



Welcome!

Land Use Commissioner Basic Training

April 26, 2025





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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



CLEAR Program Areas



Water



**Land Use &
Climate Resiliency**



**Geospatial Tools &
Training**



**STEM Education &
Local Conservation**

Website: clear.uconn.edu



Overview

1. Legal Basis for Land Use Regulation
2. Types of Power
3. Public Hearings and Timeframes
4. Running a Meeting
5. Alternates
6. Site walks
7. Commissioner roles and responsibilities
8. Conflict of Interest
9. Bias and Predetermination
10. Representation by Commission Members
11. Social Media

Important Information

- Training is not legal advice
- More training to come in 2025

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


- <https://clear.uconn.edu/lua/upcoming/>
- Slides will be posted
- Polling instructions
- Questions may have multiple answers
- Have fun



An Awesome Responsibility



- CGS Sec. 8-4c
- Land Use Commissions make decisions that affect a community's quality of life for generations, where investment takes place and an individual's or business's financial well being.



HIKERS and BIKERS
Move to the side of
the road when a
vehicle approaches

An Awesome Responsibility



An Awesome Responsibility



An Awesome Responsibility





What LU Board or Commission are you on?



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

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

Commissioner Training Requirements

- CGS 22a-42(d) – IWWC (1987)
- CGS Sec. 22a-354o – APA (1989-2004)
- CGS 8-4c, P, Z, P&Z and ZBA (2021)

Inland Wetlands and Watercourses Agency Members

CGS Sec. 22a-42.(d) can be viewed online at [Chapter 440 - Wetlands and Watercourses \(ct.gov\)](#)

- 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.
- Each inland wetlands agency is required to 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.

CLEAR hosts the DEEP training here: [CT DEEP Municipal Inland Wetlands Agency Comprehensive Training Program | Center for Land Use Education and Research \(uconn.edu\)](#)

- Online format / 8 modules with text and video content / 8 hours to complete (but it must be completed within 60 days of registering) / certificates issued by DEEP

Aquifer Protection Agency Members

CGS Sec. Sec. 22a-354o. can be viewed online at [Chapter 446i - Water Resources. Invasive Plants \(ct.gov\)](#)

- (c) At least one member of the agency or staff of the agency shall be a person who has completed the course in technical training formulated by the commissioner pursuant to section 22a-354v.



CLEAR hosts the DEEP training here:

https://clear.uconn.edu/training/DEEP_APA_training.htm

- Online format / 13 modules with text and video content / 8 hours to complete (but it must be completed within 60 days of registering)

Planning, Zoning, Combined P&Z and the ZBA

- CGS Sec. 8-4c (amended by Subsection (a) of Section 3 of PA 23-173)
- On and after January 1, 2023, each member of a municipal planning commission, zoning commission, combined planning and zoning commission and zoning board of appeals shall complete at least four hours of training
- Within a year of appointment or being elected
- Then four hours of training every four years

Planning, Zoning, Combined P&Z and the ZBA

- At least 1 hour out of the 4-hour training requirement must come from the Affordable and Fair Housing Policies Section
- Remaining 3 hours may consist of:
 - (1) process and procedural matters, including the conduct of effective meetings and public hearings and the Freedom of Information Act
 - (2) the interpretation of site plans, surveys, maps and architectural conventions, and
 - (3) the impact of zoning on the environment, agriculture and historic resources.

Planning, Zoning, Combined P&Z and the ZBA

- Land use enforcement officers and Connecticut-licensed attorneys who served at least four years on planning commission, zoning commission, combined planning and zoning commission or zoning board of appeals are exempt from the training requirement.

OPM Training Guidelines

- Under CGS Section 8-4c, the Office of Policy and Management (OPM) was tasked with developing the land use training guidelines.
- Guidelines can be found here [Land-Use-Training-Guidelines-PA-2129-S-9.pdf \(ct.gov\)](#)
- Wide variety of training topics may be eligible – refer to guidelines to verify or contact CLEAR or OPM if you have questions.

Certification / Reporting

CGS 8-4 (c) states:

Not later than March 1, 2024, and annually thereafter, the planning commission, zoning commission, combined planning and zoning commission and zoning board of appeals, as applicable, in each municipality shall submit a statement to such municipality's legislative body or, in a municipality where the legislative body is a town meeting, its board of selectmen, affirming compliance with the training requirement established pursuant to subsection (a) of this section by each member of such commission or board required to complete such training in the calendar year ending the preceding December thirty-first.

