforming. (C.G.S. § 8-13a)

To maintain its status as a nonconforming use, the use must be actual and not just contemplated.

B. Extension of Nonconforming Use

While the regulations cannot prohibit the continuance of a nonconforming use, building or structure, they can attempt to prevent the increase in the nonconformity with the goal of eliminating it. While an extension of a nonconforming use can be prohibited, an intensification of it cannot. Intensification has been defined as being the natural growth of a business or "more of the same". A clear distinction between the two terms is elusive and essentially relies on the facts of each case.

C. Abandonment

The right to resume a nonconforming use after a period of non-use depends in most cases upon the question of what amounts to abandonment of the use. The general rule is that the right of a property owner to continue a nonconforming use may be lost through abandonment of such use before or after the adoption of zoning regulations.

The abandonment of a nonconforming use ordinarily depends upon the occurrence of two factors: an intention to abandon and an overt act, or failure to act, which carries the implication that the owner does not claim or retain any interest in the right to the use.

Such regulations shall not provide for the termination of any nonconforming use solely as a result of nonuse for a specified period of time without regard to the intent of the property owner to maintain that use. [(C.G.S. § 8-2(a)] In addition, the demolition of a structure cannot, by itself, be conclusive evidence of abandonment. [Public Act 17-39]

DEALERS AND REPAIRER'S LICENSES AND GASOLINE STATIONS

A. Dealer's and Repairer's Licenses

Section 14-54 of the General Statutes provides that any person who desires to obtain a license for dealing in or repairing motor vehicles must obtain and present to the Commissioner of Motor Vehicles a certificate of approval of location from the municipal land use agency entrusted by statute to issue this approval.

If the municipality has a population of twenty thousand or more persons, the approval must be sought from the zoning commission. If, however, the population is less than twenty thousand persons, said approval must be sought from the zoning board of appeals.

In addition to this approval of location from the appropriate zoning agency, the certificate must be approved by the Chief of Police or, if there is no organized municipal police force, by the commander of the state police barracks situated nearest to the proposed location.

The requested certificate for a dealer's and repairer's license may not be granted until the application has been approved and the location has been found by the appropriate land use agency to be suitable for the business intended, with due consideration given for its location in reference to schools, churches, theaters, traffic conditions, width of highway and effect on public travel.

B. Gasoline Stations

Connecticut General Statutes Sec. 14-321 provides than any person who desires to obtain a license for the sale of gasoline must obtain and present to the Commissioner of Motor Vehicles a certificate of approval of the location for which such license is desired. This certificate must be presented to the Commissioner within 3 years of its issuance by the local authority. This certificate must be obtained from the zoning commission of the municipality wherein the station is to be located.

No such certificate of approval is needed where the license for the sale of gasoline is one year old or less, where the license is not being transferred from one person to another or where pumps are being added or discontinued.

C. Public Hearing Not Required

Connecticut General Statute Sec. 14-55 was repealed; thus, no public hearing is required. Instead, the Commission can address an application at a public meeting.

D. Appeal to Court

The same time limits to take an appeal as well as notice requirements for decisions apply here as in for other matters decided by a zoning commission.

LIMITATIONS ON ZONING POWER

The State of Connecticut has amended various sections of the General Statutes restricting the power of local land use agencies in the regulation of certain uses. These include:

1. Family day care or group day care homes in a residential zone cannot be prohibited (CGS sec. 8-2)

2. Manufactured homes with their narrowest dimension being 22 feet cannot be subjected to conditions and requirements substantially different from those imposed on single family or multi family dwellings. (CGS sec. 8-2)

3. No zoning regulation may treat any licensed community residence which houses six or fewer mentally retarded persons and two staff members and which is licensed differently from any single family residence. However, such residences can be required to be 1,000 feet apart. (CGS sec. 8-3e)

4. Community residences cannot be prohibited from zones which allow structures with two or more dwelling units. (CGS sec. 8-3g)

5. The Federal Government has placed certain limits on local zoning by the enactment of the Telecommunications Act of 1996, the Religious Land Use and Institutionalized Persons Act of 2000, the Fair Housing Act and the Americans with Disabilities Act.

6. The State of Connecticut has placed some land uses, such as cellular towers and wind turbines, under the jurisdiction of the Connecticut Siting Council.

7. Connecticut General Statutes Sec. 8-30g places severe restrictions on a commission's ability to regulate 'Affordable Housing Applications' , for example requiring approval of such an application even if it fails to comply with applicable regulations and ordinances.

8. Public Act 17-155 has deemed temporary residences for a medically disabled person to be a permitted use in a residential zone. It should be noted that a municipality can vote to have this state law inapplicable to it.

INTERVENORS

A. Statutory Authority

Connecticut General Statute sec. 22a-19(a) allows anyone, in any administrative proceeding and in any judicial review of said proceeding, to intervene in order to raise environmental issues. This includes the municipality itself. Avalon Bay v. Zoning Commission, 280 Conn. 405. Intervention is permitted at the judicial stage even if no intervention was taken during the administrative process. An intervenor can take her own appeal to initiate a review of an administrative proceeding or the appeal can be initiated by an aggrieved party as defined in Connecticut General Statute sec. 8-8. The intervenor can only argue environmental issues and cannot challenge the decision itself. Finley v. IWWC, 289 Conn. 12.

B. Intervention Procedure

In order to become an intervenor, the hopeful intervenor must first file a 'verified pleading' which should state that the administrative action to be taken involves activity that would or is likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.

At the administrative level, this verified pleading usually takes the form of a letter addressed to the land use agency while a more formal motion to intervene would be used at the judicial level. As a verified pleading, the document must be signed by the proposed intervenor together with an attestation that said person swears by oath that the allegations contained therein are true. Failure to follow these formalities can result in the failure of the intervention. Flannigan v. Milford PZC, 45 Conn.L.Rptr. 837.

C. Effect of Intervention

Once a proper petition to intervene is filed before the agency, the agency must consider what effect the land use application before it will have on the air, water and other natural resources of the state. The agency's written decision should reflect these considerations.

If a land use proposal would likely unreasonably pollute or impair the air, water or natural resources of the state, the zoning agency cannot approve it if there exists a feasible and prudent alternative. (C.G.S. § 22a-19)

The intervention process does not turn a zoning agency into an inland wetlands commission or environmental protection agency. Instead, any review required by intervention is limited to the effects which the land use proposed would likely have.

D. Attorney Fees

Unlike a traditional appeal of a zoning decision to court where each side is responsible for its own attorney's fees, a successful intervenor may be entitled to recover its attorney fees. (C.G.S. § 22a-18(e)).

SELECTED
CONNECTICUT GENERAL STATUTES

§ 8-2. Regulations

(a) (1) The zoning commission of each city, town or borough is authorized to regulate, within the limits of such municipality:

(A) The height, number of stories and size of buildings and other structures;
(B) the percentage of the area of the lot that may be occupied;
(C) the size of yards, courts and other open spaces;
(D) the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes, including water dependent uses, as defined in section 22a-93; and
(E) the height, size, location, brightness and illumination of advertising signs and billboards, except as provided in subsection (f) of this section.

(2) Such zoning commission may divide the municipality into districts of such number, shape and area as may be best suited to carry out the purposes of this chapter; and, within such districts, it may regulate the erection, construction, reconstruction, alteration or use of buildings or structures and the use of land. All zoning regulations shall be uniform for each class or kind of buildings, structures or use of land throughout each district, but the regulations in one district may differ from those in another district.

(3) Such zoning regulations may provide those certain classes or kinds of buildings, structures or use of land are permitted only after obtaining a special permit or special exception from a zoning commission, planning commission, combined planning and zoning commission or zoning board of appeals, whichever commission or board the regulations may, notwithstanding any special act to the contrary, designate, subject to standards set forth in the regulations and to conditions necessary to protect the public health, safety, convenience and property values.

(b) Zoning regulations adopted pursuant to subsection (a) of this section shall:

(1) Be made in accordance with a comprehensive plan and in consideration of the plan of conservation and development adopted under section 8-23;

(2) Be designed to:
(A) lessen congestion in the streets;
(B) secure safety from fire, panic, flood and other dangers;
(C) promote health and the general welfare;
(D) provide adequate light and air;
(E) protect the state's historic, tribal, cultural and environmental resources;
(F) facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements;
(G) consider the impact of permitted land uses on contiguous municipalities and on the planning region, as defined in section 4-124i, in which such municipality is located;
(H) address significant disparities in housing needs and access to educational, occupational and other opportunities;
(I) promote efficient review of proposals and applications; and
(J) affirmatively further the purposes of the federal Fair Housing Act, 42 USC 3601 et seq., as amended from time to time;

(3) Be drafted with reasonable consideration as to the physical site characteristics of the district and its peculiar suitability for particular uses and with a view to encouraging the most appropriate use of land throughout a municipality;

(4) Provide for the development of housing opportunities, including opportunities for multifamily dwellings, consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located, as designated by the Secretary of the Office of Policy and Management under section 16a-4a;

(5) Promote housing choice and economic diversity in housing, including housing for both low and moderate income households;

(6) Expressly allow the development of housing which will meet the housing needs identified in the state's consolidated plan for housing and community development prepared pursuant to section 8-37t and in the housing component and the other components of the state plan of conservation and development prepared pursuant to section 16a-26;

(7) Be made with reasonable consideration for the impact of such regulations on agriculture, as defined in subsection (q) of section 1-1;

(8) Provide that proper provisions be made for soil erosion and sediment control pursuant to section 22a-329;

(9) Be made with reasonable consideration for the protection of existing and potential public surface and ground drinking water supplies; and (10) In any municipality that is contiguous to or on a navigable waterway draining to Long Island Sound, (A) be made with reasonable consideration for the restoration and protection of the ecosystem and habitat of Long Island Sound; (B) be designed to reduce hypoxia, pathogens, toxic contaminants and floatable debris on Long Island Sound; and (C) provide that such municipality's zoning commission consider the environmental impact on Long Island Sound coastal resources, as defined in section 22a-93, of any proposal for development.

