

# Planning Commission



## Land Use Academy Fact Sheets

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### Legal Basis of Authority

Chapter 126, Section 8-19 of the Connecticut General Statutes (CGS) provides that any municipality may by ordinance create a planning commission.

### Membership

Commissions must consist of five members who are:

1. Electors, and
2. Hold no Salaried Municipal Office.

The Chief Executive Officer, Town Engineer or Commissioner of Public Works shall be Ex-Officio members, without voting privileges

### Terms of Office

Terms of office and method of selection shall be fixed by ordinance, however terms of office shall be so arranged that no more than three (3) members' terms shall expire in any one year.

### Election of Officers, Keeping Records

Commissions must:

1. Elect a chairperson and secretary from its members,
2. Adopt rules for the transaction of business,
3. Keep a public record of its activities and,
4. File an annual report with the local legislative body.

### Alternates, Staff and Consultants

The ordinance establishing the Planning Commission may provide for the appointment or election of alternate members to the Planning Commission. When seated, alternate members shall have all the powers and duties of regular members. Alternates shall be electors of the municipality and shall not be members of Zoning Board of Appeals or the Zoning commission. The ordinance shall also provide for the manner of designating alternates to act.

### Voting

A vote of a majority of a legal quorum of the commission is required for action, unless otherwise stated in the statutes. For example, an ordinance may provide that a waiver of the

subdivision regulations requires a 3/4 vote of all members and contracts and expenditures require a majority vote of the whole membership. A tie vote means an application is denied.

### Powers and Duties

Once established, a Planning Commission has the following powers and duties:

1. *Plan of Conservation and Development:* The commission must prepare, adopt or amend a plan for the municipality, showing the commission's recommendation for the most desirable use of land for residential, recreational, commercial, industrial, conservation and other purposes and for the most desirable density of population in the various parts of the municipality. The plan shall be reviewed at least every ten years and amended as the commission deems necessary. [8-23]

2. *Municipal Improvements:* No municipal agency or legislative body shall (1) locate, accept, abandon, widen, narrow or extend any street, bridge, parkway or other public way, (2) locate, relocate, improve, acquire land for, abandon, sell or lease any airport, park, playground, school or other municipal property or public building, (3) locate or extend any public housing, development, redevelopment or urban renewal project; or (4) locate or extend public utilities for water, sewerage, light, power, transit and other purposes, until the proposal to take these actions has been referred to the commission for a report.

Failure of the commission to report within 35 days after the date of submission of the proposal is deemed an approval of the proposal. If the commission disapproves the proposal it must report its reasons to the legislative body. The report is advisory and can be overridden by a majority of a town meeting or a 2/3 vote by the legislative body. [8-24]

The review and approval of proposed municipal improvements does not apply to the maintenance or repair of existing property, public ways or buildings.

*\*Bracketed numbers reference sections of the Connecticut General Statutes, visit [cga.ct.gov/2009/pub/title8.htm](http://cga.ct.gov/2009/pub/title8.htm)*



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### Powers and Duties con't.

3. *Subdivision Regulation*: The Commission must establish, change or repeal regulations for the subdivision and resubdivision of land. [8-26]

4. *Approve Subdivisions*: To hear, consider and decide upon applications for approval of subdivision or resubdivision of land. [8-26]

5. *Waive Certain Subdivision Regulations*: The commission, upon a 3/4 vote of all members, may waive certain requirements of the subdivision regulations where special conditions exist, but only in accordance with standards and criteria set forth in the subdivision regulations and only if the waiver will not adversely affect adjacent property or public health or safety. [8-26]

6. *Exceptions to Zoning*: To hear, consider and decide upon applications for Special Permits or Special Exceptions to the extent required by the zoning regulations of the municipality. [8-2, 8-26e]

7. *Advise on Zoning*: If the Planning Commission is separate from the Zoning Commission, the Commission may review and report on any proposed zoning regulations or boundaries or any changes to such regulations or boundaries.

The failure of the Planning Commission to report prior to or at a public hearing on the proposed changes shall be taken as approval of the proposal. The report shall contain the findings of the Planning Commission on the consistency of the proposed regulation with the municipality's Plan of Conservation and Development. A proposal disapproved by the Planning Commission may still be adopted by the Zoning Commission by a vote of not less than 2/3 of all Zoning Commission members.

