**Sec. 7-147. Regulation of obstructions in waterways.** (a) Any town, city or borough may, within its jurisdiction, establish by ordinance lines along any part of any waterway beyond which, in the direction of the waterway, no permanent obstruction or encroachment shall be placed by any private person or any firm or corporation, unless permission is granted in writing by the legislative body of the town, city or borough or by the municipal board, commission, department or inland wetlands agency which the legislative body may authorize by ordinance to administer the provisions of this section. In establishing such lines, the legislative body or such board, commission, department or inland wetlands agency shall base their location on the boundaries of the area which would be inundated by a flood similar in size to one or more recorded floods which have caused extensive damages in such area or on a size of flood computed by accepted methods applicable generally throughout the state or a region thereof. The determination of the size of the flood and the boundaries of the inundated area shall take into consideration the effects of probable future developments. The position of the lines may vary from the boundaries of the inundated area so as to minimize the area of land to be regulated when a portion of the inundated area does not contribute to the flood-carrying capacity of the waterway. The position of the lines shall, insofar as practical, equitably affect riparian properties and interests depending upon existing topography and shall be interdependent throughout the reaches of the waterway, and shall conform with the requirements of the federal government imposed as conditions for the construction of flood control projects. When the existing waterway, because of natural or man-made constrictions, is such that such lines cannot be established by standard engineering methods, a channel may be adopted, whereby the removal of such constrictions may be anticipated so that reasonable lines can be established by methods applicable to the state generally. When the flood boundary falls along the channel banks, the lines shall be placed at the top of the bank.

(b) The legislative body or such board, commission, department or inland wetlands agency may grant or deny permission based on a finding of the effect of the obstruction or encroachment on the flood-carrying and water storage capacity of the waterways and flood plains, flood heights, hazards to life and property, the protection and preservation of the natural resources and ecosystems of the municipality including, but not limited to, ground and surface water, animal, plant and aquatic life, nutrient exchange and energy flow with due consideration given to the results of similar encroachments constructed along the reach of the waterway. Wherever there is a city or borough within a town, the town shall have authority to establish such lines for such of its area as is not within such city or borough, and the city or borough shall have such authority within its boundaries. Any two or more adjoining municipalities shall have authority to investigate jointly the desirability of establishing lines on either or both sides of a waterway within their jurisdiction. Any private person or any firm or corporation aggrieved by any decision of a legislative body or any such board, commission,

department or inland wetlands agency made in accordance with this section may, within thirty days after notice thereof, appeal from such decision in the manner provided by section 8-8 for appeal from the decisions of a municipal zoning board of appeals. Nothing contained in this section shall limit or restrict the Commissioner of Transportation in exercising his authority over the harbors and navigable waters of the state, nor apply to any dam, bridge, pipeline or other similar structure, and appurtenances thereto, extending across any waterway, which are otherwise in compliance with law.

(c) The provisions of this section shall not be construed to limit or alter the authority of the Commissioner of Energy and Environmental Protection over the tidal, coastal and navigable waters of the state and within stream channel encroachment lines established by said commissioner pursuant to section 22a-343.

**Sec. 7-148. Scope of municipal powers.** (a) **Definitions.** Whenever used in this section, "municipality" means any town, city or borough, consolidated town and city or consolidated town and borough.

(b) **Ordinances.** Powers granted to any municipality under the general statutes or by any charter or special act, unless the charter or special act provides to the contrary, shall be exercised by ordinance when the exercise of such powers has the effect of:

(1) Establishing rules or regulations of general municipal application, the violation of which may result in the imposition of a fine or other penalty including community service for not more than twenty hours; or

(2) Creating a permanent local law of general applicability.

(c) **Powers.** Any municipality shall have the power to do any of the following, in addition to all powers granted to municipalities under the Constitution and general statutes:

(1) **Corporate powers.** (A) Contract and be contracted with, sue and be sued, and institute, prosecute, maintain and defend any action or proceeding in any court of competent jurisdiction;

(B) Provide for the authentication, execution and delivery of deeds, contracts, grants, and releases of municipal property and for the issuance of evidences of indebtedness of the municipality;

(2) **Finances and appropriations.** (A) Establish and maintain a budget system;

(B) Assess, levy and collect taxes for general or special purposes on all property, subjects or objects which may be lawfully taxed, and regulate the mode of assessment and collection of taxes and assessments not otherwise provided for, including establishment of a procedure for the withholding of approval of building application when taxes or water or sewer rates, charges or assessments imposed by the municipality are delinquent for the property for which an application was made;

(C) Make appropriations for the support of the municipality and pay its debts;

(D) Make appropriations for the purpose of meeting a public emergency threatening the lives, health or property of citizens, provided such appropriations shall require a favorable vote of at least two-thirds of the entire membership of the legislative body or, when the legislative body is the town meeting, at least two-thirds of those present and voting;

(E) Make appropriations to military organizations, hospitals, health care facilities, public health nursing organizations, nonprofit museums and libraries, organizations providing drug abuse and dependency programs and any other private organization performing a public function;

(F) Provide for the manner in which contracts involving unusual expenditures shall be made;

(G) When not specifically prescribed by general statute or by charter, prescribe the form of proceedings and mode of assessing benefits and appraising damages in taking land for public use, or in making public improvements to be paid for, in whole or in part, by special assessments, and prescribe the manner in which all benefits assessed shall be collected;

(H) Provide for the bonding of municipal officials or employees by requiring the furnishing of such bond, conditioned upon honesty or faithful performance of duty and determine the amount, form, and sufficiency of the sureties thereof;

(I) Regulate the method of borrowing money for any purpose for which taxes may be levied and borrow on the faith and credit of the municipality for such general or special purposes and to such extent as is authorized by general statute;

(J) Provide for the temporary borrowing of money;

(K) Create a sinking fund or funds or a trust fund or funds or other special funds, including funds which do not lapse at the end of the municipal fiscal year;

(L) Provide for the assignment of municipal tax liens on real property to the extent authorized by general statute;

(3) **Property.** (A) Take or acquire by gift, purchase, grant, including any grant from the United States or the state, bequest or devise and hold, condemn, lease, sell, manage, transfer, release and convey such real and personal property or interest therein absolutely or in trust as the purposes of the municipality or any public use or purpose, including that of education, art, ornament, health, charity or amusement, cemeteries, parks or gardens, or the erection or maintenance of statues, monuments, buildings or other structures, require. Any lease of real or personal property or any interest therein, either as lessee or lessor, may be for such term or any extensions thereof and upon such other terms and conditions as have been approved by the municipality, including without limitation the power to bind itself to appropriate funds as necessary to meet rent and other obligations as provided in any such lease;

(B) Provide for the proper administration of gifts, grants, bequests and devises and meet such terms or conditions as are prescribed by the grantor or donor and accepted by the municipality;

(4) **Public services.** (A) Provide for police protection, regulate and prescribe the duties of the persons providing police protection with respect to criminal matters within the limits of the municipality and maintain and regulate a suitable place of detention within the limits of the municipality for the safekeeping of all persons arrested and awaiting trial and do all other things necessary or desirable for the policing of the municipality;

(B) Provide for fire protection, organize, maintain and regulate the persons providing fire protection, provide the necessary apparatus for extinguishing fires and do all other things necessary or desirable for the protection of the municipality from fire;

(C) Provide for entertainment, amusements, concerts, celebrations and cultural activities, including the direct or indirect purchase, ownership and operation of the assets of one or more sports franchises;

(D) Provide for ambulance service by the municipality or any person, firm or corporation;

(E) Provide for the employment of nurses;

(F) Provide for lighting the streets, highways and other public places of the municipality and for the care and preservation of public lamps, lamp posts and fixtures;

(G) Provide for the furnishing of water, by contract or otherwise;

(H) Provide for or regulate the collection and disposal of garbage, trash, rubbish, waste material and ashes by contract or otherwise, including prohibiting the throwing or placing of such materials on the highways;

(I) Provide for the financing, construction, rehabilitation, repair, improvement or subsidization of housing for low and moderate income persons and families;

(5) **Personnel.** (A) Provide for and establish pension systems for the officers and employees of the municipality and for the active members of any volunteer fire department or any volunteer ambulance association of the municipality, and establish a system of qualification for the tenure in office of such officers and employees, provided the rights or benefits granted to any individual under any municipal retirement or pension system shall not be diminished or eliminated;

(B) Establish a merit system or civil service system for the selection and promotion of public officials and employees. Nothing in this subparagraph shall be construed to validate any merit system or civil service system established prior to May 24, 1972;

(C) Provide for the employment of and prescribe the salaries, compensation and hours of employment of all officers and employees of the municipality and the duties of such officers and employees not expressly defined by the Constitution of the state, the general statutes, charter or special act;

(D) Provide for the appointment of a municipal historian;

(6) **Public works, sewers, highways.** (A) **Public facilities.** (i) Establish, lay out, construct, reconstruct, alter, maintain, repair, control and operate cemeteries, public burial grounds, hospitals, clinics, institutions for children and aged, infirm and chronically ill persons, bus terminals and airports and their accessories, docks, wharves, school houses, libraries, parks, playgrounds, playfields, fieldhouses, baths, bathhouses, swimming pools, gymnasiums, comfort stations, recreation places, public beaches, beach facilities, public gardens, markets, garbage and refuse disposal facilities, parking lots and other off-street parking facilities, and any and all buildings or facilities necessary or convenient for carrying on the government of the municipality;