(c) Zoning regulations adopted pursuant to subsection (a) of this section may:

(1) To the extent consistent with soil types, terrain and water, sewer and traffic infrastructure capacity for the community, provide for or require cluster development, as defined in section 8-18;

(2) Be made with reasonable consideration for the protection of historic factors;

(3) Require or promote (A) energy-efficient patterns of development;(B) the use of distributed generation or freestanding solar, wind and other renewable forms of energy;(C) combined heat and power; and (D) energy conservation;

(4) Provide for incentives for developers who use (A) solar and other renewable forms of energy; (B) combined heat and power; (C) water conservation, including demand offsets; and (D) energy conservation techniques, including, but not limited to, cluster

development, higher density development and performance standards for roads, sidewalks and underground facilities in the subdivision;

(5) Provide for a municipal system for the creation of development rights and the permanent transfer of such development rights, which may include a system for the variance of density limits in connection with any such transfer;

(6) Provide for notice requirements in addition to those required by this chapter;

(7) Provide for conditions on operations to collect spring water or well water, as defined in section 21a-150, including the time, place and manner of such operations;

(8) Provide for floating zones, overlay zones and planned development districts;

(9) Require estimates of vehicle miles traveled and vehicle trips generated in lieu of, or in addition to, level of service traffic calculations to assess (A) the anticipated traffic impact of proposed developments; and (B) potential mitigation strategies such as reducing the amount of required parking for a development or requiring public sidewalks, crosswalks, bicycle paths, bicycle racks or bus shelters, including offsite; and

(10) In any municipality where a traprock ridge or an amphibolite ridge is located, (A) provide for development restrictions in ridgeline setback areas; and (B) restrict quarrying and clear cutting, except that the following operations and uses shall be permitted in ridgeline setback areas, as of right:

(i) Emergency work necessary to protect life and property;
(ii) any nonconforming uses that were in existence and that were approved on or before the effective date of regulations adopted pursuant to this section; and
(iii) selective timbering, grazing of domesticated animals and passive recreation.

(d) Zoning regulations adopted pursuant to subsection (a) of this section shall not:

(1) Prohibit the operation of any family child care home or group child care home in a residential zone;

(2)(A) Prohibit the use of receptacles for the storage of items designated for recycling in accordance with section 22a-241b or require that such receptacles comply with provisions for bulk or lot area, or similar provisions, except provisions for side yards, rear yards and front yards; or
(B) unreasonably restrict access to or the size of such receptacles for businesses, given the nature of the business and the volume of items designated for recycling in accordance with section 22a-241b, that such business produces in its normal course of business, provided nothing in this section shall be construed to prohibit such regulations from requiring the screening or buffering of such receptacles for aesthetic reasons;

(3) Impose conditions and requirements on manufactured homes, including mobile manufactured homes, having as their narrowest dimension twenty-two feet or more and built in accordance with federal manufactured home construction and safety standards or on lots containing such manufactured homes, including mobile manufactured home parks, if those conditions and requirements are substantially different from conditions

and requirements imposed on (A) single-family dwellings;(B) lots containing single-family dwellings; or (C) multifamily dwellings, lots containing multifamily dwellings, cluster developments or planned unit developments;

(4)(A) Prohibit the continuance of any nonconforming use, building or structure existing at the time of the adoption of such regulations; (B) require a special permit or special exception for any such continuance; (C) provide for the termination of any conconforming 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; or (D) terminate or deem abandoned a nonconforming use, building or structure unless the property owner of such use, building or structure voluntarily 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;

(5) Prohibit the installation, in accordance with the provisions of section 8-1bb, of temporary health care structures for use by mentally or physically impaired persons if such structures comply with the provisions of said section, unless the municipality opts out in accordance with the provisions of subsection (j) of said section;

(6) Prohibit the operation in a residential zone of any cottage food operation, as defined in section 21a-62b;

(7) Establish for any dwelling unit a minimum floor area that is greater than the minimum floor area set forth in the applicable building, housing or other code;

(8) Place a fixed numerical or percentage cap on the number of dwelling units that constitute multifamily housing over four units, middle housing or mixed-use development that may be permitted in the municipality;

(9) Require more than one parking space for each studio or one-bedroom dwelling unit or more than two parking spaces for each dwelling unit with two or more bedrooms, unless the municipality opts out in accordance with the provisions of section 5 of this act; or

(10) Be applied to deny any land use application, including for any site plan approval, special permit, special exception or other zoning approval, on the basis of (A) a district's character, unless such character is expressly articulated in such regulations by clear and explicit physical standards for site work and structures, or (B) the immutable characteristics, source of income or income level of any applicant or end user, other than age or disability whenever age-restricted or disability-restricted housing may be permitted.

(e) Any city, town or borough which adopts the provisions of this chapter may, by vote of its legislative body, exempt municipal property from the regulations prescribed by the zoning commission of such city, town or borough, but unless it is so voted, municipal property shall be subject to such regulations.

(f) Any advertising sign or billboard that is not equipped with the ability to calibrate brightness or illumination shall be exempt from any municipal ordinance or regulation

regulating such brightness or illumination that is adopted by a city, town or borough, pursuant to subsection (a) of this section, after the date of installation of such advertising sign or billboard.

§ 8-3. Establishment and changing of zoning regulations and districts. Enforcement of regulations. Certification of building permits and certificates of occupancy. Site plans. District for water-dependent uses

(a) Such zoning commission shall provide for the manner in which regulations under section 8-2 or 8-2j and the boundaries of zoning districts shall be respectively established or changed. No such regulation or boundary shall become effective or be established or changed until after a public hearing in relation thereto, held by a majority of the members of the zoning commission or a committee thereof appointed for that purpose consisting of at least five members. Such hearing shall be held in accordance with the provisions of section 8-7d. A copy of such proposed regulation or boundary shall be filed in the office of the town, city or borough clerk, as the case may be, in such municipality, but, in the case of a district, in the offices of both the district clerk and the town clerk of the town in which such district is located, for public inspection at least ten days before such hearing, and may be published in full in such paper. The commission may require a filing fee to be deposited with the commission to defray the cost of publication of the notice required for a hearing.

(b) Such regulations and boundaries shall be established, changed or repealed only by a majority vote of all the members of the zoning commission, except as otherwise provided in this chapter. In making its decision the commission shall take into consideration the plan of conservation and development, prepared pursuant to section 8-23, and shall state on the record its findings on consistency of the proposed establishment, change or repeal of such regulations and boundaries with such plan. If a protest against a proposed change is filed at or before a hearing with the zoning commission, signed by the owners of twenty per cent or more of the area of the lots included in such proposed change or of the lots within five hundred feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds of all the members of the commission.

(c) All petitions requesting a change in the regulations or the boundaries of zoning districts shall be submitted in writing and in a form prescribed by the commission and shall be considered at a public hearing within the period of time permitted under section 8-7d. The commission shall act upon the changes requested in such petition. Whenever such commission makes any change in a regulation or boundary it shall state upon its records the reason why such change is made. No such commission shall be required to hear any petition or petitions relating to the same changes, or substantially the same changes, more than once in a period of twelve months.

(d) Zoning regulations or boundaries or changes therein shall become effective at such time as is fixed by the zoning commission, provided a copy of such regulation, boundary or change shall be filed in the office of the town, city or borough clerk, as

the case may be, but, in the case of a district, in the office of both the district clerk and the town clerk of the town in which such district is located, and notice of the decision of such commission shall have been published in a newspaper having a substantial circulation in the municipality before such effective date. In any case in which such notice is not published within the fifteen-day period after a decision has been rendered, any applicant or petitioner may provide for the publication of such notice within ten days thereafter.

(e) The zoning commission shall provide for the manner in which the zoning regulations shall be enforced.

(f) No building permit or certificate of occupancy shall be issued for a building, use or structure subject to the zoning regulations of a municipality without certification in writing by the official charged with the enforcement of such regulations that such building, use or structure is in conformity with such regulations or is a valid nonconforming use under such regulations. Such official shall inform the applicant for any such certification that such applicant may provide notice of such certification by either (1) publication in a newspaper having substantial circulation in such municipality stating that the certification has been issued, or (2) any other method provided for by local ordinance. Any such notice shall contain (A) a description of the building, use or structure, (B) the location of the building, use or structure, (C) the identity of the applicant, and (D) a statement that an aggrieved person may appeal to the zoning board of appeals in accordance with the provisions of section 8-7.