8. *Open Space proposals*: The Commission may approve all applications for Open Space Grants prior to submission to the commissioner of environmental protection. [7-131e(c)]

9. *Oversee Infrastructure changes*: The Commission may prepare and file surveys, maps or plans of proposed highways, streets or sidewalks or the relocation, grade, widening or improvement of existing highways, streets or sidewalks or of any proposed building or veranda lines with the town clerk

and to assess the benefits and damages to any person owning land in such survey, map or plan. [8-29]

### Combined Planning and Zoning Commissions

Since 1959 municipalities have been allowed to establish combined planning and zoning commissions. Under Section 8-4a of the CGS, any municipality may establish a single commission to carry out both planning and zoning. The Planning and Zoning commission may consist of 5, 6, 7, 8, 9 or 10 members, not counting non-voting members. On commissions with 5 or 6 members, the terms of no more than 3 members may expire in any year, on 7 or 8 member boards no more than 4, and on 9 and 10 member boards, no more than 5 may expire in any year.

Upon the establishment of a combined commission, all regulations adopted by the separate planning and zoning commissions that were in effect prior to the establishment of the new combined board shall continue in full force until revised or repealed by the new board.

Vacancies shall be filled as provided in the ordinance establishing the combined commission.

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For more information  
Call: 860-345-4511  
Email: [clear@uconn.edu](mailto:clear@uconn.edu)

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# Zoning Commission



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## Legal Basis of Authority

In Connecticut, any municipality may, by vote of its legislative body, adopt the provisions of Chapter 124, Section 8-1 of the Connecticut General Statutes (CGS) and establish a zoning commission.

Municipalities are not required to establish Zoning Commissions however most have. If the municipality does establish a Zoning Commission, it must also establish a Zoning Board of Appeals.

## Membership

1. The Zoning Commission shall consist of not less than 5 nor more than 9 members.
2. The membership of the commission must comply with state statutes or town charter or ordinances providing for the maximum number of members who may be affiliated with a particular political party.
3. Members of the Commission shall be electors of the municipality.

## Terms of Office

The number of members, the method of their selection and removal and their terms of office shall be determined by ordinance. The town legislative body cannot be designated to act as the Zoning Commission except;

- In towns of less than 5,000, or
- If a legislative body was so acting prior to July 1, 1974 or
- If a legislative body was so acting prior to June 17, 1987 pursuant to a special act.

## Alternates

The ordinance establishing the Zoning Commission shall provide for the appointment or election of alternate members to the Zoning Commission. When seated, alternate members shall have all the powers and duties of regular members. Alternates shall be electors of the municipality and shall not be members of Zoning Board of Appeals or the Planning Commission. The ordinance shall also provide for the manner of designating alternates to act.

## Powers and Duties

Zoning Commissions have the following powers:

1. To establish, change or repeal zoning regulations and zoning districts, including village districts, in accordance with the considerations set forth in C.G.S. Section 8-2. [8-3]
2. To hear, consider and decide upon petitions for changes in the zoning regulations or zoning district boundaries. [8-3]
3. To provide for the manner in which the zoning regulations are to be enforced and to take appropriate actions to enforce them. [8-3 (e), 8-12]
4. To certify, when appropriate, that a building, structure or use is or will be in conformity with the zoning regulation. This function may be delegated to a zoning enforcement officer. [8-3 (f)]
5. To require, when it deems appropriate, that a site plan be filed to aid in determining the conformity of a proposed building, structure or use with the zoning regulation, and to approve, modify or deny such a site plan. This function may be delegated to a zoning enforcement officer. [8-3 (g)]

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## Zoning Commission

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#### Powers and Duties con't.

6. To hear, consider and decide upon applications for special permits or special exceptions in accordance with the zoning regulations. This function may be delegated to a zoning board of appeals or a planning commission. [8-2, 8-3c]

7. To approve or disapprove the construction of any above ground vault, crypt, columbarium or mausoleum for public use in any cemetery containing less than five acres. [Public Act 87-490]

8. To approve or disapprove the location of crematories proposed for plots of land which have not been used for cemeteries for at least five years or which are not established cemeteries containing twenty or more acres. [19a-320]

9. Regulate and restrict proposed location of any steam plant, gas plant, gas tank, water tank, electric substation, antenna, tower or earth station receiver of any public service company not subject to the jurisdiction of the Connecticut Siting Council. [16-235]

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Upon the establishment of a combined commission, all regulations adopted by the separate planning and zoning commissions that were in effect prior to the establishment of the new combined board shall continue in full force until revised or repealed by the new board.

