



Providing information, education and assistance to land use decision makers, in support of balancing growth and natural resource protection.

Land Use Commissioner Training Webinar – Module 2

<https://landusecommissionertraining.com> | Center for Land Use Education and Research (uconn.edu)

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Basic Training for Connecticut Land Use Commissioners

UConn Center for Land Use Education and Research
Department of Extension
College of Agriculture, Health and Natural Resources



Important Information

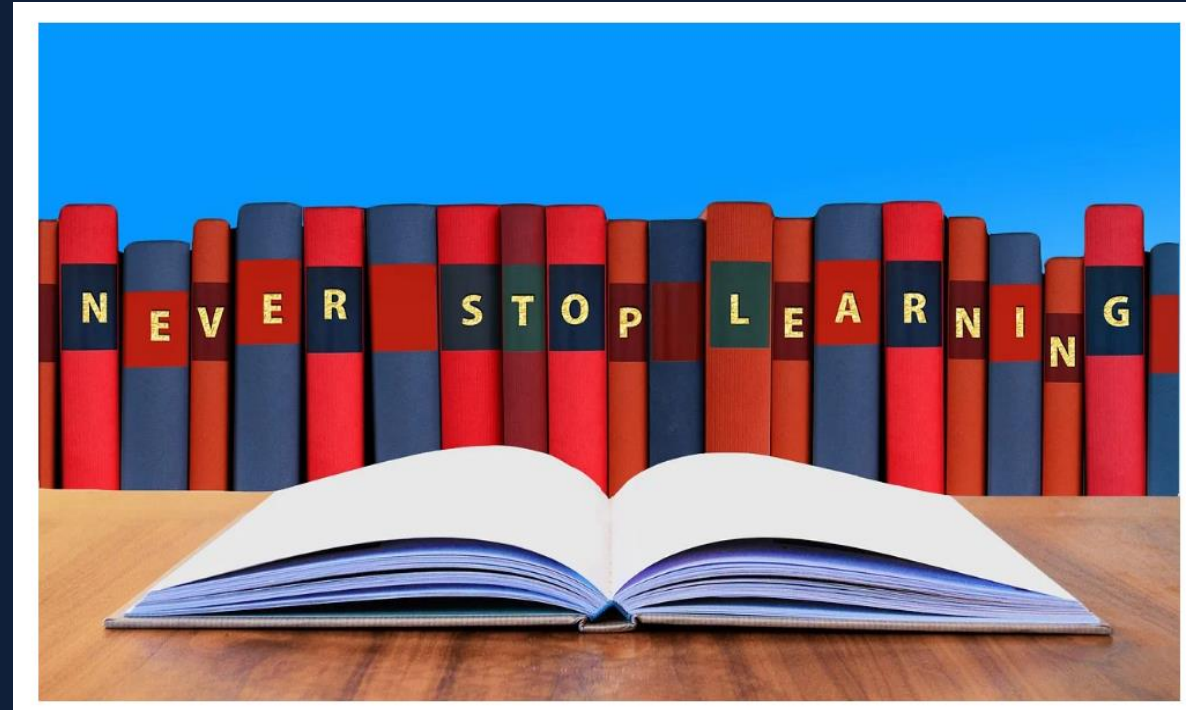
- Training is not legal advice
- More training to come in 2024

<https://clear.uconn.edu/training/land-use-commissioner-training/>

- Training is recorded
- Slides and recording will be posted

<https://clear.uconn.edu/lua/>

- Interactive / use chat function
- Let's have fun!



- Attendance will be confirmed via email after each webinar
Please keep copy of the email for your records

About This 2024 Webinar Series

- Third Thursday of each month except for August
- 30-40 min duration
- Attendance will be confirmed via email after each webinar / **Please keep copy of the email for your records**
- Completing Basic Training (such as CLEAR LUA) is strongly recommended by the OPM to new members



Upcoming Webinars

May 16 , 2024 –

Running a Meeting

Responsibilities / Fundamental Fairness

Jun 20 , 2024 –

Alternates

Sitewalks

Upcoming Webinars – part II

- Will be announced later
- Topics will include:
 - Public Hearings
 - FOIA
 - Conflict of Interest
 - Bias and Predisposition
 - Representation by Commission Members
 - Social Media
 - Fundamentals of Site Plan Reading

Webinar Overview: Topics Covered Today

1. Types of Power of Land Use Commissions
2. Zone Change and Regulation Amendments v. Special Permit v. Site Plan

What LU Board or Commission are you on?