(g) (1) The zoning regulations may require that a site plan be filed with the commission or other municipal agency or official to aid in determining the conformity of a proposed building, use or structure with specific provisions of such regulations. If a site plan application involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, the applicant shall submit an application for a permit to the agency responsible for administration of the inland wetlands regulations not later than the day such application is filed with the zoning commission. The commission shall, within the period of time established in section 8-7d, accept the filing of and shall process, pursuant to section 8-7d, any site plan application involving land regulated as an inland wetland or watercourse under chapter 440. The decision of the zoning commission shall not be rendered on the site plan application until the inland wetlands agency has submitted a report with its final decision. In making its decision, the commission shall give due consideration to the report of the inland wetlands agency and if the commission establishes terms and conditions for approval that are not consistent with the final decision of the inland wetlands agency, the commission shall state on the record the reason for such terms and conditions. A site plan may be modified or denied only if it fails to comply with requirements already set forth in the zoning or inland wetlands regulations. Approval of a site plan shall be presumed unless a decision to deny or modify it is rendered within the period specified in

section 8-7d. A certificate of approval of any plan for which the period for approval has expired and on which no action has been taken shall be sent to the applicant within fifteen days of the date on which the period for approval has expired. A decision to deny or modify a site plan shall set forth the reasons for such denial or modification. A copy of any decision shall be sent by certified mail to the person who submitted such plan within fifteen days after such decision is rendered. The zoning commission may, as a condition of approval of a site plan or modified site plan, require a financial guarantee in the form of a bond, a bond with surety or similar instrument to ensure (A) the timely and adequate completion of any site improvements that will be conveyed to or controlled by the municipality, and (B) the implementation of any erosion and sediment controls required during construction activities. The amount of such financial guarantee shall be calculated so as not to exceed the anticipated actual costs for the completion of such site improvements or the implementation of such erosion and sediment controls plus a contingency amount not to exceed ten per cent of such costs. At any time, the commission may grant an extension of time to complete any site improvements. The commission shall publish notice of the approval or denial of site plans in a newspaper having a general circulation in the municipality. In any case in which such notice is not published within the fifteen-day period after a decision has been rendered, the person who submitted such plan may provide for the publication of such notice within ten days thereafter. The provisions of this subsection shall apply to all zoning commissions or other final zoning authority of each municipality whether or not such municipality has adopted the provisions of this chapter or the charter of such municipality or special act establishing zoning in the municipality contains similar provisions.

(2) To satisfy any financial guarantee requirement, the commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds including, but not limited to, letters of credit, provided such other financial guarantee is in a form acceptable to the commission and the financial institution or other entity issuing any letter of credit is acceptable to the commission. Such financial guarantee may, at the discretion of the person posting such financial guarantee, be posted at any time before all approved site improvements are completed, except that the commission may require a financial guarantee for erosion and sediment controls prior to the commencement of any such site improvements. No certificate of occupancy shall be issued before a required financial guarantee is posted or the approved site improvements are completed to the reasonable satisfaction of the commission or its agent. For any site plan that is approved for development in phases, the financial guarantee provisions of this section shall apply as if each phase was approved as a separate site plan. Notwithstanding the provisions of any special act, municipal charter or ordinance, no commission shall (A) require a financial

guarantee or payment to finance the maintenance of roads, streets, retention or detention basins or other improvements approved with such site plan for more than one year after the date on which such improvements have been completed to the reasonable satisfaction of the commission or its agent or accepted by the municipality, or (B) require the establishment of a homeowners association or the placement of a deed restriction, easement or similar burden on property for the maintenance of approved public site improvements to be owned, operated or maintained by the municipality, except that the prohibition of this subparagraph shall not apply to the placement of a deed restriction, easement or similar burden necessary to grant a municipality access to such approved site improvements.

(3) If the person posting a financial guarantee under this section requests a release of all or a portion of such financial guarantee, the commission or its agent shall, not later than sixty-five days after receiving such request, (A) release or authorize the release of any such financial guarantee or portion thereof, provided the commission or its agent is reasonably satisfied that the site improvements for which such financial guarantee or portion thereof was posted have been completed, or (B) provide the person posting such financial guarantee with a written explanation as to the additional site improvements that must be completed before such financial guarantee or portion thereof may be released.

(h) Notwithstanding the provisions of the general statutes or any public or special act or any local ordinance, when a change is adopted in the zoning regulations or boundaries of zoning districts of any town, city or borough, no improvements or proposed improvements shown on a site plan for residential property which has been approved prior to the effective date of such change, either pursuant to an application for special exception or otherwise, by the zoning commission of such town, city or borough, or other body exercising the powers of such commission, and filed or recorded with the town clerk, shall be required to conform to such change.

(i) In the case of any site plan approved on or after October 1, 1984, except as provided in subsection (j) of this section, all work in connection with such site plan shall be completed within five years after the approval of the plan. The certificate of approval of such site plan shall state the date on which such five-year period expires. Failure to complete all work within such five-year period shall result in automatic expiration of the approval of such site plan, except in the case of any site plan approved on or after October 1, 1989, the zoning commission or other municipal agency or official approving such site plan may grant one or more extensions of the time to complete all or part of the work in connection with the site plan provided the total extension or extensions shall not exceed ten years from the date such site plan is approved. "Work" for purposes of this subsection means all physical improvements required by the approved plan.

(j) In the case of any site plan for a project consisting of four hundred or more dwelling units approved on or after June 19, 1987, all work in connection with such site plan shall be completed within ten years after the approval of the plan. In the case of any commercial, industrial or retail project having an area equal to or greater than four hundred thousand square feet approved on or after October 1, 1988, the zoning commission or other municipal agency or official approving such site plan shall set a date for the completion of all work in connection with such site plan, which date shall be not less than five nor more than ten years from the date of approval of such site plan, provided such commission, agency or official approving such plan and setting a date for completion which is less than ten years from the date of approval may extend the date of completion for an additional period or periods, not to exceed ten years in the aggregate from the date of the original approval of such site plan. The certificate of approval of such site plan shall state the date on which such work shall be completed. Failure to complete all work within such period shall result in automatic expiration of the approval of such site plan. "Work" for purposes of this subsection means all physical improvements required by the approved plan.

(k) A separate zoning district may be established for shorefront land areas utilized for water-dependent uses, as defined in section 22a-93, existing on October 1, 1987. Such district may be composed of a single parcel of land, provided the owner consents to such establishment. The provisions of this section shall not be construed to limit the authority of a zoning commission to establish and apply land use districts for the promotion and protection of water-dependent uses pursuant to section 8-2 and sections 22a-101 to 22a-104, inclusive. The provisions of this subsection shall apply to all zoning commissions or other final zoning authority of each municipality whether or not such municipality has adopted the provisions of this chapter or the charter of such municipality or special act establishing zoning in the municipality contains similar provisions.

(l) Notwithstanding the provisions of this section to the contrary, any site plan approval made under this section on or before October 1, 1989, except an approval made under subsection (j) of this section, shall expire not more than seven years from the date of such approval and the commission may grant one or more extensions of time to complete all or part of the work in connection with such site plan, provided the time for all extensions under this subsection shall not exceed ten years from the date the site plan was approved.

(m) Notwithstanding the provisions of this section, any site plan approval made under this section prior to July 1, 2011, that has not expired prior to May 9, 2011, except an approval made under subsection (j) of this section, shall expire not less than nine years after the date of such approval and the commission may grant one or more extensions of time to complete all or part of the work in connection with such site plan, provided no approval, including all extensions, shall be valid for more than fourteen years from the date the site plan was approved.

§ 8-3c. Special permits, exceptions and exemptions. Hearings. Filing requirements

(a) If an application for a special permit or special exception involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, the applicant shall submit an application to the agency responsible for administration of the inland wetlands regulations no later than the day the application is filed for a special permit or special exception.

(b) The zoning commission or combined planning and zoning commission of any municipality shall hold a public hearing on an application or request for a special permit or special exception, as provided in section 8-2, and on an application for a special exemption under section 8-2g. Such hearing shall be held in accordance with the provisions of section 8-7d. The commission shall not render a decision on the application until the inland wetlands agency has submitted a report with its final decision to such commission. In making its decision the zoning commission shall give due consideration to the report of the inland wetlands agency. Such commission shall decide upon such application or request within the period of time permitted under section 8-7d. Whenever a commission grants or denies a special permit or special exception, it shall state upon its records the reason for its decision. Notice of the decision of the commission shall be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to the person who requested or applied for a special permit or special exception, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within fifteen days after such decision has been rendered. In any case in which such notice is not published within such fifteen-day period, the person who requested or applied for such special permit or special exception may provide for the publication of such notice within ten days thereafter. Such permit or exception shall become effective upon the filing of a copy thereof (1) in the office of the town, city or borough clerk, as the case may be, but, in the case of a district, in the offices of both the district clerk and the town clerk of the town in which such district is located, and (2) in the land records of the town in which the affected premises are located, in accordance with the provisions of section 8-3d.

(c) (1) Notwithstanding the provisions of subsections (a) and (b) of this section, any special permit or special exception approval made under this section prior to July 1, 2011, that has not expired prior to the effective date of this section, and that specified a deadline by which all work in connection with such approval is required to be completed, shall expire not less than nineteen years after the date of such approval and the commission may grant one or more extensions of time to complete all or part of the work in connection with such special permit or special exception. (2) Notwithstanding the provisions of subsections (a) and (b) of this section, any special permit or special exception approval made under this section on or after July 1, 2011, but prior to the effective date of this section, that did not expire prior to March 10, 2020, and that specified a deadline by which all work in connection with such approval is required to be completed, shall expire not less than nineteen years after the date of such approval and the commission may grant one or more extensions of time to complete all or part of the work in connection with such special permit or special exception.

§ 8-7d. Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality. Public notice registry

(a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 or an aquifer protection agency under chapter 446i and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for additional notice. Such regulations shall include provisions that the notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed, and (3) a title search or any other additional method of identifying persons who own land that is adjacent to the land that is the subject of the hearing shall not be required. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered not later than sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.

(b) Notwithstanding the provisions of subsection (a) of this section, whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered not later than sixty-five days after receipt of such site plan. Whenever a decision is to be made on an application for subdivision approval under chapter 126 on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an inland wetlands and watercourses application under chapter 440 on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an aquifer protection area

application under chapter 446i on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application.

(c) For purposes of subsection (a) or (b) of this section and section 7-246a, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. If the commission, board or agency does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission, board or agency for the receipt of any petition, application, request or appeal.

(d) The provisions of subsection (a) of this section shall not apply to any action initiated by any zoning commission, planning commission or planning and zoning commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.

(e) Notwithstanding the provisions of this section, if an application involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this section would elapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.