Certification / Reporting

Different towns allow different methods of self certification:

- Require their members to attend in person training and obtain copies of provider's verification of attendance.
- Accept webinar attendance self certification from commission/board members without proof of attendance.
- Group webinar attendance or watching of training videos.
- Accept self certification for individual watching of training videos.

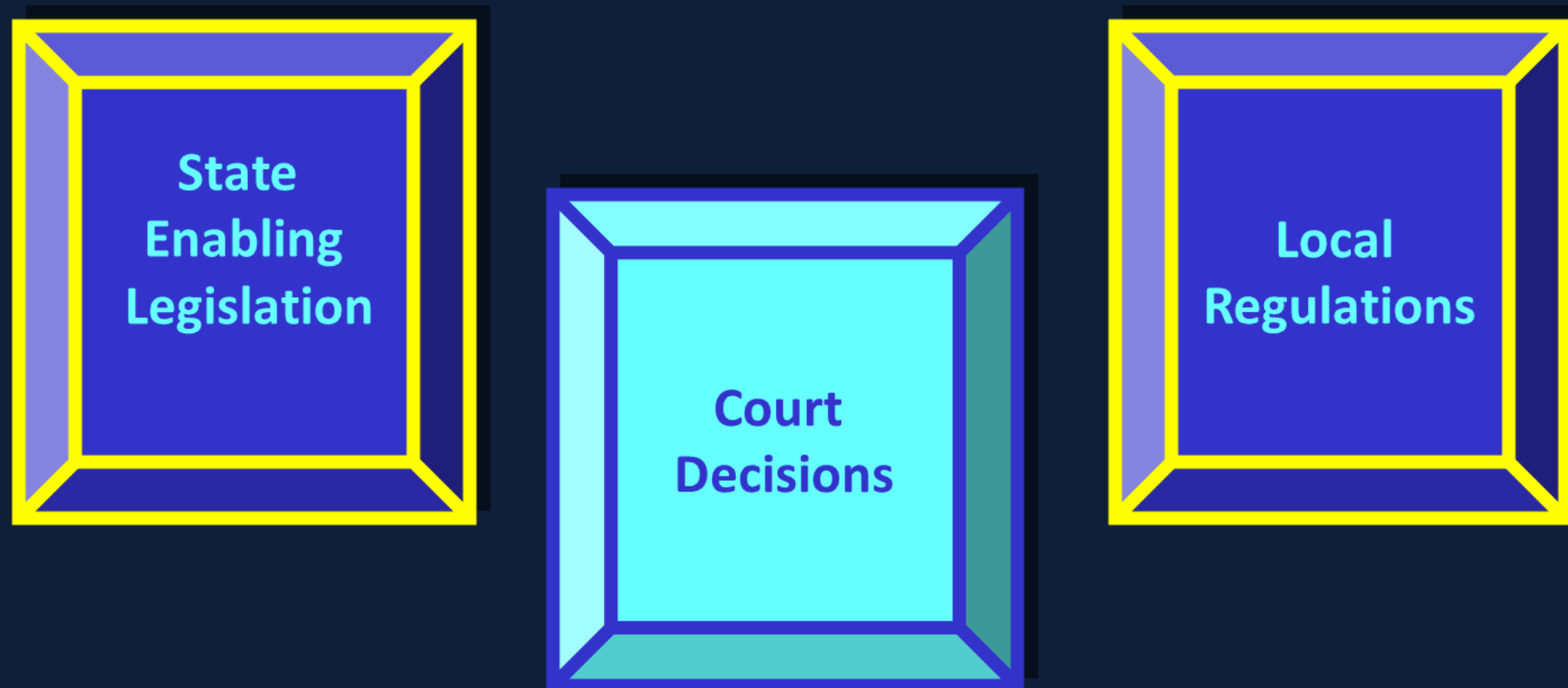


Which of the following provides the legal basis for a local commission's land use authority?

Which of the following provides the legal basis for a local commission's land use authority?