(ii) Create, provide for, construct, regulate and maintain all things in the nature of public works and improvements;

(iii) Enter into or upon any land for the purpose of making necessary surveys or mapping in connection with any public improvement, and take by eminent domain any lands, rights, easements, privileges, franchises or structures which are necessary for the purpose of establishing, constructing or maintaining any public work, or for any municipal purpose, in the manner prescribed by the general statutes;

(iv) Regulate and protect from injury or defacement all public buildings, public monuments, trees and ornaments in public places and other public property in the municipality;

(v) Provide for the planting, rearing and preserving of shade and ornamental trees on the streets and public grounds;

(vi) Provide for improvement of waterfronts by a board, commission or otherwise;

(B) **Sewers, drainage and public utilities.** (i) Lay out, construct, reconstruct, repair, maintain, operate, alter, extend and discontinue sewer and drainage systems and sewage disposal plants;

(ii) Enter into or upon any land for the purpose of correcting the flow of surface water through watercourses which prevent, or may tend to prevent, the free discharge of municipal highway surface water through said courses;

(iii) Regulate the laying, location and maintenance of gas pipes, water pipes, drains, sewers, poles, wires, conduits and other structures in the streets and public places of the municipality;

(iv) Prohibit and regulate the discharge of drains from roofs of buildings over or upon the sidewalks, streets or other public places of the municipality or into sanitary sewers;

(v) Enter into energy-savings performance contracts;

(C) **Highways and sidewalks.** (i) Lay out, construct, reconstruct, alter, maintain, repair, control, operate, and assign numbers to streets, alleys, highways, boulevards, bridges, underpasses, sidewalks, curbs, gutters, public walks and parkways;

(ii) Keep open and safe for public use and travel and free from encroachment or obstruction the streets, sidewalks and public places in the municipality;

(iii) Control the excavation of highways and streets;

(iv) Regulate and prohibit the excavation, altering or opening of sidewalks, public places and grounds for public and private purposes and the location of any work or things thereon, whether temporary or permanent, upon or under the surface thereof;

(v) Require owners or occupants of land adjacent to any sidewalk or public work to remove snow, ice, sleet, debris or any other obstruction therefrom, provide penalties upon their failure to do so, and cause such snow, ice, sleet, debris or other obstruction to be removed and make the cost of such removal a lien on such property;

(vi) Grant to abutting property owners a limited property or leasehold interest in abutting streets and sidewalks for the purpose of encouraging and supporting private commercial development;

(7) **Regulatory and police powers.** (A) **Buildings.** (i) Make rules relating to the maintenance of safe and sanitary housing and prescribe civil penalties for the violation of such rules against an owner of rental property not to exceed two thousand dollars per violation, provided if multiple violations are discovered on the same date, such violations shall be enforced as one violation, and any such owner assessed a civil penalty pursuant to this subparagraph shall have a right of appeal to the legislative body of the municipality, or to the board of selectmen in a municipality where the legislative body is a town meeting, upon the grounds that such violation was proximately caused by a tenant's reckless or wilful act;

(ii) Regulate the mode of using any buildings when such regulations seem expedient for the purpose of promoting the safety, health, morals and general welfare of the inhabitants of the municipality;

(iii) Regulate and prohibit the moving of buildings upon or through the streets or other public places of the municipality, and cause the removal and demolition of unsafe buildings and structures;

(iv) Regulate and provide for the licensing of parked trailers when located off the public highways, and trailer parks or mobile manufactured home parks, except as otherwise provided by special act and except where there exists a local zoning commission so empowered;

(v) Establish lines beyond which no buildings, steps, stoop, veranda, billboard, advertising sign or device or other structure or obstruction may be erected;

(vi) Regulate and prohibit the placing, erecting or keeping of signs, awnings or other things upon or over the sidewalks, streets and other public places of the municipality;

(vii) Regulate plumbing and house drainage;

(viii) Prohibit or regulate the construction of dwellings, apartments, boarding houses, hotels, commercial buildings, youth camps or commercial camps and commercial camping facilities in such municipality unless the sewerage facilities have been approved by the authorized officials of the municipality;

(B) **Traffic.** (i) Regulate and prohibit, in a manner not inconsistent with the general statutes, traffic, the operation of vehicles on streets and highways, off-street parking

and on-street residential neighborhood parking areas in which on-street parking is limited to residents of a given neighborhood, as determined by the municipality;

(ii) Regulate the speed of vehicles, subject to the provisions of the general statutes relating to the regulation of the speed of motor vehicles and of animals, and the driving or leading of animals through the streets;

(iii) Require that conspicuous signage be posted in any area where a motor vehicle may be subject to towing or to the use of a wheel-locking device that renders such motor vehicle immovable, and that such signage indicate where the motor vehicle will be stored, how the vehicle may be redeemed and any costs or fees that may be charged;

(C) **Building adjuncts.** Regulate and prohibit the construction or use, and require the removal of sinks, cesspools, drains, sewers, privies, barns, outhouses and poultry pens and houses;

(D) **Animals.** (i) Regulate and prohibit the going at large of dogs and other animals in the streets and public places of the municipality and prevent cruelty to animals and all inhuman sports, except that no municipality shall adopt breed-specific dog ordinances;

(ii) Regulate and prohibit the keeping of wild or domestic animals, including reptiles, within the municipal limits or portions thereof;

(E) **Nuisance.** Define, prohibit and abate within the municipality all nuisances and causes thereof, and all things detrimental to the health, morals, safety, convenience and welfare of its inhabitants and cause the abatement of any nuisance at the expense of the owner or owners of the premises on which such nuisance exists;

(F) **Loitering and trespassing.** (i) Keep streets, sidewalks and public places free from undue noise and nuisances, and prohibit loitering thereon;

(ii) Regulate loitering on private property with the permission of the owner thereof;

(iii) Prohibit the loitering in the nighttime of minors on the streets, alleys or public places within its limits;

(iv) Prevent trespassing on public and private lands and in buildings in the municipality;

(G) **Vice.** Prevent vice and suppress gambling houses, houses of ill-fame and disorderly houses;

(H) **Public health and safety.** (i) Secure the safety of persons in or passing through the municipality by regulation of shows, processions, parades and music;

(ii) Regulate and prohibit the carrying on within the municipality of any trade, manufacture, business or profession which is, or may be, so carried on as to become prejudicial to public health, conducive to fraud and cheating, or dangerous to, or constituting an unreasonable annoyance to, those living or owning property in the vicinity;

(iii) Regulate auctions and garage and tag sales;

(iv) Prohibit, restrain, license and regulate the business of peddlers, auctioneers and junk dealers in a manner not inconsistent with the general statutes;

(v) Regulate and prohibit swimming or bathing in the public or exposed places within the municipality;

(vi) Regulate and license the operation of amusement parks and amusement arcades including, but not limited to, the regulation of mechanical rides and the establishment of the hours of operation;

(vii) Prohibit, restrain, license and regulate all sports, exhibitions, public amusements and performances and all places where games may be played;

(viii) Preserve the public peace and good order, prevent and quell riots and disorderly assemblages and prevent disturbing noises;

(ix) Establish a system to obtain a more accurate registration of births, marriages and deaths than the system provided by the general statutes in a manner not inconsistent with the general statutes;

(x) Control insect pests or plant diseases in any manner deemed appropriate;

(xi) Provide for the health of the inhabitants of the municipality and do all things necessary or desirable to secure and promote the public health;

(xii) Regulate the use of streets, sidewalks, highways, public places and grounds for public and private purposes;

(xiii) Make and enforce police, sanitary or other similar regulations and protect or promote the peace, safety, good government and welfare of the municipality and its inhabitants;

(xiv) Regulate, in addition to the requirements under section 7-282b, the installation, maintenance and operation of any device or equipment in a residence or place of business which is capable of automatically calling and relaying recorded emergency messages to any state police or municipal police or fire department telephone number or which is capable of automatically calling and relaying recorded emergency messages or other forms of emergency signals to an intermediate third party which shall thereafter call and relay such emergency messages to a state police or municipal police or fire department telephone number. Such regulations may provide for penalties for the transmittal of false alarms by such devices or equipment;