(f) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals, inland wetlands agency or aquifer protection agency shall notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:

(1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality;

(2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;

(3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or

(4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made

by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

(g) (1) Any zoning commission, planning commission or planning and zoning commission initiating any action regarding adoption or change of any zoning regulation or boundary or any subdivision regulation or regarding the preparation or amendment of the plan of conservation and development shall provide notice of such action in accordance with this subsection in addition to any other notice required under any provision of the general statutes.

(2) A zoning commission, planning commission or planning and zoning commission shall establish a public notice registry of landowners, electors and nonprofit organizations qualified as tax-exempt organizations under the provisions of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, requesting notice under this subsection. Each municipality shall notify residents of such registry and the process for registering for notice under this subsection. The zoning commission, planning commission or planning and zoning commission shall place on such registry the names and addresses of any such landowner, elector or organization upon written request of such landowner, elector or organization. A landowner, elector or organization may request such notice be sent by mail or by electronic mail. The name and address of a landowner, elector or organization who requests to be placed on the public notice registry shall remain on such registry for a period of three years after the establishment of such registry. Thereafter any land owner, elector or organization may request to be placed on such registry for additional periods of three years.

(3) Any notice under this subsection shall be mailed to all landowners, electors and organizations in the public notice registry not later than seven days prior to the commencement of the public hearing on such action, if feasible. Such notice may be mailed by electronic mail if the zoning commission, planning commission or planning and zoning commission or the municipality has an electronic mail service provider.

(4) No zoning commission, planning commission or planning and zoning commission shall be civilly liable to any landowner, elector or nonprofit organization requesting notice under this subsection with respect to any act done or omitted in good faith or through a bona fide error that occurred despite reasonable procedures maintained by the zoning commission, planning commission or planning and zoning commission to prevent such errors in complying with the provisions of this section.

§ 8-8. Appeal from board to court. Mediation. Review by Appellate Court

(a) As used in this section:

(1) "Aggrieved person" means a person aggrieved by a decision of a board and includes any officer, department, board or bureau of the municipality charged with enforcement of any order, requirement or decision of the board. In the case of a decision by a zoning commission, planning commission, combined planning and zoning commission or zoning board of appeals, "aggrieved person" includes any person owning land in this state that abuts or is within a radius of one hundred feet of any portion of the land involved in the decision of the board.

(2) "Board" means a municipal zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals or other board or commission the decision of which may be appealed pursuant to this section, or the chief elected official of a municipality, or such official's designee, in a hearing held pursuant to section 22a-250, whose decision may be appealed.

(b) Except as provided in subsections (c), (d) and (r) of this section and sections 7-147 and 7-147i, any person aggrieved by any decision of a board, including a decision to approve or deny a site plan pursuant to subsection (g) of section 8-3 or a special permit or special exception pursuant to section 8-3c, may take an appeal to the superior court for the judicial district in which the municipality is located, notwithstanding any right to appeal to a municipal zoning board of appeals under section 8-6. The appeal shall be commenced by service of process in accordance with subsections (f) and (g) of this section within fifteen days from the date that notice of the decision was published as required by the general statutes. The appeal shall be returned to court in the same manner and within the same period of time as prescribed for civil actions brought to that court.

(c) In those situations where the approval of a planning commission must be inferred because of the failure of the commission to act on an application, any aggrieved person may appeal under this section. The appeal shall be taken within twenty days after the expiration of the period prescribed in section 8-26d for action by the commission.

(d) Any person affected by an action of a planning commission taken under section 8-29 may appeal under this section. The appeal shall be taken within thirty days after notice to such person of the adoption of a survey, map or plan or the assessment of benefits or damages.

(e) The proceedings of the court for an appeal may be stayed by agreement of the parties when a mediation conducted pursuant to section 8-8a commences, provided any such stay shall terminate upon termination of the mediation.

(f) Service of legal process for an appeal under this section shall be directed to a proper officer and shall be made as follows:

(1) For any appeal taken before October 1, 2004, process shall be served by leaving a true and attested copy of the process with, or at the usual place of abode of, the chairman or clerk of the board, and by leaving a true and attested copy with the clerk of the municipality. Service on the chairman or clerk of the board and on the clerk of the municipality shall be for the purpose of providing legal notice of the appeal to the board and shall not thereby make the chairman or clerk of the board or the clerk of the municipality a necessary party to the appeal.

(2) For any appeal taken on or after October 1, 2004, process shall be served in accordance with subdivision (5) of subsection (b) of section 52-57. Such service shall be for the purpose of providing legal notice of the appeal to the board and shall not thereby make the clerk of the municipality or the chairman or clerk of the board a necessary party to the appeal.

(g) Service of process shall also be made on each person who petitioned the board in the proceeding, provided such person's legal rights, duties or privileges were determined therein. However, failure to make service within fifteen days on parties other than the board shall not deprive the court of jurisdiction over the appeal. If service is not made within fifteen days on a party in the proceeding before the board, the court, on motion of the party or the appellant, shall make such orders of notice of the appeal as are reasonably calculated to notify the party not yet served. If the failure to make service causes prejudice to the board or any party, the court, after hearing, may dismiss the appeal or may make such other orders as are necessary to protect the party prejudiced.

(h) The appeal shall state the reasons on which it has been predicated and shall not stay proceedings on the decision appealed from. However, the court to which the appeal is returnable may grant a restraining order, on application, and after notice to the board and cause shown.

(i) Within thirty days after the return date to court, or within any further time the court allows, the board shall transmit the record to the court. The record shall include, without limitation, (1) the original papers acted on by the board and appealed from, or certified copies thereof, (2) a copy of the transcript of the stenographic or sound recording prepared in accordance with section 8-7a, and (3) the written decision of the board including the reasons therefor and a statement of any conditions imposed. If the board does not provide a transcript of the stenographic or the sound recording of a meeting where the board deliberates or makes a decision on a petition, application or request on which a public hearing was held, a certified, true and accurate transcript of a stenographic or sound recording of the meeting prepared by or on behalf of the applicant or any other party shall be admissible as part of the record. By stipulation of all parties to the appeal, the record may be shortened. A

party unreasonably refusing to stipulate to limit the record may be taxed by the court for additional costs. The court may require or permit subsequent corrections or additions to the record.

(j) Any defendant may, at any time after the return date of the appeal, make a motion to dismiss the appeal. If the basis of the motion is a claim that the appellant lacks standing to appeal, the appellant shall have the burden of proving standing. The court may, on the record, grant or deny the motion. The court's order on the motion may be appealed in the manner provided in subsection (o) of this section.

(k) The court shall review the proceedings of the board and shall allow any party to introduce evidence in addition to the contents of the record if (1) the record does not contain a complete transcript of the entire proceedings before the board, including all evidence presented to it, pursuant to section 8-7a, or (2) it appears to the court that additional testimony is necessary for the equitable disposition of the appeal. The court may take the evidence or may appoint a referee or committee to take such evidence as it directs and report the same to the court, with any findings of facts and conclusions of law. Any report of a referee, committee or mediator under subsection (f) of section 8-8a shall constitute a part of the proceedings on which the determination of the court shall be made.

(l) The court, after a hearing thereon, may reverse or affirm, wholly or partly, or may revise, modify or remand the decision from which the appeal was taken in a manner consistent with the evidence in the record before it. In an appeal from an action of a planning commission taken under section 8-29, the court may also reassess any damages or benefits awarded by the commission. Costs shall be allowed against the board if the decision appealed from is reversed, affirmed in part, modified or revised.

(m) Appeals from decisions of the board shall be privileged cases and shall be heard as soon as is practicable unless cause is shown to the contrary.

(n) No appeal taken under subsection (b) of this section shall be withdrawn and no settlement between the parties to any such appeal shall be effective unless and until a hearing has been held before the Superior Court and such court has approved such proposed withdrawal or settlement.

(o) There shall be no right to further review except to the Appellate Court by certification for review, on the vote of two judges of the Appellate Court so to certify and under such other rules as the judges of the Appellate Court establish. The procedure on appeal to the Appellate Court shall, except as otherwise provided herein, be in accordance with the procedures provided by rule or law for the appeal of judgments rendered by the Superior Court unless modified by rule of the judges of the Appellate Court.

(p) The right of a person to appeal a decision of a board to the Superior Court and the procedure prescribed in this section shall be liberally interpreted in any case where a strict adherence to these provisions would work surprise or injustice. The appeal

shall be considered to be a civil action and, except as otherwise required by this section or the rules of the Superior Court, pleadings may be filed, amended or corrected, and parties may be summoned, substituted or otherwise joined, as provided by the general statutes.

(q) If any appeal has failed to be heard on its merits because of insufficient service or return of the legal process due to unavoidable accident or the default or neglect of the officer to whom it was committed, or the appeal has been otherwise avoided for any matter of form, the appellant shall be allowed an additional fifteen days from determination of that defect to properly take the appeal. The provisions of section 52-592 shall not apply to appeals taken under this section.

(r) In any case in which a board fails to comply with a requirement of a general or special law, ordinance or regulation governing the content, giving, mailing, publishing, filing or recording of any notice either of a hearing or of an action taken by the board, any appeal or action by an aggrieved person to set aside the decision or action taken by the board on the grounds of such noncompliance shall be taken not more than one year after the date of that decision or action.