1. Legislation through state statutes
2. A vote of the City Council/Board of Selectmen
3. Court decisions
4. Duly adopted local regulations
5. Governor's Executive Order
6. Public opinion

Legal Basis for Local Land Use Regulations



Sources of Power

American system derived from English system

- Sovereign had total power over the land
- Granted rights on the use of land to their subjects

Called “Fees” or “Fiefs”

- In America, the Sovereign is the State government
- Power of state must give way to federal law



(10th Amendment)

State Enabling Legislation Provides the Foundation and Limits of Power



The STATE will let you....



State Government



Connecticut General Statutes – Land Use

Zoning Title 8, Chapter 124, Sections 8-1 through 8-13

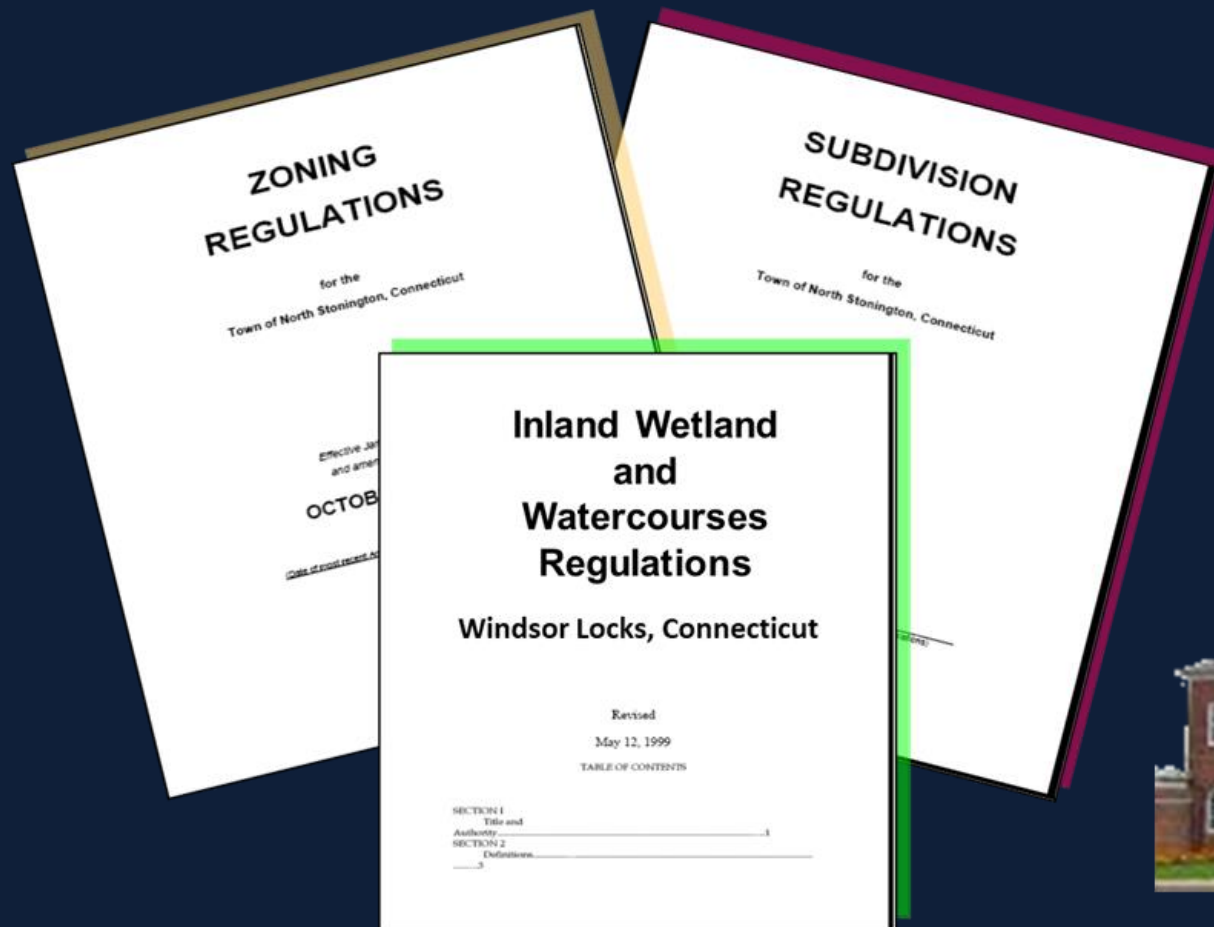
Planning Title 8, Chapter 126, Sections 8-18 to 8-30