Vacancies shall be filled as provided in the ordinance establishing the combined commission.

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# Zoning Board of Appeals



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### Legal Basis of Authority

Section 8-5 of the Connecticut General Statutes (CGS) requires that any town with a Zoning Commission must have a Zoning Board of Appeals.

### Membership

The Zoning Board of Appeals shall consist of 5 regular members and 3 alternates who are;

1. Must be electors of the town,
2. Must not be members of the Zoning Commission, and
3. May be either elected or appointed

### Terms of Office

The terms of office of board members shall be set forth in the municipal ordinance. In the event of a mid-term vacancy, establishing a town legislative body or the chief executive officer shall fill vacancies on the board for the unexpired portion of the term unless otherwise provided by ordinance or special act.

### Election of Officers, Keeping Records

The board shall:

1. Elect a chairman,
2. Keep minutes of its proceedings, showing the vote of each member, and
3. Keep records of its official actions.

### Voting

The concurring vote of four board members is required to:

1. Reverse any decision of the Zoning Enforcement Officer,
2. Approve any application, or
3. Grant any variance. [8-7]

### Powers and Duties

Zoning Board of Appeals has the following powers:

1. To hear and decide appeals from decisions of the Zoning Enforcement Officer;

2. To grant variances from the application of the zoning regulations. The variance power is limited to extraordinary situations and must:

- Be in harmony with the general purpose and intent of the zoning regulations;
- Consider the public health, safety, convenience, welfare and property values;
- Be used only with parcels having unusual conditions that cause "exceptional difficulty or unusual hardship;" and
- Must not be used if the regulations provide that certain prohibited uses may not be permitted by variance; [8-6]

3. To hear and decide on special permits and special exemptions where that power is conferred on the Zoning Board of Appeals by the zoning regulations;

### Variances

- Applications for variances are the most common matters brought before the Zoning Board of Appeals.
- The Zoning Board of Appeals is the only board that can vary the application of the zoning regulations. The regulations cannot be varied by the Zoning Commission or the Zoning Enforcement Officer.
- The power to grant a variance allows the Zoning Board of Appeals to stand between the public and individual property owners to protect the latter from unnecessary hardship that strict enforcement of the zoning regulations would impose.
- To vary the application of the zoning regulations, a parcel of land must have unusual conditions not generally found in the district, which would make development in accord with the regulations extremely difficult.

*\*Bracketed numbers reference sections of the Connecticut General Statutes, visit [cga.ct.gov/2009/pub/title8.htm](http://cga.ct.gov/2009/pub/title8.htm)*



Land Use Academy

# Zoning Board of Appeals

## Variances con't

- These unusual conditions must create “exceptional difficulty” or “unusual hardship,” however CT courts have found “exceptional difficulty” “too lacking in precision of meaning.” Therefore, the standard commonly used by boards of appeals for granting variances is that of “unusual hardship.”

## About “Unusual Hardship”

Numerous court cases have further defined what does or does not constitute “unusual hardship.” Courts have ruled that:

- the hardship must be unique and different in kind from those generally affecting properties in the same zoning district;
- Economic hardship, such as financial loss, is not a proper basis for granting a variance;
- Where applications of the zoning regulations greatly decrease or practically destroy property value, variances should be granted;
- Variances should only be granted where the general purpose of the zoning plan will not be undermined.
- Variances should be based on the condition of the land not the owner. (In 1993, the CGS was amended to clearly provide that variances run with the land and not the owner or applicant.)

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# Conservation Commission



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### Legal Basis of Authority

The Connecticut General Statutes (CGS) allow municipalities to establish Conservation Commissions, if they so desire, in Chapter 97 Section 7-131a.

Any municipality may establish a Conservation Commission by vote of its legislative body, for the development, conservation, supervision and regulation of natural resources, including water resources, within its territorial limits.

### Membership

The Conservation Commission shall consist of not fewer than 3, nor more than 11 members and not more than 3 alternates. Alternate members, when seated, shall have all the powers and duties of a commission member.

### Appointments and Removal

Members and alternates are appointed by the chief executive officer of the municipality. The chief executive officer may remove any member or alternate only for cause and has the power to fill any vacancy.