(xv) Make and enforce regulations for the prevention and remediation of housing blight or blight upon any commercial real property, including regulations reducing assessments and authorizing designated agents of the municipality to enter property during reasonable hours for the purpose of remediating blighted conditions, provided such regulations define blight and require such municipality to give written notice of any violation to the owner of the property and provide a reasonable opportunity for the owner to remediate the blighted conditions prior to any enforcement action being taken, except that a municipality may take immediate enforcement action in the case of a violation at a property that is the third or more such blight violation at such property during the prior twelve-month period, and further provided such regulations shall not authorize such municipality or its designated agents to enter any dwelling house or structure on such property, and including regulations establishing a duty to maintain property and specifying standards to determine if there is neglect; prescribe civil penalties for the violation of such regulations (I) for housing blight upon real property containing six or fewer dwelling units, of not more than one hundred fifty dollars for each day that a violation continues if such violation occurs at an occupied property, not more than two hundred fifty dollars for each day that a violation continues if such violation occurs at a vacant property, and not more than one thousand dollars for each day that a violation continues at a property if such violation is the third or more such violation at such property during the prior twelve-month period, (II) for housing blight upon real property containing more than six but fewer than forty dwelling units, not more than ten cents per square foot of each residential building upon such real property for each day that a violation continues, (III) for housing blight upon real property containing forty or more dwelling units, not more than twelve cents per square foot of each residential building upon such real property for each day that a violation continues, and (IV) for blight upon any commercial real property, not more than ten cents per square foot of any commercial building upon such real property for each day that a violation continues. If any such civil penalties are prescribed, such municipality shall adopt a citation hearing procedure in accordance with section 7-152c. For the sole purpose of determining if a violation is the third or more such violation at such property during the prior twelve-month period, “violation” means a violation of any municipal

blight regulation for which the municipality has issued a notice of violation and either, in the determination of such municipality, the conditions creating such violation were previously cured or one hundred twenty days have passed from the notice of violation and the conditions creating such violation have not been cured. A third violation may also be established where three or more conditions constituting such violation exist at a property simultaneously;

(xvi) Regulate, on any property owned by or under the control of the municipality, any activity deemed to be deleterious to public health, including the burning of a lighted cigarette, cigar, pipe or similar device, whether containing, wholly or in part, tobacco or cannabis, as defined in section 21a-420, and the use or consumption of cannabis, including, but not limited to, electronic cannabis delivery systems, as defined in section 19a-342a, or vapor products, as defined in said section, containing cannabis. If the municipality's population is greater than fifty thousand, such regulations shall designate a place in the municipality in which public consumption of cannabis is permitted. Such regulations may prohibit the smoking of cannabis and the use of electronic cannabis delivery systems and vapor products containing cannabis in the outdoor sections of a restaurant. Such regulations may prescribe penalties for the violation of such regulations, provided such fine does not exceed fifty dollars for a violation of such regulations regarding consumption by an individual or a fine in excess of one thousand dollars to any business for a violation of such regulations;

(8) **The environment.** (A) Provide for the protection and improvement of the environment including, but not limited to, coastal areas, wetlands and areas adjacent to waterways in a manner not inconsistent with the general statutes;

(B) Regulate the location and removal of any offensive manure or other substance or dead animals through the streets of the municipality and provide for the disposal of same;

(C) Except where there exists a local zoning commission, regulate the filling of, or removal of, soil, loam, sand or gravel from land not in public use in the whole, or in specified districts of, the municipality, and provide for the reestablishment of ground level and protection of the area by suitable cover;

(D) Regulate the emission of smoke from any chimney, smokestack or other source within the limits of the municipality, and provide for proper heating of buildings within the municipality;

(9) **Human rights.** (A) Provide for fair housing;

(B) Adopt a code of prohibited discriminatory practices;

(10) **Miscellaneous.** (A) Make all lawful regulations and ordinances in furtherance of any general powers as enumerated in this section, and prescribe penalties for the violation of the same not to exceed two hundred fifty dollars, unless otherwise specifically provided by the general statutes. Such regulations and ordinances may be enforced by citations issued by designated municipal officers or employees, provided the regulations and ordinances have been designated specifically by the municipality for enforcement by citation in the same manner in which they were adopted and the designated municipal officers or employees issue a written warning providing notice of the specific violation before issuing the citation, except that no such written warning shall be required for violations of a municipal ordinance regulating the operation or use of a dirt bike, all-terrain vehicle or mini-motorcycle;

(B) Adopt a code of ethical conduct;

(C) Establish and maintain free legal aid bureaus;

(D) Perform data processing and related administrative computer services for a fee for another municipality;

(E) Adopt the model ordinance concerning a municipal freedom of information advisory board created under subsection (f) of section 1-205 and establish a municipal freedom of information advisory board as provided by said ordinance and said section;

(F) Protect the historic or architectural character of properties or districts that are listed on, or under consideration for listing on, the National Register of Historic Places, 16a USC 470, or the state register of historic places, as defined in section 10-410.

**Sec. 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) (1) The zoning commission shall provide for the manner in which the zoning regulations shall be enforced, except that any person newly appointed as a zoning enforcement officer on or after January 1, 2024, shall be certified in accordance with the provisions of subdivision (2) of this subsection.

(2) Beginning January 1, 2024, and annually thereafter, each person newly appointed as a zoning enforcement officer shall obtain, as soon as practicable after such

appointment, certification from the Connecticut Association of Zoning Enforcement Officials and maintain such certification for the duration of such person's employment as a zoning enforcement officer.

(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) (1) 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 July 12, 2021, except an approval made under subsection (j) of this section, shall expire not less than fourteen 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 nineteen years from the date the site plan was approved.

(2) Notwithstanding the provisions of this section, any site plan approval made under this section on or after July 1, 2011, but prior to June 10, 2021, that did not expire prior to March 10, 2020, except an approval made under subsection (j) of this section, shall expire not less than fourteen 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 nineteen years from the date the site plan was approved.

**Sec. 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.

**Sec. 8-13m. Definitions.** As used in this section and sections 8-13n to 8-13x, inclusive:

(1) "Approved incentive housing zone" means an overlay zone that has been adopted by a zoning commission and for which a letter of final eligibility has been issued by the commissioner under section 8-13q.

(2) "Building permit payment" means the one-time payment, made pursuant to section 8-13s, for each qualified housing unit located within an incentive housing development for which a building permit has been issued by the municipality.

(3) "Developable land" means the area within the boundaries of an approved incentive housing zone that feasibly can be developed into residential or mixed uses consistent with the provisions of this section and sections 8-13n to 8-13x, inclusive, not including: (A) Land already committed to a public use or purpose, whether publicly or privately owned; (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement; (C) land otherwise subject to an enforceable restriction on or prohibition of development; (D) wetlands or watercourses as defined in chapter 440; and (E) areas exceeding one-half or more acres of contiguous land that are unsuitable for development due to topographic features, such as steep slopes.

(4) "Duplex" means a residential building containing two units.

(5) "Eligible location" means: (A) An area near a transit station, including rapid transit, commuter rail, bus terminal, or ferry terminal; (B) an area of concentrated development such as a commercial center, existing residential or commercial district, or village district established pursuant to section 8-2j; or (C) an area that, because of existing, planned or proposed infrastructure, transportation access or underutilized facilities or location, is suitable for development as an incentive housing zone.

(6) "Historic district" means an historic district established pursuant to chapter 97a.

(7) "Incentive housing development" means a residential or mixed-use development (A) that is proposed or located within an approved incentive housing zone; (B) that is eligible for financial incentive payments set forth in this section and sections 8-13n to 8-13x, inclusive; and (C) in which not less than twenty per cent of the dwelling units will be conveyed subject to an incentive housing restriction requiring that, for at least thirty years after the initial occupancy of the development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for

which persons pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent or less of the median income.

(8) "Incentive housing restriction" means a deed restriction, covenant, zoning regulation, site plan approval condition, subdivision approval condition, or affordability plan constituting an obligation with respect to the restrictions on household income, sale or resale price, rent and housing costs required by this section and sections 8-13n to 8-13x, inclusive, enforceable for thirty years as required by said sections, and recorded on the land records of the municipality where the housing is located.

(9) "Incentive housing zone" means a zone adopted by a zoning commission pursuant to this section and sections 8-13n to 8-13x, inclusive, as an overlay to one or more existing zones, in an eligible location.

(10) "Incentive housing zone certificate of compliance" means a written certificate issued by the commissioner in accordance with this section and sections 8-13n to 8-13x, inclusive.

(11) "Letter of eligibility" means a preliminary or final letter issued to a municipality by the commissioner pursuant to section 8-13q.

(12) "Median income" means, after adjustments for household size, the lesser of the state median income or the area median income as determined by the United States Department of Housing and Urban Development for the municipality in which an approved incentive housing zone or development is located.

(13) "Mixed-use development" means a development containing one or more multifamily or single-family dwelling units and one or more commercial, public, institutional, retail, office or industrial uses.

(14) "Multifamily housing" means a building that contains or will contain three or more residential dwelling units.

(15) "Open space" means land or a permanent interest in land that is used for or satisfies one or more of the criteria listed in subsection (b) of section 7-131d.

(16) "Commissioner" means the Commissioner of Housing or the designee of the commissioner.

(17) "Townhouse housing" means a residential building consisting of a single-family dwelling unit constructed in a group of three or more attached units, in which each unit extends from foundation to roof and has open space on at least two sides.

(18) "Zone adoption payment" means a one-time payment, made pursuant to section 8-13s.

(19) "Zoning commission" means a municipal agency designated or authorized to exercise zoning powers under chapter 124 or a special act, and includes an agency that exercises both planning and zoning authority.

**Sec. 8-13m. Definitions.** As used in this section and sections 8-13n to 8-13x, inclusive:

(1) "Approved incentive housing zone" means an overlay zone that has been adopted by a zoning commission and for which a letter of final eligibility has been issued by the commissioner under section 8-13q.