§ 8-12. Procedure when regulations are violated

If any building or structure has been erected, constructed, altered, converted or maintained, or any building, structure or land has been used, in violation of any provision of this chapter or of any bylaw, ordinance, rule or regulation made under authority conferred hereby, any official having jurisdiction, in addition to other remedies, may institute an action or proceeding to prevent such unlawful erection, construction, alteration, conversion, maintenance or use or to restrain, correct or abate such violation or to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Such regulations shall be enforced by the officer or official board or authority designated therein, who shall be authorized to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereon in violation of any provision of the regulations made under authority of the provisions of this chapter or, when the violation involves grading of land, the removal of earth or soil erosion and sediment control, to issue, in writing, a cease and desist order to be effective immediately. The owner or agent of any building or premises where a violation of any provision of such regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building or premises in which such violation has been committed or exists, or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation exists, shall be fined not less than ten dollars or more than one hundred dollars for each day that such violation continues; but, if the offense is wilful, the person convicted thereof shall be fined not less than one hundred dollars or more than two hundred fifty dollars for each day that such violation continues, or imprisoned not more than ten days for each day such violation continues not

to exceed a maximum of thirty days for such violation, or both; and the Superior Court shall have jurisdiction of all such offenses, subject to appeal as in other cases. Any person who, having been served with an order to discontinue any such violation, fails to comply with such order within ten days after such service, or having been served with a cease and desist order with respect to a violation involving grading of land, removal of earth or soil erosion and sediment control, fails to comply with such order immediately, or continues to violate any provision of the regulations made under authority of the provisions of this chapter specified in such order shall be subject to a civil penalty not to exceed two thousand five hundred dollars, payable to the treasurer of the municipality. In any criminal prosecution under this section, the defendant may plead in abatement that such criminal prosecution is based on a zoning ordinance or regulation which is the subject of a civil action wherein one of the issues is the interpretation of such ordinance or regulations, and that the issues in the civil action are such that the prosecution would fail if the civil action results in an interpretation different from that claimed by the state in the criminal prosecution. If the court renders judgment for such municipality and finds that the violation was wilful, the court shall allow such municipality its costs, together with reasonable attorney's fees to be taxed by the court. The court before which such prosecution is pending may order such prosecution abated if it finds that the allegations of the plea are true.

§ 8-23. Preparation, amendment or adoption of plan of conservation and development

(a) (1) At least once every ten years, the commission shall prepare or amend and shall adopt a plan of conservation and development for the municipality. Following adoption, the commission shall regularly review and maintain such plan. The commission may adopt such geographical, functional or other amendments to the plan or parts of the plan, in accordance with the provisions of this section, as it deems necessary. The commission may, at any time, prepare, amend and adopt plans for the redevelopment and improvement of districts or neighborhoods which, in its judgment, contain special problems or opportunities or show a trend toward lower land values. (2) If a plan is not amended decennially, the chief elected official of the municipality shall submit a letter to the Secretary of the Office of Policy and Management and the Commissioners of Transportation, Energy and Environmental Protection and Economic and Community Development that explains why such plan was not amended. A copy of such letter shall be included in each application by the municipality for discretionary state funding submitted to any state agency.

(b) On and after July 1, 2016, a municipality that fails to comply with the requirements of subdivisions (1) and (2) of subsection (a) of this section shall be ineligible for discretionary state funding unless such prohibition is expressly waived by the secretary.

(c) In the preparation of such plan, the commission may appoint one or more special committees to develop and make recommendations for the plan. The membership of any special committee may include: Residents of the municipality and representatives of local boards dealing with zoning, inland wetlands, conservation, recreation, education, public

works, finance, redevelopment, general government and other municipal functions. In performing its duties under this section, the commission or any special committee may accept information from any source or solicit input from any organization or individual. The commission or any special committee may hold public informational meetings or organize other activities to inform residents about the process of preparing the plan.

(d) In preparing such plan, the commission or any special committee shall consider the following: (1) The community development action plan of the municipality, if any, Conn. Gen. Stat. 8-23 Preparation, amendment or adoption of plan of conservation and development (General Statutes of Connecticut (2022 Edition)) (2) the need for affordable housing, (3) the need for protection of existing and potential public surface and ground drinking water supplies, (4) the use of cluster development and other development patterns to the extent consistent with soil types, terrain and infrastructure capacity within the municipality, (5) the state plan of conservation and development adopted pursuant to chapter 297, (6) the regional plan of conservation and development adopted pursuant to section 8-35a, (7) physical, social, economic and governmental conditions and trends, (8) the needs of the municipality including, but not limited to, human resources, education, health, housing, recreation, social services, public utilities, public protection, transportation and circulation and cultural and interpersonal communications, (9) the objectives of energy-efficient patterns of development, the use of solar and other renewable forms of energy and energy conservation, (10) protection and preservation of agriculture, (11) the most recent sea level change scenario updated pursuant to subsection (b) of section 25-68o, and (12) the need for technology infrastructure in the municipality.

(e) (1) Such plan of conservation and development shall (A) be a statement of policies, goals and standards for the physical and economic development of the municipality, (B) provide for a system of principal thoroughfares, parkways, bridges, streets, sidewalks, multipurpose trails and other public ways as appropriate, (C) be designed to promote, with the greatest efficiency and economy, the coordinated development of the municipality and the general welfare and prosperity of its people and identify areas where it is feasible and prudent (i) to have compact, transit accessible, pedestrian oriented mixed use development patterns and land reuse, and (ii) to promote such development patterns and land reuse, (D) recommend the most desirable use of land within the municipality for residential, recreational, commercial, industrial, conservation, agricultural and other Conn. Gen. Stat. 8-23 Preparation, amendment or adoption of plan of conservation and development (General Statutes of Connecticut (2022 Edition)) purposes and include a map showing such proposed land uses, (E) recommend the most desirable density of population in the several parts of the municipality, (F) note any inconsistencies with the following growth management principles: (i) Redevelopment and revitalization of commercial centers and areas of mixed land uses with existing or planned physical infrastructure; (ii) expansion of housing opportunities and design choices to accommodate a variety of household types and needs; (iii) concentration of development around transportation nodes and along major transportation corridors to support the viability of transportation options and land reuse; (iv) conservation and restoration of the natural environment, cultural and historical resources and existing farmlands; (v) protection of environmental assets critical to public health and safety; and

(vi) integration of planning across all levels of government to address issues on a local, regional and state-wide basis, (G) make provision for the development of housing opportunities, including opportunities for multifamily dwellings, consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located, as designated by the Secretary of the Office of Policy and Management under section 16a-4a, (H) promote housing choice and economic diversity in housing, including housing for both low and moderate income households, and encourage the development of housing which will meet the housing needs identified in the state's consolidated plan for housing and community development prepared pursuant to section 8-37t and in the housing component and the other components of the state plan of conservation and development prepared pursuant to chapter 297, and (I) consider allowing older adults and persons with a disability the ability to live in their homes and communities whenever possible. Such plan may: (i) Permit home sharing in single-family zones between up to four adult persons of any age with a disability or who are sixty years of age or older, whether or not related, who receive supportive services in the home; (ii) allow accessory apartments for persons with a disability or persons sixty years of age or older, or their caregivers, in all residential zones, subject to Conn. Gen. Stat. 8-23 Preparation, amendment or adoption of plan of conservation and development (General Statutes of Connecticut (2022 Edition)) municipal zoning regulations concerning design and long-term use of the principal property after it is no longer in use by such persons; and (iii) expand the definition of "family" in single-family zones to allow for accessory apartments for persons sixty years of age or older, persons with a disability or their caregivers. In preparing such plan the commission shall consider focusing development and revitalization in areas with existing or planned physical infrastructure. (2) For any municipality that is contiguous to Long Island Sound, such plan shall be (A) consistent with the municipal coastal program requirements of sections 22a-101 to 22a-104, inclusive, (B) made with reasonable consideration for restoration and protection of the ecosystem and habitat of Long Island Sound, and (C) designed to reduce hypoxia, pathogens, toxic contaminants and floatable debris in Long Island Sound.

(f) Such plan may show the commission's and any special committee's recommendation for (1) conservation and preservation of traprock and other ridgelines, (2) airports, parks, playgrounds and other public grounds, (3) the general location, relocation and improvement of schools and other public buildings, (4) the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, transit and other purposes, (5) the extent and location of public housing projects, (6) programs for the implementation of the plan, including (A) a schedule, (B) a budget for public capital projects, (C) a program for enactment and enforcement of zoning and subdivision controls, building and housing codes and safety regulations, (D) plans for implementation of affordable housing, (E) plans for open space acquisition and greenways protection and development, and (F) plans for corridor management areas along limited access highways or rail lines, designated under section 16a-27, (7) proposed priority funding areas, and (8) any other recommendations as will, in the commission's or any special committee's judgment, be beneficial to the municipality. The plan may include any necessary and related maps, explanatory material, photographs, charts or

other pertinent data and information relative to the past, present and future trends of the municipality.

(g) Any municipal plan of conservation and development scheduled for adoption on or after July 1, 2015, shall identify the general location and extent of any (1) areas served by existing sewerage systems, (2) areas where sewerage systems are planned, and (3) areas where sewers are to be avoided. In identifying such areas, the commission shall consider the provisions of this section and the priority funding area provisions of chapter 297a.