Wetlands Title 22a, Chapter 440, Sections 22a-36 to 22a-45



Legal Basis for Local Land Use Regulations

Local Regulations:



Police Power = The right or need of government to protect the public health, safety, and welfare



Basis of all land use regulation and all sections of the regulations must achieve this end

Court Decisions

Provide legal review and interpretation of
your regulations



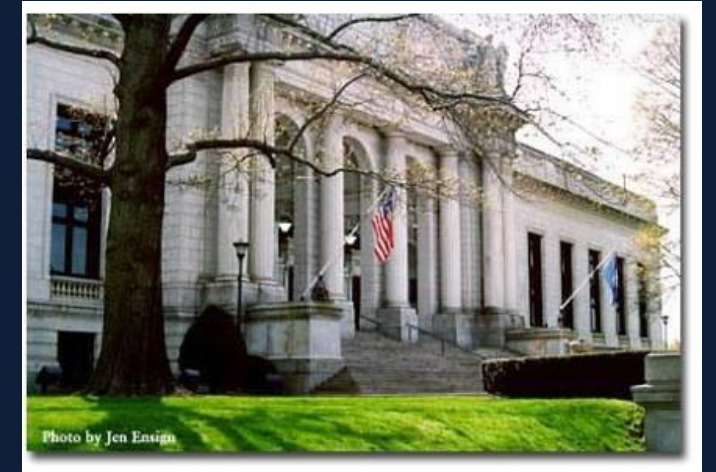
Federal Level

Constitutional foundation for all American zoning
was established in a 1926 Supreme Court
decision that upheld a zoning ordinance enacted
by the Village of Euclid, Ohio

Court Decisions

State Level

1. Courts provide local land use officials wide and liberal discretion
2. Feel local officials are best suited to make local land use decisions
3. Courts will not interfere in local matters unless commissions act illegally



Court Decisions

Illegal Commission Acts:

1. Failure to follow procedures set forth in the State Statutes
2. “Clear breach of duty” – acting in an arbitrary or capricious manner

Arbitrary = at random, unreasonable
Capricious= acting impulsively



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



Zoning Commission

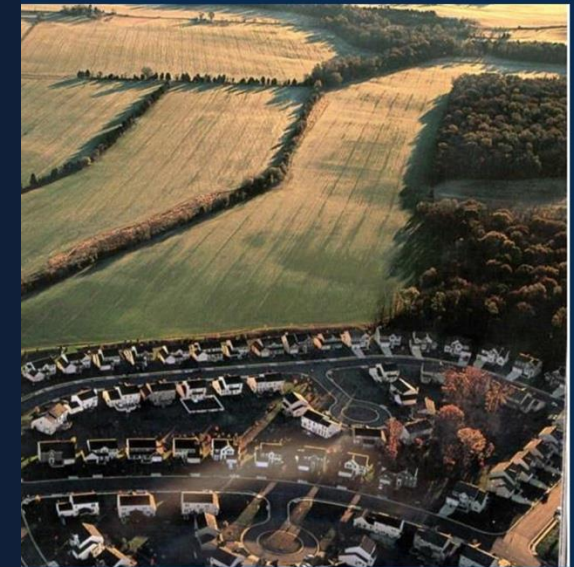
- Title 8, Chapter 124
- Zoning Commission adopts local zoning regulations and zoning map (however, the local regulations and maps must be consistent with legislative purposes set forth in CGS)
- Special Permit/Special Exception
- Site Plan



[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 \(uconn.edu\)](https://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://uafactsheetsZBA.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 \(uconn.edu\)](#)



When drafting regulations, commissions serve in what capacity?

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



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](#))

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.