### Terms of Office

The legislative body establishing the commission shall designate terms of office.

### Powers and Duties

Conservation Commissions Shall:

1. Conduct research into the utilization and possible utilization of land areas of the municipality;
2. Keep an index of all open areas, publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information on the proper use of such areas;

3. Keep records of its meetings and activities and make an annual report to the municipality in the manner required of other municipal agencies.

Conservation Commissions May:

1. Make recommendations to Zoning Commissions, Planning Commissions, Inland Wetlands Agencies and other municipal agencies on proposed land use changes;
2. Recommend to the Planning Commission (or if none, to the chief executive officer or the legislative body) plans and programs for the development and use of all open areas;
3. Exchange information with the Commissioner of Environmental Protection and said Commissioner may, on request, assign technical personnel to the commission for assistance in planning its overall program and for coordinating state and local conservation activities;
4. Coordinate the activities of unofficial bodies organized for the purpose of conducting land use research;
5. Advertise, prepare and distribute books, maps, charts, plans and pamphlets necessary for its purposes;
6. Propose a greenways plan for inclusion in the Plan of Conservation and Development prepared by the local Planning Commission;
7. Inventory natural resources;
8. Formulate watershed management plans consistent with water supply management plans prepared under Section 25-32d of the General Statutes ( plans prepared by water companies and submitted to the Commissioner of Health Services);

*\*Bracketed numbers reference sections of the Connecticut General Statutes, visit [cga.ct.gov/2009/pub/title7.htm](http://cga.ct.gov/2009/pub/title7.htm)*



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## Conservation Commission

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#### Powers and Duties con't.

Conservation Commissions May:

9. Formulate drought management plans;
10. With the approval of such legislative body, acquire land and easements in the name of the municipality;
11. Promulgate rules and regulations, such as the establishment of reasonable charges for the use of lands and easements for any of its purposes;
12. Receive gifts on behalf of the municipality for any of its purposes and administer the gifts for those purposes, subject to the terms of the gift;
13. Approve, prior to submission, state grant applications for programs to preserve or restrict the use of open space land to conservation or recreation purposes.
14. Apply, if the municipality so designates, for state grants to preserve or restrict to conservation or recreation purposes, the use of open space;
15. Supervise and manage municipally owned open space or park property when the agency normally responsible for such duties delegates that power;

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- *CT Association of Conservation and Inland Wetland Commissions* - provides resources for Inland Wetland and Conservation commissioners. Visit [caciwc.org](http://caciwc.org)
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# Inland Wetlands Commission



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### Legal Basis of Authority

Under Section 22a-42c of the Connecticut General Statutes (CGS) each municipality is required to establish an inland wetlands and watercourses agency (IWWA). The local legislative body may authorize an existing board or establish a new board.

Once established the IWWA must develop regulations that conform to regulations adopted by the state DEP. Local agencies may adopt additional regulations as long as they conform with the Commissioner's regulations.

### CT DEP Role

Unlike zoning and subdivision regulation, the local wetland agency regulates activities pursuant to state regulations developed by the DEP Commissioner. The statutes states that the Commissioner of DEP:

1. Shall promulgate regulations to protect inland wetlands and watercourses;
2. Is empowered to regulate wetlands if a community that fails to do so; and
3. May appeal decisions of a local agency if s/he feels those decisions do not properly protect wetlands.
4. Has exclusive jurisdiction over tidal wetlands and all regulated activities undertaken by any State agency or department.
5. Will provide training for members of local IWWAs

The Commissioner is empowered to issue orders for violations if the municipality fails to do so.

### Membership

The ordinance establishing the IWWA must state the number of members and alternates, the length of their terms, the

method of selection and removal, and the manner of filling vacancies.

At least one member of the IWWA or its staff must complete an Inland Wetland training program developed by DEP and set aside at least one meeting per year to receive information from the training program. However failure to do so does not affect the validity of actions taken by the IWWA.