(h) Conn. Gen. Stat. 8-23 Preparation, amendment or adoption of plan of conservation and development (General Statutes of Connecticut (2022 Edition)) (1) A plan of conservation and development or any part thereof or amendment thereto prepared by the commission or any special committee shall be reviewed, and may be amended, by the commission prior to scheduling at least one public hearing on adoption. (2) At least sixty-five days prior to the public hearing on adoption, the commission shall submit a copy of such plan or part thereof or amendment thereto for review and comment to the legislative body or, in the case of a municipality for which the legislative body of the municipality is a town meeting or representative town meeting, to the board of selectmen. The legislative body or board of selectmen, as the case may be, may hold one or more public hearings on the plan and shall endorse or reject such entire plan or part thereof or amendment and may submit comments and recommended changes to the commission. The commission may render a decision on the plan without the report of such body or board. (3) At least thirty-five days prior to the public hearing on adoption, the commission shall post the plan on the Internet web site of the municipality, if any. (4) At least sixty-five days prior to the public hearing on adoption, the commission shall submit a copy of such plan or part thereof or amendment thereto to the regional council of governments for review and comment. The regional council of governments shall submit an advisory report along with its comments to the commission at or before the hearing. Such comments shall include a finding on the consistency of the plan with (A) the regional plan of conservation and development, adopted under section 8-35a, (B) the state plan of conservation and development, adopted pursuant to chapter 297, and (C) the plans of conservation and development of other municipalities in the area of operation of the regional council of governments. The commission may render a decision on the plan without the report of the regional council of governments. (5) At least thirty-five days prior to the public hearing on adoption, the commission shall file in the office of the town clerk a copy of such plan or part thereof or amendment thereto but, in the case of a district commission, such commission shall file such information in the offices of both the district clerk and the town clerk. (6) The commission shall cause to be published in a newspaper having a general circulation in the municipality, at least twice at intervals of not less than two days, the first not more than fifteen days, or less than ten days, and the last not less than two days prior to the date of each such hearing, notice of the time and place of any such public hearing. Such notice shall make Conn. Gen. Stat. 8-23 Preparation, amendment or adoption of plan of conservation and development (General Statutes of Connecticut (2022 Edition)) reference to the filing of such draft plan in the office of the town clerk, or both the district clerk and the town clerk, as the case may be.

(i) (1) After completion of the public hearing, the commission may revise the plan and may adopt the plan or any part thereof or amendment thereto by a single resolution or may, by successive resolutions, adopt parts of the plan and amendments thereto. (2) Any plan, section of a plan or recommendation in the plan that is not endorsed in the report of the legislative body or, in the case of a municipality for which the legislative body is a town meeting or representative town meeting, by the board of selectmen, of the municipality may only be adopted by the commission by a vote of not less than two-thirds of all the members of the commission. (3) Upon adoption by the commission, any plan or part thereof or amendment thereto shall become effective at a time established by the commission, provided notice thereof shall be published in a newspaper having a general circulation in the municipality prior to such effective date. (4) Not more than thirty days after adoption, any plan or part thereof or amendment thereto shall be posted on the Internet web site of the municipality, if any, and shall be filed in the office of the town clerk, except that, if it is a district plan or amendment, it shall be filed in the offices of both the district and town clerks. (5) Not more than sixty days after adoption of the plan, the commission shall submit a copy of the plan to the Secretary of the Office of Policy and Management and shall include with such copy a description of any inconsistency between the plan adopted by the commission and the state plan of conservation and development and the reasons therefor.

(j) Any owner or tenant, or authorized agent of such owner or tenant, of real property or buildings thereon located in the municipality may submit a proposal to the commission requesting a change to the plan of conservation and development. Such proposal shall be submitted in writing and on a form prescribed by the commission. Notwithstanding the provisions of subsection (a) of section 8-7d, the commission shall review and may approve, modify and approve or reject the proposal in accordance with the provisions of subsection (h) of this section.

§ 8-25. Subdivision of land

(a) No subdivision of land shall be made until a plan for such subdivision has been approved by the commission. Any person, firm or corporation making any subdivision of land without the approval of the commission shall be fined not more than five hundred dollars for each lot sold or offered for sale or so subdivided. Any plan for subdivision shall, upon approval, or when taken as approved by reason of the failure of the commission to act, be filed or recorded by the applicant in the office of the town clerk not later than ninety days after the expiration of the appeal period under section 8-8, or in the case of an appeal, not later than ninety days after the termination of such appeal by dismissal, withdrawal or judgment in favor of the applicant but, if it is a plan for subdivision wholly or partially within a district, it shall be filed in the offices of both the district clerk and the town clerk, and any plan not so filed or recorded within the prescribed time shall become null and void, except that the commission may extend the time for such filing for two additional periods of ninety days and the plan shall remain valid until the expiration of such extended time. All such plans shall be delivered to the applicant for filing or recording not more than thirty days after the time for taking an appeal from the

action of the commission has elapsed or not more than thirty days after the date that plans modified in accordance with the commission's approval and that comply with section 7-31 are delivered to the commission, whichever is later, and in the event of an appeal, not more than thirty days after the termination of such appeal by dismissal, withdrawal or judgment in favor of the applicant or not more than thirty days after the date that plans modified in accordance with the commission's approval and that comply with section 7-31 are delivered to the commission, whichever is later. No such plan shall be recorded or filed by the town clerk or district clerk or other officer authorized to record or file plans until its approval has been endorsed thereon by the chairman or secretary of the commission, and the filing or recording of a subdivision plan without such approval shall be void. Before exercising the powers granted in this section, the commission shall adopt regulations covering the subdivision of land. No such regulations shall become effective until after a public hearing held in accordance with the provisions of section 8-7d. Such regulations shall provide that the land to be subdivided shall be of such character that it can be used for building purposes without danger to health or the public safety, that proper provision shall be made for water, sewerage and drainage, including the upgrading of any downstream ditch, culvert or other drainage structure which, through the introduction of additional drainage due to such subdivision, becomes undersized and creates the potential for flooding on a state highway, and, in areas contiguous to brooks, rivers or other bodies of water subject to flooding, including tidal flooding, that proper provision shall be made for protective flood control measures and that the proposed streets are in harmony with existing or proposed principal thoroughfares shown in the plan of conservation and development as described in section 8-23, especially in regard to safe intersections with such thoroughfares, and so arranged and of such width, as to provide an adequate and convenient system for present and prospective traffic needs. Such regulations shall also provide that the commission may require the provision of open spaces, parks and playgrounds when, and in places, deemed proper by the planning commission, which open spaces, parks and playgrounds shall be shown on the subdivision plan. Such regulations may, with the approval of the commission, authorize the applicant to pay a fee to the municipality or pay a fee to the municipality and transfer land to the municipality in lieu of any requirement to provide open spaces. Such payment or combination of payment and the fair market value of land transferred shall be equal to not more than ten per cent of the fair market value of the land to be subdivided prior to the approval of the subdivision. The fair market value shall be determined by an appraiser jointly selected by the commission and the applicant. A fraction of such payment the numerator of which is one and the denominator of which is the number of approved parcels in the subdivision shall be made at the time of the sale of each approved parcel of land in the subdivision and placed in a fund in accordance with the provisions of section 8-25b. The open space requirements of this section shall not apply if the transfer of all land in a subdivision of less than five parcels is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration, or if the subdivision is to contain affordable housing, as defined in section 8-39a, equal to twenty per cent or more of the total housing to be constructed in such subdivision. Such regulations, on and after July 1, 1985, shall provide that

proper provision be made for soil erosion and sediment control pursuant to section 22a-329. Such regulations shall not impose conditions and requirements on manufactured homes having as their narrowest dimension twenty-two feet or more and built in accordance with federal manufactured home construction and safety standards or on lots containing such manufactured homes which are substantially different from conditions and requirements imposed on single-family dwellings and lots containing single-family dwellings. Such regulations shall not impose conditions and requirements on developments to be occupied by manufactured homes having as their narrowest dimension twenty-two feet or more and built in accordance with federal manufactured home construction and safety standards which are substantially different from conditions and requirements imposed on multifamily dwellings, lots containing multifamily dwellings, cluster developments or planned unit developments. The commission may also prescribe the extent to which and the manner in which streets shall be graded and improved and public utilities and services provided and, in lieu of the completion of such work and installations previous to the final approval of a plan, the commission may accept a financial guarantee of such work and installations in an amount and with surety and conditions satisfactory to it securing to the municipality the actual construction, maintenance and installation of such public improvements and utilities within a period specified in the financial guarantee. Such regulations may provide, in lieu of the completion of the work and installations above referred to, previous to the final approval of a plan, for an assessment or other method whereby the municipality is put in an assured position to do such work and make such installations at the expense of the owners of the property within the subdivision. Such regulations may provide that in lieu of either the completion of the work or the furnishing of a financial guarantee as provided in this section, the commission may authorize the filing of a plan with a conditional approval endorsed thereon. Such approval shall be conditioned on (1) the actual construction, maintenance and installation of any improvements or utilities prescribed by the commission, or (2) the provision of a financial guarantee as provided in this section. Upon the occurrence of either of such events, the commission shall cause a final approval to be endorsed thereon in the manner provided by this section. Any such conditional approval shall lapse five years from the date it is granted, provided the applicant may apply for and the commission may, in its discretion, grant a renewal of such conditional approval for an additional period of five years at the end of any five-year period, except that the commission may, by regulation, provide for a shorter period of conditional approval or renewal of such approval. Any person who enters into a contract for the purchase of any lot subdivided pursuant to a conditional approval may rescind such contract by delivering a written notice of rescission to the seller not later than three days after receipt of written notice of final approval if such final approval has additional amendments or any conditions that were not included in the conditional approval and are unacceptable to the buyer. Any person, firm or corporation who, prior to such final approval, transfers title to any lot subdivided pursuant to a conditional approval shall be fined not more than one thousand dollars for each lot transferred. Nothing in this subsection shall be construed to authorize the marketing of any lot prior to the granting of conditional approval or renewal of such conditional approval.

(b) The regulations adopted under subsection (a) of this section shall also encourage energy-efficient patterns of development and land use, the use of solar and other renewable forms of energy, and energy conservation. The regulations shall require any person submitting a plan for a subdivision to the commission under subsection (a) of this section to demonstrate to the commission that such person has considered, in developing the plan, using passive solar energy techniques which would not significantly increase the cost of the housing to the buyer, after tax credits, subsidies and exemptions. As used in this subsection and section 8-2, "passive solar energy techniques" means site design techniques which maximize solar heat gain, minimize heat loss and provide thermal storage within a building during the heating season and minimize heat gain and provide for natural ventilation during the cooling season. The site design techniques shall include, but not be limited to:

(1) House orientation;

(2) street and lot layout;

(3) vegetation;

(4) natural and man-made topographical features; and

(5) protection of solar access within the development.