(2) "Building permit payment" means the one-time payment, made pursuant to section 8-13s, for each qualified housing unit located within an incentive housing development for which a building permit has been issued by the municipality.

(3) "Developable land" means the area within the boundaries of an approved incentive housing zone that feasibly can be developed into residential or mixed uses consistent with the provisions of this section and sections 8-13n to 8-13x, inclusive, not including: (A) Land already committed to a public use or purpose, whether publicly or privately owned; (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement; (C) land otherwise subject to an enforceable restriction on or prohibition of development; (D) wetlands or watercourses as defined in chapter 440; and (E) areas exceeding one-half or more acres of contiguous land that are unsuitable for development due to topographic features, such as steep slopes.

(4) "Duplex" means a residential building containing two units.

(5) "Eligible location" means: (A) An area near a transit station, including rapid transit, commuter rail, bus terminal, or ferry terminal; (B) an area of concentrated development such as a commercial center, existing residential or commercial district, or village district established pursuant to section 8-2j; or (C) an area that, because of existing, planned or proposed infrastructure, transportation access or underutilized facilities or location, is suitable for development as an incentive housing zone.

(6) "Historic district" means an historic district established pursuant to chapter 97a.

(7) "Incentive housing development" means a residential or mixed-use development (A) that is proposed or located within an approved incentive housing zone; (B) that is eligible for financial incentive payments set forth in this section and sections 8-

13n to 8-13x, inclusive; and (C) in which not less than twenty per cent of the dwelling units will be conveyed subject to an incentive housing restriction requiring that, for at least thirty years after the initial occupancy of the development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent or less of the median income.

(8) "Incentive housing restriction" means a deed restriction, covenant, zoning regulation, site plan approval condition, subdivision approval condition, or affordability plan constituting an obligation with respect to the restrictions on household income, sale or resale price, rent and housing costs required by this section and sections 8-13n to 8-13x, inclusive, enforceable for thirty years as required by said sections, and recorded on the land records of the municipality where the housing is located.

(9) "Incentive housing zone" means a zone adopted by a zoning commission pursuant to this section and sections 8-13n to 8-13x, inclusive, as an overlay to one or more existing zones, in an eligible location.

(10) "Incentive housing zone certificate of compliance" means a written certificate issued by the commissioner in accordance with this section and sections 8-13n to 8-13x, inclusive.

(11) "Letter of eligibility" means a preliminary or final letter issued to a municipality by the commissioner pursuant to section 8-13q.

(12) "Median income" means, after adjustments for household size, the lesser of the state median income or the area median income as determined by the United States Department of Housing and Urban Development for the municipality in which an approved incentive housing zone or development is located.

(13) "Mixed-use development" means a development containing one or more multifamily or single-family dwelling units and one or more commercial, public, institutional, retail, office or industrial uses.

(14) "Multifamily housing" means a building that contains or will contain three or more residential dwelling units.

(15) "Open space" means land or a permanent interest in land that is used for or satisfies one or more of the criteria listed in subsection (b) of section 7-131d.

(16) "Commissioner" means the Commissioner of Housing or the designee of the commissioner.

(17) “Townhouse housing” means a residential building consisting of a single-family dwelling unit constructed in a group of three or more attached units, in which each unit extends from foundation to roof and has open space on at least two sides.

(18) “Zone adoption payment” means a one-time payment, made pursuant to section 8-13s.

(19) “Zoning commission” means a municipal agency designated or authorized to exercise zoning powers under chapter 124 or a special act, and includes an agency that exercises both planning and zoning authority.

**Sec. 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.

**Sec. 8-26. Approval of subdivision and resubdivision plans. Waiver of certain regulation requirements. Fees. Hearing. Notice. 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.

**Sec. 8-30g. Affordable housing land use appeals procedure. Definitions. Affordability plan; regulations. Conceptual site plan. Maximum monthly housing cost. Percentage-of-income requirement. Appeals. Modification of application. Commission powers and remedies. Exempt municipalities. Moratorium. Model deed restrictions.** (a) As used in this section and section 8-30j:

(1) "Affordable housing development" means a proposed housing development which is (A) assisted housing, or (B) a set-aside development;

(2) "Affordable housing application" means any application made to a commission in connection with an affordable housing development by a person who proposes to develop such affordable housing;

(3) "Assisted housing" means housing which is receiving, or will receive, financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing, and any housing occupied by persons receiving rental assistance under chapter 319uu or Section 1437f of Title 42 of the United States Code;

(4) "Commission" means a zoning commission, planning commission, planning and zoning commission, zoning board of appeals or municipal agency exercising zoning or planning authority;

(5) "Municipality" means any town, city or borough, whether consolidated or unconsolidated;

(6) "Set-aside development" means a development in which not less than thirty per cent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent of the median income. In a set-aside development, of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than fifteen per cent of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to sixty per cent of the median income and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons and families whose income is less than or equal to eighty per cent of the median income;

(7) "Median income" means, after adjustments for family size, the lesser of the state median income or the area median income for the area in which the municipality

containing the affordable housing development is located, as determined by the United States Department of Housing and Urban Development; and

(8) “Commissioner” means the Commissioner of Housing.

(b) (1) Any person filing an affordable housing application with a commission shall submit, as part of the application, an affordability plan which shall include at least the following: (A) Designation of the person, entity or agency that will be responsible for the duration of any affordability restrictions, for the administration of the affordability plan and its compliance with the income limits and sale price or rental restrictions of this chapter; (B) an affirmative fair housing marketing plan governing the sale or rental of all dwelling units; (C) a sample calculation of the maximum sales prices or rents of the intended affordable dwelling units; (D) a description of the projected sequence in which, within a set-aside development, the affordable dwelling units will be built and offered for occupancy and the general location of such units within the proposed development; and (E) draft zoning regulations, conditions of approvals, deeds, restrictive covenants or lease provisions that will govern the affordable dwelling units.

(2) The commissioner shall, within available appropriations, adopt regulations pursuant to chapter 54 regarding the affordability plan. Such regulations may include additional criteria for preparing an affordability plan and shall include: (A) A formula for determining rent levels and sale prices, including establishing maximum allowable down payments to be used in the calculation of maximum allowable sales prices; (B) a clarification of the costs that are to be included when calculating maximum allowed rents and sale prices; (C) a clarification as to how family size and bedroom counts are to be equated in establishing maximum rental and sale prices for the affordable units; and (D) a listing of the considerations to be included in the computation of income under this section.

(c) Any commission, by regulation, may require that an affordable housing application seeking a change of zone include the submission of a conceptual site plan describing the proposed development's total number of residential units and their arrangement on the property and the proposed development's roads and traffic circulation, sewage disposal and water supply.

(d) For any affordable dwelling unit that is rented as part of a set-aside development, if the maximum monthly housing cost, as calculated in accordance with subdivision (6) of subsection (a) of this section, would exceed one hundred per cent of the Section 8 fair market rent as determined by the United States Department of Housing and Urban Development, in the case of units set aside for persons and families whose income is less than or equal to sixty per cent of the median income, then such maximum monthly housing cost shall not exceed one hundred per cent of said Section 8 fair market rent. If

the maximum monthly housing cost, as calculated in accordance with subdivision (6) of subsection (a) of this section, would exceed one hundred twenty per cent of the Section 8 fair market rent, as determined by the United States Department of Housing and Urban Development, in the case of units set aside for persons and families whose income is less than or equal to eighty per cent of the median income, then such maximum monthly housing cost shall not exceed one hundred twenty per cent of such Section 8 fair market rent.

(e) For any affordable dwelling unit that is rented in order to comply with the requirements of a set-aside development, no person shall impose on a prospective tenant who is receiving governmental rental assistance a maximum percentage-of-income-for-housing requirement that is more restrictive than the requirement, if any, imposed by such governmental assistance program.

(f) Except as provided in subsections (k) and (l) of this section, any person whose affordable housing application is denied, or is approved with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units in a set-aside development, may appeal such decision pursuant to the procedures of this section. Such appeal shall be filed within the time period for filing appeals as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, and shall be made returnable to the superior court for the judicial district where the real property which is the subject of the application is located. Affordable housing appeals, including pretrial motions, shall be heard by a judge assigned by the Chief Court Administrator to hear such appeals. To the extent practicable, efforts shall be made to assign such cases to a small number of judges, sitting in geographically diverse parts of the state, so that a consistent body of expertise can be developed. Unless otherwise ordered by the Chief Court Administrator, such appeals, including pretrial motions, shall be heard by such assigned judges in the judicial district in which such judge is sitting. Appeals taken pursuant to this subsection shall be privileged cases to be heard by the court as soon after the return day as is practicable. Except as otherwise provided in this section, appeals involving an affordable housing application shall proceed in conformance with the provisions of section 8-8, 8-9, 8-28 or 8-30a, as applicable.

(g) Upon an appeal taken under subsection (f) of this section, the burden shall be on the commission to prove, based upon the evidence in the record compiled before such commission, that the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record. The commission shall also have the burden to prove, based upon the evidence in the record compiled before such commission, that (1) (A) the decision is necessary to protect substantial public interests in health, safety or other matters which the commission may legally consider; (B) such public interests clearly outweigh the need for affordable housing; and (C) such

public interests cannot be protected by reasonable changes to the affordable housing development, or (2) (A) the application which was the subject of the decision from which such appeal was taken would locate affordable housing in an area which is zoned for industrial use and which does not permit residential uses; and (B) the development is not assisted housing. If the commission does not satisfy its burden of proof under this subsection, the court shall wholly or partly revise, modify, remand or reverse the decision from which the appeal was taken in a manner consistent with the evidence in the record before it.