Site Plan / Administrative

- No discretion
- Must be approved when it meets regulations

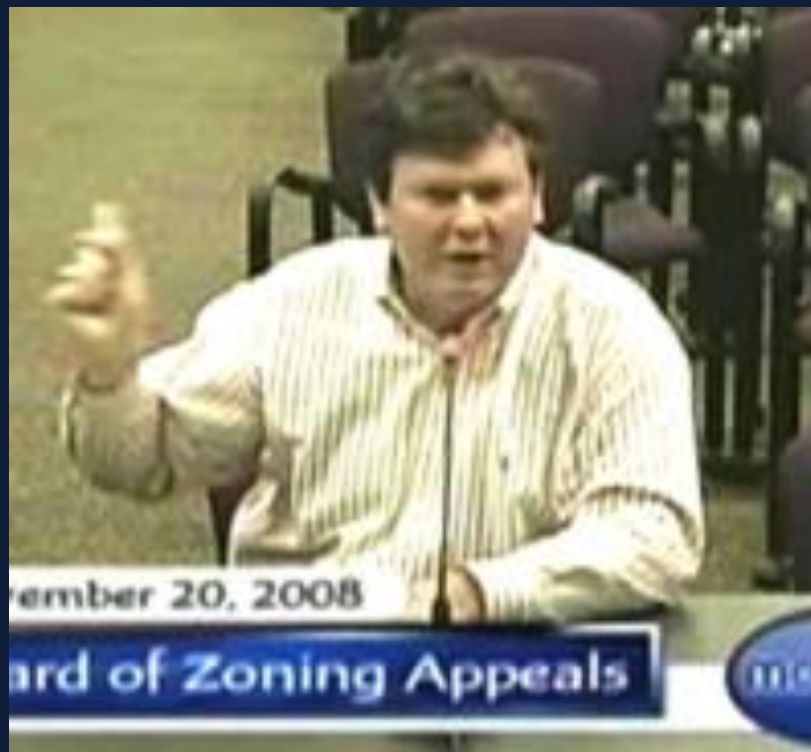
“Unlike a special permit, a site plan application by itself is for a use already permitted “as of right” in the particular area so long as it meets the standards required by the regulations.” ([Brian-R-Smith-CBA-Seminar-3_21_2015.pdf \(rc.com\)](#))



When is a Public Hearing by a Commission Required?

Zoning Board of Appeals

Must Hold a Public Hearing on Everything



Planning and Zoning Commissions

Public Hearings Required for:

- Zone and Regulation Changes
- Adoption/amendment to POCD
- Special Permit/Exception
- Resubdivision
- May be required for site plan and subdivision applications but won't extend your time limits for action



Development Applications / Administrative

- Special Exceptions / Permits
 - Public hearing is required
 - Discretion is limited
- Site Plan / Subdivision
 - Public hearing is optional
 - No discretion



*Public feedback **can only** influence the land use decision-making process **within the limits** of the Federal and State laws and the local regulations.

Conducting the Public Hearing

- No specific requirements for order of speaking, except that applicant should always be allowed to go first
- All materials to be considered must be available for inspection
- Hearings must be audio-recorded or video-recorded
- Parties should be allowed to ask questions of presenters
- Time limits may be placed on initial presentations so long as speaker has subsequent opportunities to add to previous comments

Before Closing the Public Hearing

1. Must make your decision based on what you heard at the public hearing
 - No new information allowed after public hearing is closed. Make sure you ask your questions prior to closing of public hearing.
2. You cannot ignore uncontradicted expert testimony if you do not question it. If you have doubts, question the expert on the record during the public hearing.
3. If you have special expertise upon which you will rely, say so on the record (while hearing is open).
4. Once hearing is closed, it cannot be reopened unless reopening occurs before anyone has left the hearing room.



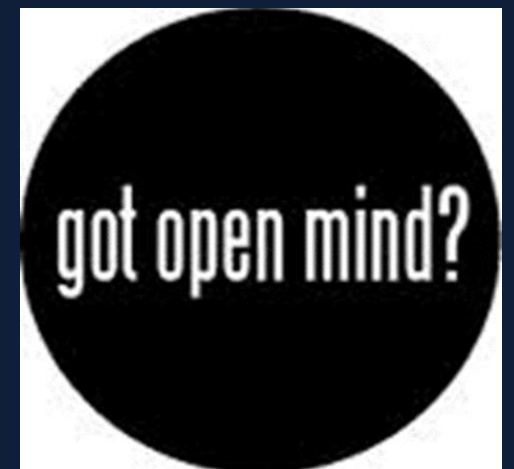
Which of the following individuals may speak at a public hearing?



If not noticed as a public meeting under FOI, which of the following may constitute an illegal meeting of a commission?