(c) The regulations adopted under subsection (a) of this section, may, to the extent consistent with soil types, terrain, infrastructure capacity and the plan of development for the community, provide for cluster development, and may provide for incentives for cluster development such as density bonuses, or may require cluster development.

(d) (1) To satisfy any financial guarantee requirement in this section, the commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds including, but not limited to, letters of credit, provided such financial guarantee is in a form acceptable to the commission and the financial institution or other entity issuing any letter of credit is acceptable to the commission. Such financial guarantee may, at the discretion of the person posting such financial guarantee, be posted at any time before all approved public improvements and utilities are completed, except that the commission may require a financial guarantee for erosion and sediment controls prior to the commencement of any improvements. No lot shall be transferred to a buyer before any required financial guarantee is posted or before the approved public improvements and utilities are completed to the reasonable satisfaction of the commission or its agent. For any subdivision that is approved for development in phases, the financial guarantee provisions of this section shall apply as if each phase was approved as a separate subdivision. Notwithstanding the provisions of any special act, municipal

charter or ordinance, no commission shall (A) require a financial guarantee or payment to finance the maintenance of roads, streets, retention or detention basins or other improvements approved with such subdivision for more than one year after the date on which such improvements have been completed to the reasonable satisfaction of the commission or its agent or accepted by the municipality, or (B) require the establishment of a homeowners association or the placement of a deed restriction, easement or similar burden on property for the maintenance of approved public site improvements to be owned, operated or maintained by the municipality, except that the prohibition of this subparagraph shall not apply to the placement of a deed restriction, easement or similar burden necessary to grant a municipality access to such approved site improvements.

(2) If the person posting a financial guarantee under this section requests a release of all or a portion of such financial guarantee, the commission or its agent shall, not later than sixty-five days after receiving such request, (A) release or authorize the release of any such financial guarantee or portion thereof, provided the commission or its agent is reasonably satisfied that the improvements for which such financial guarantee or portion thereof was posted have been completed, or (B) provide the person posting such financial guarantee with a written explanation as to the additional improvements that must be completed before such financial guarantee or portion thereof may be released.

§ 8-26. Approval of subdivision and resubdivision plans. Waiver of certain regulation requirements. Fees. Hearing. Notice. Applications involving an inland wetland or watercourse

Applications involving an inland wetland or watercourse.

(a) All plans for subdivisions and resubdivisions, including subdivisions and resubdivisions in existence but which were not submitted to the commission for required approval, whether or not shown on an existing map or plan or whether or not conveyances have been made of any of the property included in such subdivisions or resubdivisions, shall be submitted to the commission with an application in the form to be prescribed by it. The commission shall have the authority to determine whether the existing division of any land constitutes a subdivision or resubdivision under the provisions of this chapter, provided nothing in this section shall be deemed to authorize the commission to approve any such subdivision or resubdivision which conflicts with applicable zoning regulations. Such regulations may contain provisions whereby the commission may waive certain requirements under the regulations by a three-quarters vote of all the members of the commission in cases where conditions exist which affect the subject land and are not generally applicable to other land in the area, provided that the regulations shall

specify the conditions under which a waiver may be considered and shall provide that no waiver shall be granted that would have a significant adverse effect on adjacent property or on public health and safety. The commission shall state upon its records the reasons for which a waiver is granted in each case.

(b) The commission may establish a schedule of fees and charge such fees. The amount of the fees shall be sufficient to cover the costs of processing subdivision applications, including, but not limited to, the cost of registered or certified mailings and the publication of notices, and the costs of inspecting subdivision improvements. Any schedule of fees established under this section shall be superseded by fees established by ordinance under section 8-1c.

(c) The commission may hold a public hearing regarding any subdivision proposal if, in its judgment, the specific circumstances require such action. No plan of resubdivision shall be acted upon by the commission without a public hearing. Such public hearing shall be held in accordance with the provisions of section 8-7d.

(d) The commission shall approve, modify and approve, or disapprove any subdivision or resubdivision application or maps and plans submitted therewith, including existing subdivisions or resubdivisions made in violation of this section, within the period of time permitted under section 8-26d. Notice of the decision of the commission shall be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to any person applying to the commission under this section, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within fifteen days after such decision has been rendered. In any case in which such notice is not published within such fifteen-day period, the person who made such application may provide for the publication of such notice within ten days thereafter. Such notice shall be a simple statement that such application was approved, modified and approved or disapproved, together with the date of such action. The failure of the commission to act thereon shall be considered as an approval, and a certificate to that effect shall be issued by the commission on demand. The grounds for its action shall be stated in the records of the commission. No planning commission shall be required to consider an application for approval of a subdivision plan while another application for subdivision of the same or substantially the same parcel is pending before the commission. For the purposes of this subsection, an application is not "pending before the commission" if the commission has rendered a decision with respect to such application and such decision has been appealed to the Superior Court.

(e) If an application involves land regulated as an inland wetland or watercourse under the provisions of chapter 440, the applicant shall submit an application to the agency responsible for administration of the inland wetlands regulations no later than the day the application is filed for the subdivision or resubdivision. The commission shall, within the period of time established in section 8-7d, accept the filing of and shall process, pursuant to section 8-7d, any subdivision or resubdivision involving land regulated as an inland wetland or watercourse under chapter 440. The

commission shall not render a decision until the inland wetlands agency has submitted a report with its final decision to the commission. In making its decision the commission shall give due consideration to the report of the inland wetlands agency and if the commission establishes terms and conditions for approval that are not consistent with the final decision of the inland wetlands agency, the commission shall state on the record the reason for such terms and conditions. In making a decision on an application, the commission shall consider information submitted by the applicant under subsection (b) of section 8-25 concerning passive solar energy techniques. The provisions of this section shall apply to any municipality which exercises planning power pursuant to any special act.

§ 1-225. (Formerly Sec. 1-21). Meetings of government agencies to be public. Recording of votes. Schedule and agenda of meetings to be filed and posted on web sites. Notice of special meetings. Executive sessions

(a) The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public. The votes of each member of any such public agency upon any issue before such public agency shall be reduced to writing and made available for public inspection within forty-eight hours and shall also be recorded in the minutes of the session at which taken. Not later than seven days after the date of the session to which such minutes refer, such minutes shall be available for public inspection and posted on such public agency's Internet web site, if available, except that no public agency of a political subdivision of the state shall be required to post such minutes on an Internet web site. Each public agency shall make, keep and maintain a record of the proceedings of its meetings.

(b) Each such public agency of the state shall file not later than January 31st of each year in the office of the Secretary of the State the schedule of the regular meetings of such public agency for the ensuing year and shall post such schedule on such public agency's Internet web site, if available, except that such requirements shall not apply to the General Assembly, either house thereof or to any committee thereof. Any other provision of the Freedom of Information Act notwithstanding, the General Assembly at the commencement of each regular session in the odd-numbered years, shall adopt, as part of its joint rules, rules to provide notice to the public of its regular, special, emergency or interim committee meetings. The chairperson or secretary of any such public agency of any political subdivision of the state shall file, not later than January thirty-first of each year, with the clerk of such subdivision the schedule of regular meetings of such public agency for the ensuing year, and no such meeting of any such public agency shall be held sooner than thirty days after such schedule has been filed. The chief executive officer of any multitown district or agency shall file, not later than January thirty-first of each year, with the clerk of each municipal member of such district or agency, the schedule of regular meetings of such public agency for the ensuing year, and no such meeting of any such public agency shall be held sooner than thirty days after such schedule has been filed.

(c) The agenda of the regular meetings of every public agency, except for the General Assembly, shall be available to the public and shall be filed, not less than twenty-four hours before the meetings to which they refer, (1) in such agency's regular office or place of business, and (2) in the office of the Secretary of the State for any such public agency of the state, in the office of the clerk of such subdivision for any public agency of a political subdivision of the state or in the office of the clerk of each municipal member of any multitown district or agency. For any such public agency of the state, such agenda shall be posted on the public agency's and the Secretary of the State's web sites. Upon the affirmative vote of two-thirds of the members of a public agency present and voting, any subsequent business not included in such filed agendas may be considered and acted upon at such meetings.

(d) Notice of each special meeting of every public agency, except for the General Assembly, either house thereof or any committee thereof, shall be posted not less than twenty-four hours before the meeting to which such notice refers on the public agency's Internet web site, if available, and given not less than twenty-four hours prior to the time of such meeting by filing a notice of the time and place thereof in the office of the Secretary of the State for any such public agency of the state, in the office of the clerk of such subdivision for any public agency of a political subdivision of the state and in the office of the clerk of each municipal member for any multitown district or agency. The secretary or clerk shall cause any notice received under this section to be posted in his office. Such notice shall be given not less than twenty-four hours prior to the time of the special meeting; provided, in case of emergency, except for the General Assembly, either house thereof or any committee thereof, any such special meeting may be held without complying with the foregoing requirement for the filing of notice but a copy of the minutes of every such emergency special meeting adequately setting forth the nature of the emergency and the proceedings occurring at such meeting shall be filed with the Secretary of the State, the clerk of such political subdivision, or the clerk of each municipal member of such multitown district or agency, as the case may be, not later than seventy-two hours following the holding of such meeting. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by such public agency. In addition, such written notice shall be delivered to the usual place of abode of each member of the public agency so that the same is received prior to such special meeting. The requirement of delivery of such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the public agency a written waiver of delivery of such notice. Such waiver may be given by telegram. The requirement of delivery of such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Nothing in this section shall be construed to prohibit any agency from adopting more stringent notice requirements.

(e) No member of the public shall be required, as a condition to attendance at a meeting of any such body, to register the member's name, or furnish other information, or complete a questionnaire or otherwise fulfill any condition precedent to the

member's attendance.