(h) Following a decision by a commission to reject an affordable housing application or to approve an application with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units, the applicant may, within the period for filing an appeal of such decision, submit to the commission a proposed modification of its proposal responding to some or all of the objections or restrictions articulated by the commission, which shall be treated as an amendment to the original proposal. The day of receipt of such a modification shall be determined in the same manner as the day of receipt is determined for an original application. The filing of such a proposed modification shall stay the period for filing an appeal from the decision of the commission on the original application. The commission shall hold a public hearing on the proposed modification if it held a public hearing on the original application and may hold a public hearing on the proposed modification if it did not hold a public hearing on the original application. The commission shall render a decision on the proposed modification not later than sixty-five days after the receipt of such proposed modification, provided, if, in connection with a modification submitted under this subsection, the applicant applies for a permit for an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by the commission on such modification under this subsection would lapse prior to the thirty-fifth day after a decision by an inland wetlands and watercourses agency, the time period for decision by the commission on the modification under this subsection shall be extended to thirty-five days after the decision of such agency. The commission shall issue notice of its decision as provided by law. Failure of the commission to render a decision within said sixty-five days or subsequent extension period permitted by this subsection shall constitute a rejection of the proposed modification. Within the time period for filing an appeal on the proposed modification as set forth in section 8-8, 8-9, 8-28 or 8-30a, as applicable, the applicant may appeal the commission's decision on the original application and the proposed modification in the manner set forth in this section. Nothing in this subsection shall be construed to limit the right of an applicant to appeal the original decision of the commission in the manner set forth in this section without submitting a proposed modification or to limit the issues which may be raised in any appeal under this section.

(i) Nothing in this section shall be deemed to preclude any right of appeal under the provisions of section 8-8, 8-9, 8-28 or 8-30a.

(j) A commission or its designated authority shall have, with respect to compliance of an affordable housing development with the provisions of this chapter, the same powers and remedies provided to commissions by section 8-12.

(k) The affordable housing appeals procedure established under this section shall not be available if the real property which is the subject of the application is located in a municipality in which at least ten per cent of all dwelling units in the municipality are (1) assisted housing, (2) currently financed by Connecticut Housing Finance Authority mortgages, (3) subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income, (4) mobile manufactured homes located in mobile manufactured home parks or legally approved accessory apartments, which homes or apartments are subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which, for a period of not less than ten years, persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income, or (5) mobile manufactured homes located in resident-owned mobile manufactured home parks. For the purposes of calculating the total number of dwelling units in a municipality, accessory apartments built or permitted after January 1, 2022, but that are not described in subdivision (4) of this subsection, shall not be counted toward such total number. The municipalities meeting the criteria set forth in this subsection shall be listed in the report submitted under section 8-37qqq. As used in this subsection, "accessory apartment" has the same meaning as provided in section 8-1a, and "resident-owned mobile manufactured home park" means a mobile manufactured home park consisting of mobile manufactured homes located on land that is deed restricted, and, at the time of issuance of a loan for the purchase of such land, such loan required seventy-five per cent of the units to be leased to persons with incomes equal to or less than eighty per cent of the median income, and either (A) forty per cent of said seventy-five per cent to be leased to persons with incomes equal to or less than sixty per cent of the median income, or (B) twenty per cent of said seventy-five per cent to be leased to persons with incomes equal to or less than fifty per cent of the median income.

(l) (1) Except as provided in subdivision (2) of this subsection, the affordable housing appeals procedure established under this section shall not be applicable to an affordable housing application filed with a commission during a moratorium, which shall commence after (A) a certification of affordable housing project completion issued by

the commissioner is published in the Connecticut Law Journal, or (B) notice of a provisional approval is published pursuant to subdivision (4) of this subsection. Any such moratorium shall be for a period of four years, except that for any municipality that has (i) twenty thousand or more dwelling units, as reported in the most recent United States decennial census, and (ii) previously qualified for a moratorium in accordance with this section, any subsequent moratorium shall be for a period of five years. Any moratorium that is in effect on October 1, 2002, is extended by one year.

(2) Such moratorium shall not apply to (A) affordable housing applications for assisted housing in which ninety-five per cent of the dwelling units are restricted to persons and families whose income is less than or equal to sixty per cent of the median income, (B) other affordable housing applications for assisted housing containing forty or fewer dwelling units, or (C) affordable housing applications which were filed with a commission pursuant to this section prior to the date upon which the moratorium takes effect.

(3) Eligible units completed before a moratorium has begun, but that were not counted toward establishing eligibility for such moratorium, may be counted toward establishing eligibility for a subsequent moratorium. Eligible units completed after a moratorium has begun may be counted toward establishing eligibility for a subsequent moratorium.

(4) (A) The commissioner shall issue a certificate of affordable housing project completion for the purposes of this subsection upon finding that there has been completed within the municipality one or more affordable housing developments which create housing unit-equivalent points equal to (i) the greater of two per cent of all dwelling units in the municipality, as reported in the most recent United States decennial census, or seventy-five housing unit-equivalent points, or (ii) for any municipality that has (I) adopted an affordable housing plan in accordance with section 8-30j, (II) twenty thousand or more dwelling units, as reported in the most recent United States decennial census, and (III) previously qualified for a moratorium in accordance with this section, one and one-half per cent of all dwelling units in the municipality, as reported in the most recent United States decennial census.

(B) A municipality may apply for a certificate of affordable housing project completion pursuant to this subsection by applying in writing to the commissioner, and including documentation showing that the municipality has accumulated the required number of points within the applicable time period. Such documentation shall include the location of each dwelling unit being counted, the number of points each dwelling unit has been assigned, and the reason, pursuant to this subsection, for assigning such points to such dwelling unit. Upon receipt of such application, the commissioner shall promptly cause a notice of the filing of the application to be published in the

Connecticut Law Journal, stating that public comment on such application shall be accepted by the commissioner for a period of thirty days after the publication of such notice. Not later than ninety days after the receipt of such application, the commissioner shall either approve or reject such application. Such approval or rejection shall be accompanied by a written statement of the reasons for approval or rejection, pursuant to the provisions of this subsection. If the application is approved, the commissioner shall promptly cause a certificate of affordable housing project completion to be published in the Connecticut Law Journal. If the commissioner fails to either approve or reject the application within such ninety-day period, such application shall be deemed provisionally approved, and the municipality may cause notice of such provisional approval to be published in a conspicuous manner in a daily newspaper having general circulation in the municipality, in which case, such moratorium shall take effect upon such publication. The municipality shall send a copy of such notice to the commissioner. Such provisional approval shall remain in effect unless the commissioner subsequently acts upon and rejects the application, in which case the moratorium shall terminate upon notice to the municipality by the commissioner.

(5) For the purposes of this subsection, "elderly units" are dwelling units whose occupancy is restricted by age, "family units" are dwelling units whose occupancy is not restricted by age, and "resident-owned mobile manufactured home park" has the same meaning as provided in subsection (k) of this section.

(6) For the purposes of this subsection, housing unit-equivalent points shall be determined by the commissioner as follows: (A) No points shall be awarded for a unit unless its occupancy is restricted to persons and families whose income is equal to or less than eighty per cent of the median income, except that (i) unrestricted units in a set-aside development shall be awarded one-quarter point each; and (ii) dwelling units in middle housing developed as of right pursuant to section 8-2s shall be awarded one-quarter point each. (B) Family units restricted to persons and families whose income is equal to or less than eighty per cent of the median income shall be awarded one point if an ownership unit and one and one-half points if a rental unit. (C) Family units restricted to persons and families whose income is equal to or less than sixty per cent of the median income shall be awarded one and one-half points if an ownership unit and two points if a rental unit. (D) Family units restricted to persons and families whose income is equal to or less than forty per cent of the median income shall be awarded two points if an ownership unit and two and one-half points if a rental unit. (E) Elderly units restricted to persons and families whose income is equal to or less than eighty per cent of the median income shall be awarded one-half point. (F) A set-aside development containing family units which are rental units shall be awarded additional points equal to twenty-two per cent of the total points awarded to such development, provided the application for such development was filed with the commission prior to July 6, 1995. (G) A mobile manufactured home in a resident-owned mobile manufactured home park

shall be awarded points as follows: One and one-half points when occupied by persons and families with an income equal to or less than eighty per cent of the median income; two points when occupied by persons and families with an income equal to or less than sixty per cent of the median income; and one-fourth point for the remaining units.

(7) Points shall be awarded only for dwelling units which (A) were newly-constructed units in an affordable housing development, as that term was defined at the time of the affordable housing application, for which a certificate of occupancy was issued after July 1, 1990, (B) were newly subjected after July 1, 1990, to deeds containing covenants or restrictions which require that, for at least the duration required by subsection (a) of this section for set-aside developments on the date when such covenants or restrictions took effect, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as affordable housing for persons or families whose income does not exceed eighty per cent of the median income, or (C) are located in a resident-owned mobile manufactured home park.