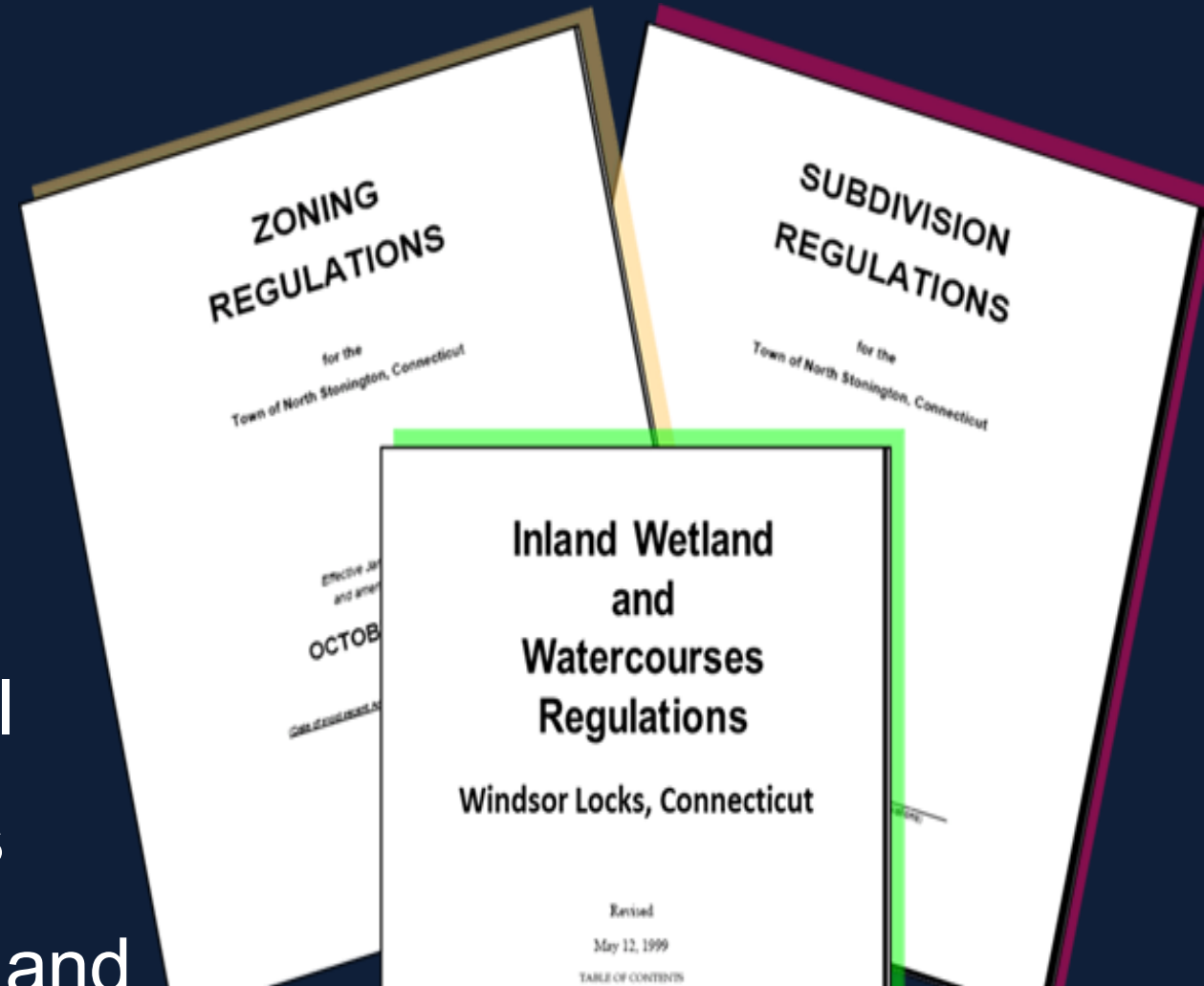
RESPONSIBILITIES

- Be fair to all parties
- Open mind = Listen to all the facts before rendering a decision
- Does everyone have the same information?
- Treat applicants with respect
- Treat public with respect
- Treat staff with respect



RESPONSIBILITIES

- Be prepared
- Understand the details of the proposal
- Review it to see if it meets regulations
- Understand the social, environmental and economic impact of the proposed change



RESPONSIBILITIES

- Take time to read the POCD
- Know limits of your powers and know your responsibilities
- Understand, know and apply your regulations consistently





When is an application considered to be received?