(f) A public agency may hold an executive session, as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in section 1-200.

(g) In determining the time within which or by when a notice, agenda, record of votes or minutes of a special meeting or an emergency special meeting are required to be filed under this section, Saturdays, Sundays, legal holidays and any day on which the office of the agency, the Secretary of the State or the clerk of the applicable political subdivision or the clerk of each municipal member of any multitown district or agency, as the case may be, is closed, shall be excluded.

§ 1-228. (Formerly Sec. 1-21d). Adjournment of meetings. Notice

The public agency may adjourn any regular or special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular meeting the clerk or the secretary of such body may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided in section 1-225, for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular or special meeting was held, within twenty-four hours after the time of the adjournment. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings, by ordinance, resolution, by law or other rule.

§ 1-229. (Formerly Sec. 1-21e). Continued hearings. Notice

Any hearing being held, or noticed or ordered to be held, by the public agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of such agency in the same manner and to the same extent set forth in section 1-228, for the adjournment of meeting, provided, that if the hearing is continued to a time less than twenty-four hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted on or near the door of the place where the hearing was held immediately following the meeting at which the order or declaration of continuance was adopted or made.

Public Act 21-2: Sec. 147 et seq. – Amendments to the Freedom of Information Act to Permit Remote Meetings [C.G.S. Sec. 1-200 et seq.] (Effective July 1, 2022)

Sec. 147 [amending CGS Sec. 1-200]

(12) "Electronic equipment" means any technology that facilitates real-time public access to meetings, including, but not limited to, telephonic, video or other conferencing platforms.

(13) "Electronic transmission" means any form or process of communication not directly involving the physical transfer of paper or another tangible medium, which (A) is capable of being retained, retrieved and reproduced by the recipient, and (B) is retrievable in paper form by the recipient.

Sec. 149. [New] (Effective July 1, 2021)

(a) As used in this section, "public agency", "meeting", "executive session", "electronic equipment" and "electronic transmission" have the same meanings as provided in section 1- 200 of the general statutes. On and after the effective date of this section until April 30, 2022, a public agency may hold a public meeting that is accessible to the public by means of electronic equipment or by means of electronic equipment in conjunction with an in-person meeting, in accordance with the provisions of this section. Not less than forty-eight hours before any public agency, except for the General Assembly, conducts a regular meeting by means of electronic equipment, such agency shall provide direct notification in writing or by electronic transmission to each member of the public agency and post a notice that such agency intends to conduct the meeting solely or in part by means of electronic equipment (1) in the agency's regular office or place of business, (2) in the office and on the Internet web site of the Secretary of the State for any such public agency of the state or quasi-public agency, in the office of the clerk of such subdivision for any public agency of a political subdivision of the state that is not a quasi-public agency, or in the office of the clerk of each municipal member of any multitown district or agency, and (3) if the agency has an Internet web site, on such Internet web site. Not less than twenty-four hours prior to any such meeting, such agency shall post the agenda for any such meeting in the same manner as the notice of the meeting in accordance with subdivisions (1) to (3), inclusive, of this subsection. Such notice and agenda shall include instructions for the public, to attend and provide comment or otherwise participate in the meeting, by means of electronic equipment or in person, as applicable and permitted by law. Any such notice and agenda shall be posted in accordance with the provisions of section 1-225 of the general statutes.

(b) Any public agency that conducts a meeting, other than an executive session or special meeting, as described in this section, solely by means of electronic equipment, shall (1) provide any member of the public (A) upon a written request submitted not less than twenty four hours prior to such meeting, with a physical location and any electronic equipment necessary to attend such meeting in real-time, and (B) the same opportunities to provide comment or testimony and otherwise participate in such meeting that such

member of the public would be accorded if such meeting were held in person, except that a public agency is not required to adjourn or postpone a meeting if a member of the public loses the ability to ATTORNEY STEVEN E. BYRNE 2B Farmington Commons, 790 Farmington Ave., Farmington, CT 06032 (860) 677-7355 (860) 677-5262 fax Cfpza-legislation2021-remote meetings-PA 21-2 participate because of an interruption, failure or degradation of such person's connection to the meeting by electronic equipment; (2) ensure that such meeting is recorded or transcribed, excluding any portion of the meeting that is an executive session, and such transcription or recording is posted on the agency's Internet web site and made available to the public to view, listen to and copy in the agency's office or regular place of business not later than seven days after the meeting and for not less than forty-five days thereafter; and (3) if a quorum of the members of a public agency attend a meeting by means of electronic equipment from the same physical location, permit members of the public to attend such meeting in such physical location. Any public agency that conducts a meeting shall provide members of the public agency the opportunity to participate by means of electronic equipment, except that a public agency is not required to adjourn or postpone a meeting if a member loses the ability to participate because of an interruption, failure or degradation of that member's connection by electronic equipment, unless the member's participation is necessary to form a quorum.

(c) Any public agency other than the General Assembly that conducts a special meeting shall include in the notice of such meeting whether the meeting will be conducted solely or in part by means of electronic equipment and, not less than twenty-four hours prior to such meeting, shall post such notice and an agenda of the meeting in accordance with the provisions of subsection (d) of section 1-225 of the general statutes. If such special meeting is to be conducted by means of electronic equipment, such notice and agenda shall include instructions for the public, by means of electronic equipment or in person, to attend and provide comment or otherwise participate in the meeting, as applicable and permitted by law.

(d) Any vote taken at a meeting during which any member participates by means of electronic equipment shall be taken by roll call, unless the vote is unanimous. The minutes of the meeting shall record a list of members that attended such meeting in person and a list of members that attended such meeting by means of electronic equipment.

(e) Any member of a public agency or the public who participates orally in a meeting of a public agency conducted by means of electronic equipment shall make a good faith effort to state such member's name and title, if applicable, at the outset of each occasion that such member participates orally during an uninterrupted dialogue or series of questions and answers.

(f) Whenever a meeting being conducted by means of electronic equipment is interrupted by the failure, disconnection or, in the chairperson's determination, unacceptable degradation of the electronic means of conducting a meeting, or if a member necessary to form a quorum loses the ability to participate because of the interruption, failure or

degradation of such member's connection by electronic equipment, the public agency may, not less than thirty minutes and not more than two hours from the time of the interruption or the chairperson's determination, resume the meeting (1) in person, if a quorum is present in person, or (2) if a quorum is restored by means of electronic equipment, solely or in part by such electronic equipment. In each case of resumption of such meeting, electronic access shall be restored to the public if such capability has been restored. The public agency shall, if practicable, post a notification on its Internet web site and inform attendees by electronic transmission of the expected time of resumption or of the adjournment or postponement of the meeting, as applicable, and may announce at the beginning of any meeting what preplanned procedures are in place for resumption of a meeting in the event of an interruption as described in this subsection.

(g) Nothing in this section shall be construed to require a public agency to offer members of the public who attend a meeting by means of electronic equipment the opportunity for public comment, testimony or other participation if the provision of such opportunity is not required by law for members of the public who attend such a meeting in person

§ 7-159a. Joint public hearing authorized on proposal requiring multiagency approval

Notwithstanding any provision of the general statutes, any special act or any municipal ordinance, the legislative body of any municipality may, by ordinance, establish procedures for the holding of one public hearing on any application for a proposal that requires approval by more than one municipal agency, body, commission or committee.

§ 7-159b. Preapplication review of use of property

Notwithstanding any other provision of the general statutes, prior to the submission of an application for use of property under chapters 124, 126, 440 and 541 or any other provision of the general statutes authorizing an authority, commission, department or agency of a municipality to issue a permit or approval for use of such property, such authority, commission, department or agency or authorized agent thereof may separately, jointly, or in any combination, conduct a preapplication review of a proposed project with the applicant at the applicant's request. Such preapplication review and any results or information obtained from it may not be appealed under any provision of the general statutes, and shall not be binding on the applicant or any authority, commission, department, agency or other official having jurisdiction to review the proposed project.

degradation of such member's connection by electronic equipment, the public agency may, not less than thirty minutes and not more than two hours from the time of the interruption or the chairperson's determination, resume the meeting (1) in person, if a quorum is present in person, or (2) if a quorum is restored by means of electronic equipment, solely or in part by such electronic equipment. In each case of resumption of such meeting, electronic access shall be restored to the public if such capability has been restored. The public agency shall, if practicable, post a notification on its Internet web site and inform attendees by electronic transmission of the expected time of resumption or of the adjournment or postponement of the meeting, as applicable, and may announce at the beginning of any meeting what preplanned procedures are in place for resumption of a meeting in the event of an interruption as described in this subsection.

(g) Nothing in this section shall be construed to require a public agency to offer members of the public who attend a meeting by means of electronic equipment the opportunity for public comment, testimony or other participation if the provision of such opportunity is not required by law for members of the public who attend such a meeting in person

§ 7-159a. Joint public hearing authorized on proposal requiring multiagency approval

Notwithstanding any provision of the general statutes, any special act or any municipal ordinance, the legislative body of any municipality may, by ordinance, establish procedures for the holding of one public hearing on any application for a proposal that requires approval by more than one municipal agency, body, commission or committee.

§ 7-159b. Preapplication review of use of property

Notwithstanding any other provision of the general statutes, prior to the submission of an application for use of property under chapters 124, 126, 440 and 541 or any other provision of the general statutes authorizing an authority, commission, department or agency of a municipality to issue a permit or approval for use of such property, such authority, commission, department or agency or authorized agent thereof may separately, jointly, or in any combination, conduct a preapplication review of a proposed project with the applicant at the applicant's request. Such preapplication review and any results or information obtained from it may not be appealed under any provision of the general statutes, and shall not be binding on the applicant or any authority, commission, department, agency or other official having jurisdiction to review the proposed project.