### Powers and Duties

The following are powers and duties of Inland Wetlands and Watercourses Agencies as set forth in the CGS;

1. To establish, change or repeal inland wetlands regulations and boundaries; [22a-42a(b)]
2. To hear, consider and decide upon petitions for changes in the inland wetlands regulations or boundaries. [22a-42a(b)];
3. To hear, consider and decide upon applications for regulated activities involving inland wetlands and determine if proposed activities are exempt from the regulations. [22a-42a];
4. To enforce inland wetlands regulations and conditions of permits. [22a-42a (d), 22a-44 (a)];
5. May delegate to a duly authorized and trained agent (typically an Inland Wetland Enforcement officer), the authority to approve or extend an activity that is not located in an inland wetland when the agent finds that the activity would have minimal wetland impact;
6. To hear appeals from any decision of its duly authorized agents (see #5 above). The IWWA shall sustain, alter or reject that decision or require that an application be made directly to the agency.

Unlike Zoning Commissions, Inland Wetland Commissions can hear appeals on decisions of their Inland Wetlands Enforcement Officer. There is no separate wetlands appeals board.

*\*Bracketed numbers reference sections of the Connecticut General Statutes, visit [cga.ct.gov/2009/pub/title22a.htm](http://cga.ct.gov/2009/pub/title22a.htm)*



## Land Use Academy

# Inland Wetlands Commission

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### Inland Wetland Key Terms and Concepts

#### Regulated Areas

##### ***Inland Wetlands***

Inland wetlands are land including submerged land, not regulated under the Tidal Wetlands Act which consists of soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the USDA Natural Resources Conservation Service Soil Survey. [22a-38]

##### ***Watercourses***

Watercourses are rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private which are contained within, flow through or border upon this state and are not regulated by the Tidal Wetlands Act. [22a-38]

##### ***Intermittent Watercourses***

Intermittent watercourses have a defined permanent channel and bank and two or more of the following:

- Evidence of scour or recent alluvium or detritus deposits;
- Standing or flowing water of a duration longer than any particular storm or;
- Presence of vegetation that grows in water or very wet soils.

##### ***Buffer/Upland Review Areas***

A local wetland agency regulates activities within areas around wetlands and watercourses such regulations shall:

- Be in accord with the wetlands regulations concerning activities in wetlands and;
- Apply only to activities that are likely to adversely affect the physical characteristics of a wetlands or watercourse.

#### Regulated Activities

Any operation within or use of a wetlands or watercourse involving:

- Removal or deposition of material, or
- Any obstruction,
- Construction,
- Alteration or,
- Pollution of such wetlands or watercourses

This does not include the activities permitted as of right (see below). Hence, not all activities taking place within a wetland area require a permit.

#### ***Activities “Permitted As of Right”***

The following uses are permitted as of right in wetlands and watercourses:

1. Grazing, farming, nurseries, gardening and harvesting of crops;
2. Farm ponds of three acres or less that are essential to the farming operation.
3. Residential homes for which a building permit has been issued on or before July 1, 1987;
4. Boat anchorage or mooring;
5. Uses incidental to the enjoyment and maintenance of residential property including maintenance of existing structures and landscaping, but not including removal or deposition of significant amounts of material from or onto a wetland or diversion or alteration of a watercourse;
6. The operation of dams, reservoirs and similar facilities by water companies;
7. Maintenance on existing drainage pipes on residential property where the area to be disturbed does not contain vegetation growing in water or very wet soils;
8. Conservation of soil, vegetation, water, fish, shellfish and wildlife provided such activities do not disturb the natural and indigenous character of the wetland;
9. Outdoor recreational activities that do not disturb the natural and indigenous character of the wetland.

The courts have ruled that a wetlands agency may require someone claiming to be engaged in an “as of right” activity to appear before the agency and submit such information as it deems necessary to make a determination as to whether the activity is, in fact, exempt.

# Inland Wetlands Commission

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### Factors To Be Considered When Reviewing An Inland Wetlands Application

Section 22a-41(a) of the CGS states the Inland Wetland Commissioner shall take into consideration all relevant facts and circumstances when reviewing applications including, but not limited to:

1. The environmental impact of the proposed action;
2. The purpose for, and any feasible and prudent alternatives to, the proposed action:
  - feasible is defined as able to be constructed consistent with sound engineering principles.
  - prudent is defined as economically and otherwise reasonable in light of the social benefits to be derived from the proposed activity. Cost may be considered, however, a mere showing of expense will not necessarily mean an alternative is imprudent.
3. The relationship between short-term uses and the maintenance and enhancement of long term productivity of such wetland;
4. Irreversible and irretrievable loss of resources which would be involved in the proposed activity;
5. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed activity; and
6. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity

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