① The Slido app must be installed on every computer you're presenting from

Timeframes ---The 65-35-65 rule except for IWWC

- A public hearing commence within 65 days of receipt of the application
- Public hearing must be completed within 35 days
- Decision rendered within 65 days (35 days for wetlands)



Extensions

- Applicant may consent to extend time for any of the steps but total of all extensions cannot exceed 65 days
- Always get them in writing, even handwritten at the table.
- Specify how many days, not just "extension".

Application Fees & Incomplete Applications

- Incomplete applications or failure to pay application fees are NOT grounds for **not** acting on an application. Treat the application as a live bomb and act on it to avoid automatic approval.





Which applications are automatically deemed to have been approved if the agency does not act on them within the statutory time periods?



The Chairperson of a PZC or zoning commission appoint whomever he/she chooses to be an alternate



Which of the following statements are generally true?

- ① The Slido app must be installed on every computer you're presenting from

Rules for running a meeting

- Chair is in control –no speaking unless recognized, comments directed to commission
- Let everyone know the rules
- Decorum-no interruptions/talking to each other
- Crowd control/Hostility
- Try to run an efficient meeting
- Meeting Logistics



Conflict of Interest

Different kinds of conflicts:

- Personal
- Financial
- Perceived or potential conflicts



Conflict of Interest

Personal interest includes close friendships or other association with the applicant



Conflict of Interest

Financial interest includes any financial interest of a commissioner or members of his immediate family. It also includes anything where there is a financial benefit to the commissioner which may be greater than the benefit to the community at large or to a substantial segment of the community.





A Planning Commissioner's cousin has proposed a subdivision for a piece of land that is adjacent to the commissioner's fourth ex-wife. She is opposed to the development and states, correctly, at the hearing that the commissioner and his cousin are partners in an on-line business. The commissioner has a conflict and should recuse himself.



When a commissioner has a conflict the chairperson of the commission may remove that member and seat an alternate

If a Commissioner has a perceived conflict of interest, he/she should:



Conflict of Interest

- **Perceived or potential conflicts—even though a conflict might not be an actual conflict, it may be perceived by the public to be one**
- **The action taken by the Commissioner may depend on the individual circumstances**





A planning commission member may represent his/her neighbor at a zoning commission hearing so long as he/she declares that he/she is a member of the planning commission but is not acting in that capacity.

What the State Statutes say

- **CGS 8-11 Disqualification of members of Zoning Commission and Zoning Board of Appeals**
- **CGS 8-21 Disqualification of members in matters before planning commissions**
- **CGS 22a-42(c) Municipal regulation of wetlands and watercourses**

Bias vs. Predetermination

“Bias” generally refers to a personal feeling of either favoritism or antipathy toward a particular person or position

“Predetermination” or “prejudgment” is a tendency to vote for or against a particular application before all the facts are in

In certain cases, bias and predetermination may both exist

Definitions from *What is Legally Required* by Michael Zizka



Avoid the Appearance of Bias

The Commission members must not create an atmosphere of hostility

Be careful how your statements may be interpreted

If you allow prejudice to flare at a public hearing, you are inviting the overturn of your decision and even worse, money damages against your town.



Avoid the Appearance of Bias

Especially critical where the flashpoint is a civil right issue all its own: religion, free speech (adult book stores or other entertainment uses or political signs), ethnic background, race, disability. (RLUIPA and CRFA)

Examples:

Applications involving a Church, Synagogue, Mosque

Affordable housing application

“Half-way” house for juveniles transitioning out of prison or disabled persons recovering from alcohol or drug addiction

“Half-way” house for Treatment facility for persons suffering from Alzheimer’s Disease

Residential facility for people who are developmentally disabled



Predetermination

Must not publicly take a position on granting or denial of an application before the application has been formally heard and considered

Keep an open mind





The Town Planning and Zoning Commission opened a public hearing on a proposed amendment to the zoning regulations. Commissioner Stu Borne submitted correspondence for the record at the hearing advocating denial of the pending amendment. He had previously sent the letter to many people in town and posted his objections on facebook. After the hearing ended and deliberations began, despite being warned by the town attorney not to introduce new evidence, he set up easels and presentation boards stating why the application should be denied. He made the motion to deny the proposal and it passed.