1. Planning Commission
2. Zoning Commission
3. Planning and Zoning Commission
4. Zoning Board of Appeals
5. Inland Wetlands and Watercourses Agency
6. Conservation Commission
7. Other

Types of Local Commissions

•Regulatory

- Planning
- Zoning
- Zoning Board of Appeals
- Inland Wetlands and Watercourses
- Historic District
- Aquifer Protection Agency

•Nonregulatory

- Conservation
- Economic Development
- Design Review
- Agricultural Commission



Which of the following does the State of CT REQUIRE municipalities to have?

1. Planning Commission
2. Zoning Commission
3. Zoning Board of Appeals
4. Inland Wetlands and Watercourses Agency
5. Conservation Commission
6. Everything BUT a Conservation Commission

Which of the following does the State of CT REQUIRE a municipality to have?

1. Planning Commission
2. Zoning Commission
3. Zoning Board of Appeals
4. Inland Wetland and Watercourses Agency
5. Conservation Commission
6. Everything BUT a Conservation Commission

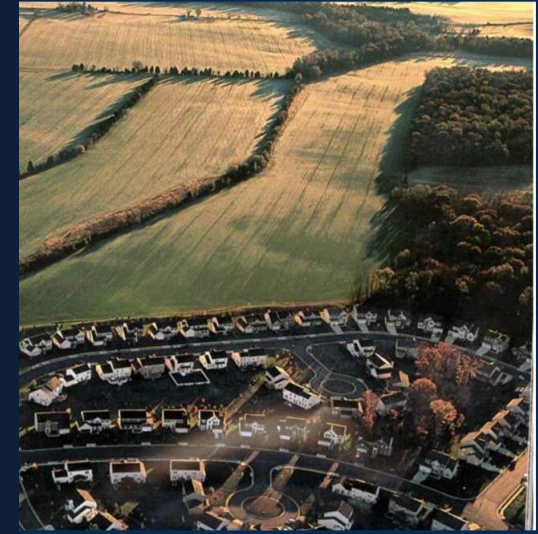
Zoning Commission

- Title 8, Chapter 124
- Zoning Commission adopts local zoning regulations and zoning map (however, the local regulations and maps must be consistent with legislative purposes set forth in CGS)
- Special Permit/Special Exception
- Site Plan



[luafactsheetszoning.page \(uconn.edu\)](http://luafactsheetszoning.page(uconn.edu))

Planning Commission



- Title 8, Chapter 126

- Preparing /revising the municipal POCD
- Approving subdivision of land
- Reviewing proposed municipal improvements
- Administering an ordinance on buildings or structures on lots abutting unaccepted highways
- Making an advisory report to the zoning commission on proposed zoning regulations or zone boundaries where there are separate zoning and planning commissions

In some towns:

- Special Permits/Special Exceptions

[planningfactsheet.page \(uconn.edu\)](http://planningfactsheet.page(uconn.edu))

Zoning Board of Appeals

Title 8, Chapter 124

- Appeals from Zoning Enforcement decisions
- Acting on variances
- And:
 - Special Permits/Special Exceptions
 - Special Exemptions from density requirements for certain affordable housing units



[luafactsheetsZBA.page \(uconn.edu\)](http://luafactsheetsZBA.page(uconn.edu))

Inland Wetlands and Watercourses Agencies

- CGS 22a-36 through 22a-45
- To establish, change or repeal inland wetlands and watercourses regulations and boundaries of inland wetlands and watercourses / tidal wetlands excluded from municipal regulations
- To administer the regulations



Inland Wetlands and Watercourses Agencies

- Incidental powers:
 - To regulate and restrict, with respect to impacts on inland wetlands and watercourses, the proposed location of any steam plant, gas plant, gas tank or holder, water tank, electric substation, antenna, tower, or earth station receiver of any public service company not subject to the jurisdiction of the Connecticut Siting Council
 - In some towns, IWWCs have been authorized to adopt forest practices and management regulations.