(8) Points shall be subtracted, applying the formula in subdivision (6) of this subsection, for any affordable dwelling unit which, on or after July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit.

(9) A newly-constructed unit shall be counted toward a moratorium when it receives a certificate of occupancy. A newly-restricted unit shall be counted toward a moratorium when its deed restriction takes effect.

(10) The affordable housing appeals procedure shall be applicable to affordable housing applications filed with a commission after a three-year moratorium expires, except (A) as otherwise provided in subsection (k) of this section, or (B) when sufficient unit-equivalent points have been created within the municipality during one moratorium to qualify for a subsequent moratorium.

(11) The commissioner shall, within available appropriations, adopt regulations in accordance with chapter 54 to carry out the purposes of this subsection. Such regulations shall specify the procedure to be followed by a municipality to obtain a moratorium, and shall include the manner in which a municipality is to document the units to be counted toward a moratorium. A municipality may apply for a moratorium in accordance with the provisions of this subsection prior to, as well as after, such regulations are adopted.

(m) The commissioner shall, pursuant to regulations adopted in accordance with the provisions of chapter 54, promulgate model deed restrictions which satisfy the requirements of this section. A municipality may waive any fee which would otherwise

be required for the filing of any long-term affordability deed restriction on the land records.

**Sec. 22a-36. Inland wetlands and watercourses. Legislative finding.** The inland wetlands and watercourses of the state of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of sections 22a-36 to 22a-45, inclusive, to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

**ec. 22a-38. Definitions.** As used in sections 22a-36 to 22a-45a, inclusive:

(1) “Commissioner” means the Commissioner of Energy and Environmental Protection;

(2) “Person” means any person, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof;

(3) “Municipality” means any town, consolidated town and city, consolidated town and borough, city and borough;

(4) “Inland wetlands agency” means a municipal board or commission established pursuant to and acting under section 22a-42;

(5) “Soil scientist” means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management;

(6) “Material” means any substance, solid or liquid, organic or inorganic, including, but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste;

(7) “Waste” means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the state;

(8) “Pollution” means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters;

(9) “Rendering unclean or impure” means any alteration of the physical, chemical or biological properties of any of the waters of the state, including, but not limited to change in odor, color, turbidity or taste;

(10) “Discharge” means the emission of any water, substance or material into waters of the state whether or not such substance causes pollution;

(11) “Remove” includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, bulldoze, dragline or blast;

(12) “Deposit” includes, but shall not be limited to, fill, grade, dump, place, discharge or emit;

(13) “Regulated activity” means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in section 22a-40;

(14) “License” means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of sections 22a-36 to 22a-45a, inclusive;

(15) “Wetlands” means land, including submerged land, not regulated pursuant to sections 22a-28 to 22a-35, inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National

Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture;

(16) "Watercourses" means 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 or any portion thereof, not regulated pursuant to sections 22a-28 to 22a-35, inclusive. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (A) Evidence of scour or deposits of recent alluvium or detritus, (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and (C) the presence of hydrophytic vegetation;

(17) "Feasible" means able to be constructed or implemented consistent with sound engineering principles;

(18) "Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

**Sec. 22a-39. Duties of commissioner.** The commissioner shall:

(a) Exercise general supervision of the administration and enforcement of sections 22a-36 to 22a-45, inclusive;

(b) Develop comprehensive programs in furtherance of the purposes of said sections;

(c) Advise, consult and cooperate with other agencies of the state, the federal government, other states and with persons and municipalities in furtherance of the purposes of said sections;

(d) Encourage, participate in or conduct studies, investigations, research and demonstrations, and collect and disseminate information, relating to the purposes of said sections;

(e) Retain and employ consultants and assistants on a contract or other basis for rendering legal, financial, technical or other assistance and advice in furtherance of any of its purposes, specifically including, but not limited to, soil scientists on a cost-sharing basis with the United States Soil Conservation Service for the purpose of (1) completing the state soils survey and (2) making on-site interpretations, evaluations and findings as to soil types;

(f) Adopt such regulations, in accordance with the provisions of chapter 54, as are necessary to protect the wetlands or watercourses or any of them individually or collectively;

(g) Inventory or index the wetlands and watercourses in such form, including pictorial representations, as the commissioner deems best suited to effectuate the purposes of sections 22a-36 to 22a-45, inclusive;

(h) Grant, deny, limit or modify in accordance with the provisions of section 22a-42a, an application for a license or permit for any proposed regulated activity conducted by any department, agency or instrumentality of the state, except any local or regional board of education, (1) after an advisory decision on such license or permit has been rendered to the commissioner by the wetland agency of the municipality within which such wetland is located or (2) thirty-five days after receipt by the commissioner of such application, whichever occurs first;

(i) Grant, deny, limit or modify in accordance with the provisions of section 22a-42 and section 22a-42a, an application for a license or permit for any proposed regulated activity within a municipality which does not regulate its wetlands and watercourses;

(j) Exercise all incidental powers including but not limited to the issuance of orders necessary to enforce rules and regulations and to carry out the purposes of sections 22a-36 to 22a-45, inclusive;

(k) (1) Conduct a public hearing no sooner than thirty days and not later than sixty days following the receipt by said commissioner of any inland wetlands application, provided whenever the commissioner determines that the regulated activity for which a permit is sought is not likely to have a significant impact on the wetland or watercourse, the commissioner may waive the requirement for public hearing after (A) publishing notice, in a newspaper having general circulation in each town wherever the proposed work or any part thereof is located, of the commissioner's intent to waive said requirement, and (B) mailing or providing by electronic means notice of such intent to the chief administrative officer in the town or towns where the proposed work, or any part thereof, is located, and the chairperson of the conservation commission and inland wetlands agency of each such town or towns, except that the commissioner shall hold a hearing on such application upon receipt, not later than thirty days after such notice has been published, sent or mailed, of a petition signed by at least twenty-five persons requesting such a hearing, unless the regulated activity is a transportation capital project subject to the provisions of subdivisions (2) and (3) of this subsection. The commissioner shall (i) publish notice of such hearing at least once not more than thirty days and not fewer than ten days before the date set for the hearing in a newspaper

having a general circulation in each town where the proposed work, or any part thereof, is located, and (ii) mail or provide by electronic means notice of such hearing to the chief administrative officer in the town or towns where the proposed work, or any part thereof, is located, and the chairperson of the conservation commission and inland wetlands agency of each such town or towns. All applications and maps and documents relating thereto shall be open for public inspection at the office of the commissioner. The commissioner shall state upon the commissioner's records the commissioner's findings and reasons for the action taken.

(2) If the regulated activity is a transportation capital project and (A) such project is not located at an airport, as defined in section 15-34, (B) the federal government requires public participation regarding such regulated activity, (C) the person proposing to conduct or cause to be conducted such regulated activity sought public input on such regulated activity by implementing a plan approved by an agency of the federal government, and (D) such person submits to the commissioner a copy of the approved plan for public participation, a written summary of the opportunities for public participation that were provided and a copy or record of any comments received regarding such regulated activity and how such comments were responded to or addressed, the commissioner shall only be required to hold a public hearing on such application, upon receipt of a petition, signed by at least twenty-five persons, that alleges aggrievement or unreasonable pollution or destruction of the public trust.

(3) For the purposes of subdivision (2) of this subsection, a petition alleges aggrievement or unreasonable pollution or destruction of the public trust if the petition sets forth specific facts that demonstrate that the legal rights, duties or privileges of at least one person who signed the petition will be, or may reasonably be expected to be, affected by such regulated activity, or that alleges that the regulated activity involves conduct that has, or which is reasonably 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. Any such petition shall identify the relevant statutory or regulatory provision which the petitioners claim such proposed regulated activity does not satisfy. The commissioner shall provide a copy of any such petition received to the person proposing to conduct or cause to be conducted such regulated activity, who, not more than seven business days after receipt of such petition, may object to such petition on the basis that the petition does not contain the specific factual demonstration required by this subdivision. The commissioner shall determine whether the petition satisfies the requirements of this subdivision and shall send notice of such determination, in writing, to the person proposing to conduct or cause to be conducted such regulated activity and the person who submitted the petition.

(4) Nothing in this subsection shall be construed to modify or limit any requirements of sections 22a-1a to 22a-1h, inclusive, concerning a public scoping process, a public hearing or public participation;

(l) Develop a comprehensive training program for inland wetlands agency members;

(m) Adopt regulations in accordance with the provisions of chapter 54 establishing reporting requirements for inland wetlands agencies, which shall include provisions for reports to the commissioner on permits, orders and other actions of such agencies and development of a form for such reports; and

(n) The commissioner shall issue a certificate to any member of a municipal inland wetlands agency or its staff who completes the training program offered annually by the commissioner for such officials.

**Sec. 22a-40. Permitted operations and uses.** (a) The following operations and uses shall be permitted in wetlands and watercourses, as of right:

(1) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Energy and Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;

(2) A residential home (A) for which a building permit has been issued, or (B) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;

(3) Boat anchorage or mooring;

(4) Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality, provided in any town, where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot

site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse or diversion or alteration of a watercourse;

(5) Construction and operation, by water companies as defined in section 16-1 or by municipal water supply systems as provided for in chapter 102, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-403;

(6) Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place; and

(7) Withdrawals of water for fire emergency purposes.