Did Commissioner Borne's actions constitute:



An application is made to planning and zoning commission for expansion of gravel mining operation. The chairman visited site “regularly”, followed trucks leaving property and interviewed a family for whom the applicants had done construction work. During the public hearing, two commissioners discussed potential impacts on wetlands beyond the scope of the application. The wife of a commissioner who recused himself testified in opposition at the hearing and read a letter she had submitted to the commission.

Was there impermissible bias or predetermination?

ANSWER: NO

- Chairman's actions, although "zealous", did not prove predetermination or bias
- Statements of two commissioners during hearing was insufficient to prove predetermination or bias
- Wife's statements did not constitute "appearance" by husband at hearing
- Cioffoletti v. Ridgefield PZC, 1988 CT Supreme Court decision

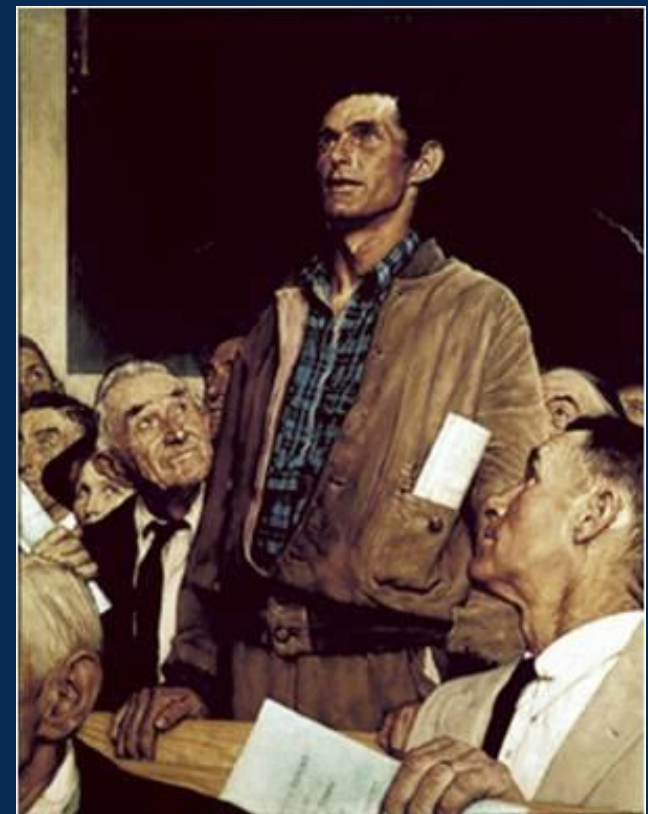
Freedom of Information Act

- The Act provides the public with the right of access to records and meetings of public agencies.
- What constitutes a public meeting and public records is defined in the statutes

Selected statutes:

Chapter 14 Freedom of Information Act

- [Sec. 1-200](#). Definitions.
- [Sec. 1-205](#). Freedom of Information Commission.
- [Sec. 1-210](#). Access to public records. Exempt records.
- [Sec. 1-215](#). Record of an arrest as public record. Exception.
- [Sec. 1-225](#). Meetings of government agencies to be public. Recording of votes. Schedule and agenda of meetings to be filed and posted on web sites. Notice of special meetings. Executive sessions.
- [Sec. 1-231](#). Executive sessions.
- [Sec. 1-241](#). Injunctive relief from frivolous, unreasonable or harassing freedom of information appeals.



Emails disclose misplaced priorities

school board's



Published January 06, 2020 7:29PM | Updated January 07, 2020 7:48AM

By **The Day Editorial Board**

... school board member Alisa M ... tried to do the right thing. For years, female high school students had complained to administration officials about what they considered invasive and inappropriate touching by a male teacher and coach, yet the teacher long remained in place.

It was disclosed only because of the digging of Wojtas, who used the state's Freedom of Information Commission law to access emails between board members in their capacities as public officials.

Two Words About Social Media

DO NOT post your feelings about a project/application/applicant on Facebook/twitter/snapchat/etc.



Ex parte Communications

- Should be avoided
- How to respond if someone approaches you in a restaurant, store, at a party, etc.
- What to do if someone tells you something outside the meetings and you can't avoid it



Legal and Procedural Considerations-Special Mention

**When in doubt, call the town
attorney**