[luafactsheetsinlandwetland-3.page \(uconn.edu\)](#)

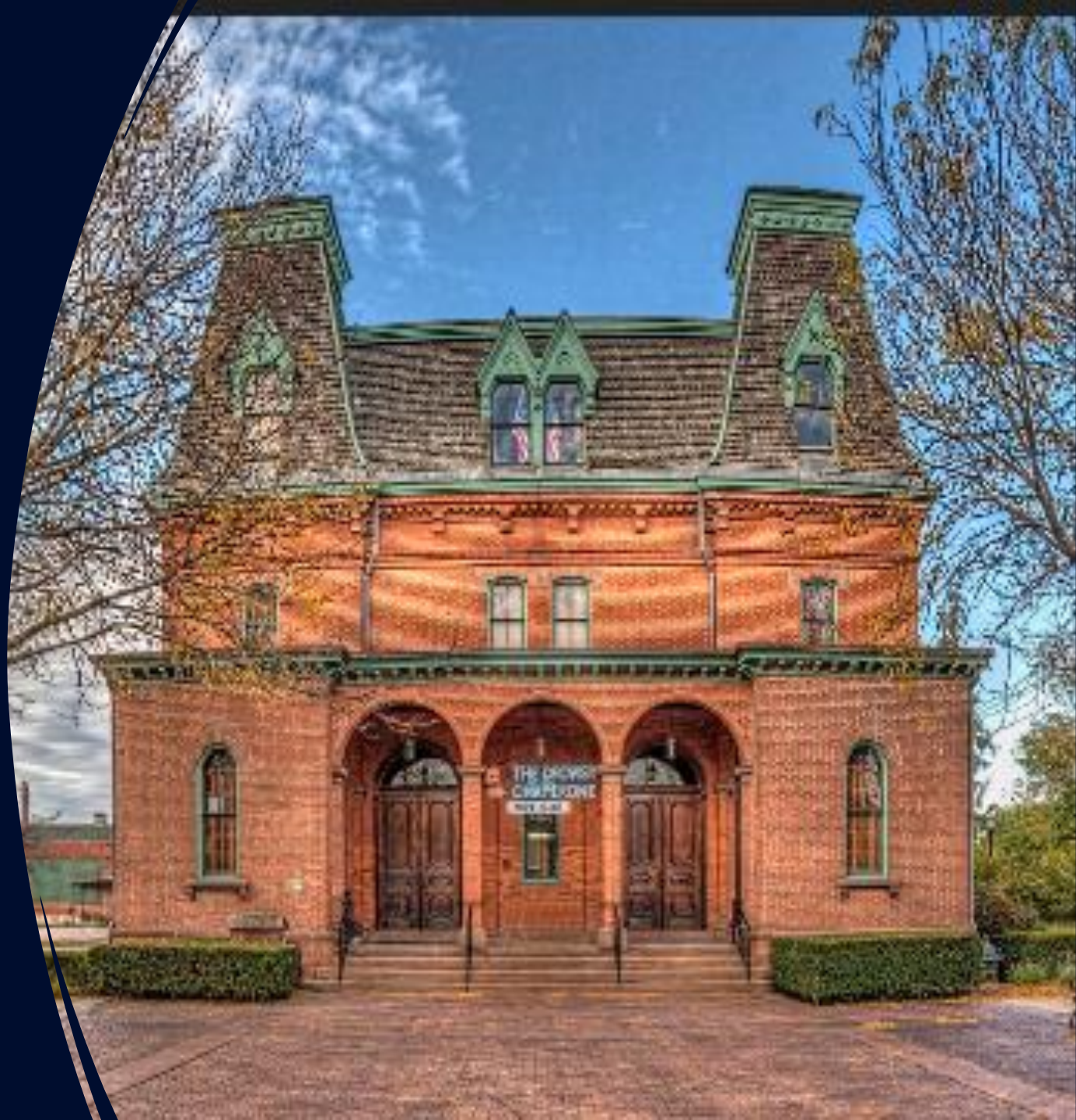
Aquifer Protection Agencies

- Commissioner of Energy and Environmental Protection designated AP areas (public water supply wells and the surrounding land areas from which groundwater may flow to the well)
- Required towns with such areas to establish APAs and adopt the municipal APA regulations



Historic District and Historic Properties Commission

Issue certificates of appropriateness for the proposed erection, alteration, or demolition of a building or structure within the boundaries of a historic district or property; for proposed parking areas within a historic district; and for proposed alterations of any earthworks or sites of recognized historical or archaeological significance within a historic property.