(b) The following operations and uses shall be permitted, as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

(1) Conservation of soil, vegetation, water, fish, shellfish and wildlife;

(2) Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated; and

(3) The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a non-pressurized pipe system that: (A) Is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

(c) Any dredging or any erection, placement, retention or maintenance of any structure, fill, obstruction

**Sec. 22a-41. Factors for consideration of commissioner. Finding of no feasible and prudent alternative. Wetlands or watercourses. Habitats. Jurisdiction of municipal inland wetlands agencies.** (a) In carrying out the purposes and policies of sections 22a-36 to 22a-45a, inclusive, including matters relating to regulating, licensing and enforcing of the provisions thereof, the commissioner shall take into consideration all relevant facts and circumstances, including but not limited to:

(1) The environmental impact of the proposed regulated activity on wetlands or watercourses;

(2) The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;

(3) The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;

(4) Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: Restore, enhance and create productive wetland or watercourse resources;

(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 regulated 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 which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

(b) (1) In the case of an application which received a public hearing pursuant to (A) subsection (k) of section 22a-39, or (B) a finding by the inland wetlands agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the commissioner finds on the basis of the record that a feasible and prudent alternative does not exist. In making his finding, the commissioner shall consider the facts and circumstances set forth in subsection (a) of this section. The finding and the reasons therefor shall be stated on the record in writing.

(2) In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the commissioner or the inland wetlands agency, as the case may be, shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subdivision shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.

(c) For purposes of this section, (1) "wetlands or watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.

(d) A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.

**Sec. 22a-42. Municipal regulation of wetlands and watercourses. Action by commissioner.** (a) To carry out and effectuate the purposes and policies of sections 22a-36 to 22a-45a, inclusive, it is hereby declared to be the public policy of the state to require municipal regulation of activities affecting the wetlands and watercourses within the territorial limits of the various municipalities or districts.

(b) Any municipality may acquire wetlands and watercourses within its territorial limits by gift or purchase, in fee or lesser interest including, but not limited to, lease, easement or covenant, subject to such reservations and exceptions as it deems advisable.

(c) On or before July 1, 1988, each municipality shall establish an inland wetlands agency or authorize an existing board or commission to carry out the provisions of sections 22a-36 to 22a-45, inclusive. Each municipality, acting through its legislative body, may authorize any board or commission, as may be by law authorized to act, or may establish a new board or commission to promulgate such regulations, in conformity with the regulations adopted by the commissioner pursuant to section 22a-39, as are necessary to protect the wetlands and watercourses within its territorial limits. The ordinance establishing the new board or commission shall determine the number of members and alternate members, the length of their terms, the method of selection and removal and the manner for filling vacancies in the new board or commission. No member or alternate member of such board or commission shall participate in the hearing or decision of such board or 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 such board

or commission and replacement shall be made from alternate members of an alternate to act as a member of such commission in the hearing and determination of the particular matter or matters in which the disqualification arose. For the purposes of this section, the board or commission authorized by the municipality or district, as the case may be, shall serve as the sole agent for the licensing of regulated activities.

(d) At least one member of the inland wetlands agency or staff of the agency shall be a person who has completed the comprehensive training program developed by the commissioner pursuant to section 22a-39. Failure to have a member of the agency or staff with training shall not affect the validity of any action of the agency. The commissioner shall annually make such program available to one person from each town without cost to that person or the town. Each inland wetlands agency shall hold a meeting at least once annually at which information is presented to the members of the agency which summarizes the provisions of the training program. The commissioner shall develop such information in consultation with interested persons affected by the regulation of inland wetlands and shall provide for distribution of video presentations and related written materials which convey such information to inland wetlands agencies. In addition to such materials, the commissioner, in consultation with such persons, shall prepare materials which provide guidance to municipalities in carrying out the provisions of subsection (f) of section 22a-42a.

(e) Any municipality, pursuant to ordinance, may act through the board or commission authorized in subsection (c) of this section to join with any other municipalities in the formation of a district for the regulation of activities affecting the wetlands and watercourses within such district. Any city or borough may delegate its authority to regulate inland wetlands under this section to the town in which it is located.

(f) Municipal or district ordinances or regulations may embody any regulations promulgated hereunder, in whole or in part, or may consist of other ordinances or regulations in conformity with regulations promulgated hereunder. Any ordinances or regulations shall be for the purpose of effectuating the purposes of sections 22a-36 to 22a-45, inclusive, and, a municipality or district, in acting upon ordinances and regulations shall incorporate the factors set forth in section 22a-41.

(g) Nothing contained in this section shall be construed to limit the existing authority of a municipality or any boards or commissions of the municipality, provided the commissioner shall retain authority to act on any application filed with said commissioner prior to the establishment or designation of an inland wetlands agency by a municipality

**Sec. 22a-42a. Establishment of boundaries by regulation. Adoption of regulations. Permits. Filing fee.** (a) The inland wetlands agencies authorized in

section 22a-42 shall through regulation provide for (1) the manner in which the boundaries of inland wetland and watercourse areas in their respective municipalities shall be established and amended or changed, (2) the form for an application to conduct regulated activities, (3) notice and publication requirements, (4) criteria and procedures for the review of applications, and (5) administration and enforcement.

(b) No regulations of an inland wetlands agency including boundaries of inland wetland and watercourse areas shall become effective or be established until after a public hearing in relation thereto is held by the inland wetlands agency. Any 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, for public inspection at least ten days before such hearing, and may be published in full in such paper. A copy of the notice and the proposed regulations or amendments thereto, except determinations of boundaries, shall be provided to the commissioner at least thirty-five days before such hearing. Such regulations and inland wetland and watercourse boundaries may be from time to time amended, changed or repealed, by majority vote of the inland wetlands agency, after a public hearing in relation thereto is held by the inland wetlands agency, in accordance with the provisions of section 8-7d. Regulations or boundaries or changes therein shall become effective at such time as is fixed by the inland wetlands agency, 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. Whenever an inland wetlands agency makes a change in regulations or boundaries it shall state upon its records the reason why the change was made and shall provide a copy of such regulation, boundary or change to the Commissioner of Energy and Environmental Protection no later than ten days after its adoption provided failure to submit such regulation, boundary or change shall not impair the validity of such regulation, boundary or change. All petitions submitted in writing and in a form prescribed by the inland wetlands agency, requesting a change in the regulations or the boundaries of an inland wetland and watercourse area shall be considered at a public hearing held in accordance with the provisions of section 8-7d. The failure of the inland wetlands agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

(c) (1) On and after the effective date of the municipal regulations promulgated pursuant to subsection (b) of this section, no regulated activity shall be conducted upon any inland wetland or watercourse without a permit. Any person proposing to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse shall file an application with the inland wetlands agency of the town or towns wherein the wetland or watercourse in question is located. The application shall be in such form and contain such information as the inland wetlands agency may prescribe. The date of receipt of an application shall be determined in accordance with the provisions of

subsection (c) of section 8-7d. The inland wetlands agency shall not hold a public hearing on such application unless the inland wetlands agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the agency not later than fourteen days after the date of receipt of such application, or the agency finds that a public hearing regarding such application would be in the public interest. An inland wetlands agency may issue a permit without a public hearing provided no petition provided for in this subsection is filed with the agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held in accordance with the provisions of section 8-7d. If the inland wetlands agency, or its agent, fails to act on any application within thirty-five days after the completion of a public hearing or in the absence of a public hearing within sixty-five days from the date of receipt of the application, or within any extension of any such period as provided in section 8-7d, the applicant may file such application with the Commissioner of Energy and Environmental Protection who shall review and act on such application in accordance with this section. Any costs incurred by the commissioner in reviewing such application for such inland wetlands agency shall be paid by the municipality that established or authorized the agency. Any fees that would have been paid to such municipality if such application had not been filed with the commissioner shall be paid to the state. The failure of the inland wetlands agency or the commissioner to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.

(2) An inland wetlands agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetland or watercourse provided such agent has completed the comprehensive training program developed by the commissioner pursuant to section 22a-39. Notwithstanding the provisions for receipt and processing applications prescribed in subdivision (1) of this subsection, such agent may approve or extend such an activity at any time. Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the inland wetlands agency within fifteen days after the publication date of the notice and the inland wetlands agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such agency or its agent of such appeal. The inland wetlands agency shall, at its discretion, sustain, alter or reject the decision of its agent or require an application for a permit in accordance with subdivision (1) of subsection (c) of this section.

(d) (1) In granting, denying or limiting any permit for a regulated activity the inland wetlands agency, or its agent, shall consider the factors set forth in section 22a-41, and such agency, or its agent, shall state upon the record the reason for its decision. In granting a permit the inland wetlands agency, or its agent, may grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: Restore, enhance and create productive wetland or watercourse resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the inland wetlands agency, or its agent, determines that such restrictions are necessary to carry out the policy of sections 22a-36 to 22a-45, inclusive. No person shall conduct any regulated activity within an inland wetland or watercourse which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance or other documentation establishing that the proposal complies with the zoning or subdivision requirements adopted by the municipality pursuant to chapters 124 to 126, inclusive, or any special act. The agency may suspend or revoke a permit if it finds after giving notice to the permittee of the facts or conduct which warrant the intended action and after a hearing at which the permittee is given an opportunity to show compliance with the requirements for retention of the permit, that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The applicant shall be notified of the agency's decision by certified mail within fifteen days of the date of the decision and the agency shall cause notice of their order in issuance, denial, revocation or suspension of a permit to be published in a newspaper having a general circulation in the town wherein the wetland or watercourse lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten days thereafter.

(2) (A) Any permit issued under this section for the development of property for which an approval is required under chapter 124, 124b, 126 or 126a shall (i) not take effect until each such approval, as applicable, granted under such chapter has taken effect, and (ii) be valid until the approval granted under such chapter expires or for ten years, whichever is earlier.

(B) Any permit issued under this section for any activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in

circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no permit may be valid for more than ten years.

(e) The inland wetlands agency may require a filing fee to be deposited with the agency. The amount of such fee shall be sufficient to cover the reasonable cost of reviewing and acting on applications and petitions, including, but not limited to, the costs of certified mailings, publications of notices and decisions and monitoring compliance with permit conditions or agency orders.

(f) If a municipal inland wetlands agency regulates activities within areas around wetlands or watercourses, such regulation shall (1) be in accordance with the provisions of the inland wetlands regulations adopted by such agency related to application for, and approval of, activities to be conducted in wetlands or watercourses and (2) apply only to those activities which are likely to impact or affect wetlands or watercourses.

(g) (1) Notwithstanding the provisions of subdivision (2) of subsection (d) of this section, any permit issued under this section prior to July 1, 2011, that has not expired prior to July 12, 2021, shall expire not less than fourteen years after the date of such approval. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than nineteen years.

(2) Notwithstanding the provisions of subdivision (2) of subsection (d) of this section, any permit issued under this section on or after July 1, 2011, but prior to June 10, 2021, that did not expire prior to March 10, 2020, shall expire not less than fourteen years after the date of such approval. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than nineteen years.

**Sec. 22a-42e. Application filed prior to change in inland wetlands regulations not required to comply with change. Exceptions.** An application filed with an inland wetlands agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to

any change in regulations necessary to make such regulations consistent with the provisions of this chapter as of the date of such receipt.

**Sec. 22a-42f. Notice of application to water company and Department of Public Health re conduct of regulated activities within watershed of water company.** When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 25-32a, the applicant shall: (1) Provide written notice of the application to the water company and the Department of Public Health; and (2) determine if the project is within the watershed of a water company by consulting the maps posted on said department's Internet web site showing the boundaries of the watershed. Such applicant shall send such notice to the water company by certified mail, return receipt requested, and to said department by electronic mail to the electronic mail address designated by the department on its Internet web site for receipt of such notice. Such applicant shall mail such notice not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application.

**Sec. 22a-43. Appeals.** (a) The commissioner or any person aggrieved by any regulation, order, decision or action made pursuant to sections 22a-36 to 22a-45, inclusive, by the commissioner, a district or municipality or any person owning or occupying land which abuts any portion of land within, or is within a radius of ninety feet of, the wetland or watercourse involved in any regulation, order, decision or action made pursuant to said sections may, within the time specified in subsection (b) of section 8-8, from the publication of such regulation, order, decision or action, appeal to the superior court for the judicial district where the land affected is located, and if located in more than one judicial district to the court in any such judicial district. Such appeal shall be made returnable to the court in the same manner as that prescribed for civil actions brought to the court, except that the record shall be transmitted to the court within the time specified in subsection (i) of section 8-8. If the inland wetlands agency or its agent does not provide a transcript of the stenographic or the sound recording of a meeting where the inland wetlands agency or its agent deliberates or makes a decision on a permit for 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. Notice of such appeal shall be served upon the inland wetlands agency and the commissioner, provided, for any such appeal taken on or after October 1, 2004, service of process for purposes of such notice to the inland wetlands agency shall be made in accordance with subdivision (5) of subsection (b) of section 52-57. The commissioner may appear as a party to any action brought by any other person within thirty days from the date such appeal is returned to the court. The appeal shall state the reasons upon which it is predicated and shall not stay proceedings on the regulation, order, decision or action, but the court may on application and after notice grant a restraining order. Such appeal shall have precedence in the order of trial.

(b) The court, upon the motion of the person who applied for such order, decision or action, shall make such person a party defendant in the appeal. Such defendant may, at any time after the return date of such appeal, make a motion to dismiss the appeal. At the hearing on such motion to dismiss, each appellant shall have the burden of proving such appellant's standing to bring the appeal. The court may, upon the record, grant or deny the motion. The court's order on such motion may be appealed in the manner provided in subsection (p) of section 8-8.

(c) The proceedings of the court in the appeal may be stayed by agreement of the parties when a mediation conducted pursuant to section 8-8a commences. Any such stay shall terminate upon conclusion of the mediation.

(d) No appeal taken under subsection (a) 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 the court has approved such proposed withdrawal or settlement.

(e) There shall be no right to further review except to the Appellate Court by certification for review in accordance with the provisions of subsection (o) of section 8-8.

**Sec. 22a-45. Property revaluation.** Any owner of wetlands and watercourses who may be denied a license in connection with a regulated activity affecting such wetlands and watercourses, shall upon written application to the assessor, or board of assessors, of the municipality, be entitled to a revaluation of such property to reflect the fair market value thereof in light of the restriction placed upon it by the denial of such license or permit, effective with respect to the next succeeding assessment list of such municipality, provided no such revaluation shall be effective retroactively and the municipality may require as a condition therefor the conveyance of a less than fee interest to it of such land pursuant to the provisions of sections 7-131b to 7-131k, inclusive.

**Sec. 22a-45a. General permits for minor activities. Regulations.** (a) The Commissioner of Energy and Environmental Protection may issue a general permit for any minor activity regulated under sections 22a-36 to 22a-45, inclusive, except for any activity covered by an individual permit, when such activity is conducted by any department, agency or instrumentality of the state, other than a regional or local board of education, if the commissioner determines that such activity would cause minimal environmental effects when conducted separately and would cause only minimal cumulative environmental effects. Such activities may include routine minor maintenance and routine minor repair of existing structures; replacement of existing culverts; installation of water monitoring equipment, including but not limited to staff gauges, water recording and water quality testing devices; survey activities, including excavation of test pits and core sampling; maintenance of existing roadway sight lines; removal of sedimentation and unauthorized solid waste by hand or suction equipment;

placement of erosion and sedimentation controls; extension of existing culverts and stormwater outfall pipes; and safety improvements with minimal environmental impacts within existing rights-of-way of existing roadways. Any state department, agency or instrumentality of the state, other than a regional or local board of education conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under any other provision of said sections 22a-36 to 22a-45, inclusive, except as provided in subsection (c) of this section. A general permit shall clearly define the activity covered thereby and may include such conditions and requirements as the commissioner deems appropriate, including but not limited to, management practices and verification and reporting requirements. The general permit may require any state department, agency or instrumentality of the state, other than a regional or local board of education, conducting any activity under the general permit to report, on a form prescribed by the commissioner, such activity to the commissioner before it shall be covered by the general permit. The commissioner shall prepare, and shall annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

(b) Notwithstanding any other procedures in said sections 22a-36 to 22a-45, inclusive, any regulations adopted thereunder, and chapter 54, the commissioner may issue, revoke, suspend or modify a general permit in accordance with the following procedures: (1) The commissioner shall publish in a newspaper having a substantial circulation in the affected area or areas notice of intent to issue a general permit; (2) the commissioner shall allow a comment period of thirty days following publication of such notice during which interested persons may submit written comments concerning the permit to the commissioner and the commissioner shall hold a public hearing if, within said comment period, he receives a petition signed by at least twenty-five persons; (3) the commissioner may not issue the general permit until after the comment period; and (4) the commissioner shall publish notice of any permit issued in a newspaper having substantial circulation in the affected area or areas. Any person may request that the commissioner issue, modify or revoke a general permit in accordance with this subsection.

(c) Subsequent to the issuance of a general permit, the commissioner may require any state department, agency or instrumentality, other than a regional or local board of education, to apply for an individual permit under the provisions of said sections 22a-36 to 22a-45, inclusive, for all or any portion of the activities covered by the general permit, if in the commissioner's judgment the purposes and policies of such sections would be best served by requiring an application for an individual permit. The commissioner may require an individual permit under this subsection only if the affected state department, agency or instrumentality has been notified in writing that an individual permit is required. The notice shall include a brief statement of the reasons

for the decision and a statement that upon the date of issuance of such notice the general permit as it applies to the individual activity will terminate.

(d) Any general permit issued under this section shall require that any state agency, department or instrumentality other than a regional or local board of education, intending to conduct an activity covered by such general permit give written notice of such intention to the inland wetlands agency, zoning commission, planning commission or combined planning and zoning commission and conservation commission of any municipality which will or may be affected by such activity and to the department which shall make such notices available to the public. The general permit shall specify the information which shall be contained in the notice.

(e) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of this section.