Historic District and Historic Properties Commission

State law expressly gives historic district commissions the following additional powers:

- To accept grants and gifts, employ (and pay) consultants or other help - subject to appropriation by the municipality or receipt of grants or gifts.

Unless prohibited by charter, ordinance or special act, they also are enabled:

- (1) to make periodic reports to the legislative body;
- (2) to provide information to property owners and others involving the preservation of the district;
- (3) to suggest pertinent legislation;
- (4) to initiate planning and zoning proposals;

Historic District and Historic Properties Commission

- (5) To cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation;
- (6) to comment on all applications for zoning variances and special exceptions where they affect historic districts;
- (7) to render advice on sidewalk construction and repair, tree planting, street improvements and the erection or alteration of public buildings not otherwise under its control where they affect historic districts;
- (8) to furnish information and assistance in connection with any capital improvement program involving historic districts; and
- (9) to consult with groups of experts.

Conservation Commissions shall:

CGS 7-131a

Research into the utilization (and possible utilization) of land areas and may coordinate the activities of unofficial bodies organized for similar purposes.

Keep an index of all open areas, public or privately owned, including wetlands, for the purpose of obtaining information on the proper use of such areas – and *may* recommend to the planning commission, or the CEO or legislative body of the municipality, plans and programs for the development and use of such areas.



Conservation Commissions may:

- advertise, prepare and distribute publications.
- propose a greenways plan for inclusion in the POCD.
- inventory natural resources and formulate watershed management and drought management plans that are consistent with those prepared by public water companies.
- make recommendations to zoning and planning commissions, inland wetlands and watercourses agencies, and other municipal agencies on proposed land-use changes.



[luafactsheetsconservation.page \(uconn.edu\)](http://luafactsheetsconservation.page(uconn.edu))

When drafting regulations, commissions serve in _____ what capacity?

1. Administrative

2. Police

3. Judicial

4. Legislative

5. Parliamentary

Types of Power

- When writing regulations, a commission is acting in a **legislative capacity**
- When reviewing development applications, a commission is acting in an **administrative** capacity
- When hearing appeals, a commission is acting in a **quasi-judicial** capacity



Why does this matter – Level of Discretion

- Regulation amendments and zone changes = broad discretion
- Special Permits/Exceptions = limited discretion
- Site plans = no discretion - must be approved if the application meets regulations



Regulation and Map Changes /Legislative

- Broad discretion
- Courts allow wide discretion
- Must be consistent with legislative purposes set forth in CGS



Special Permits / Administrative

- Discretion is more limited
- Decision must be consistent with
- criteria set by regulation
- Public hearing required



Special Permit/Exception

“Special permit process permits a generally compatible use in a zoning district but because of the nature of the proposed use, special attention must be given to its location and method of operation in order to keep such special uses compatible with uses as of right in that district.” ([Brian-R-Smith-CBA-Seminar-3_21_2015.pdf \(r\)c.com](#))

Public hearing is required

Site Plan / Administrative

- No discretion
- Must be approved when it meets regulations
- Public hearing is optional
- “Unlike a special permit, a site plan application by itself is for a use already permitted “as of right” in the particular area so long as it meets the standards required by the regulations.”
([Brian-R-Smith-CBA-Seminar-3_21_2015.pdf](#) (rc.com))

Types of Power- Quasi-Judicial

- When hearing appeals, a commission is acting in a **quasi-judicial** capacity
- Can reverse or affirm, wholly or in part, or modify the challenged order, requirement or decision.



On Variances...

- Variances are the least understood form of land-use approvals
- They are to be granted sparingly –
“A variance is actually a license to violate the zoning regulations.”
(Zizka)



Zoning Hardship

In *Moon v. Zoning Board of Appeals*, 291 Conn. 16, 24-25 (2009), Connecticut's Supreme Court concisely stated certain basic rules for the granting of variances:

[T]he granting of a variance must be reserved for unusual or exceptional circumstances.... An applicant for a variance must show that, because of some peculiar characteristic of his property, the strict application of the zoning regulation produces an unusual hardship, as opposed to the general impact which the regulation has on other properties in the zone.... Proof of exceptional difficulty or unusual hardship is absolutely necessary as a condition precedent to the granting of a zoning variance.... A mere economic hardship or a hardship that was self-created, however, is insufficient to justify a variance ... and neither financial loss nor the potential for financial gain is the proper basis for granting a variance.

Reminder



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Questions?



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*How did we do?
What can we do better?*

