



General Assembly

January Session, 2007

**Raised Bill No. 1162**

LCO No. 4092

\*04092\_\_\_\_\_PD\_\*

Referred to Committee on Planning and Development

Introduced by:  
(PD)

**AN ACT CONCERNING PASSIVE SOLAR TECHNIQUES IN PLANNING AND ZONING REGULATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 8-2 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2007*):

4 (a) The zoning commission of each city, town or borough is  
5 authorized to regulate, within the limits of such municipality, the  
6 height, number of stories and size of buildings and other structures;  
7 the percentage of the area of the lot that may be occupied; the size of  
8 yards, courts and other open spaces; the density of population and the  
9 location and use of buildings, structures and land for trade, industry,  
10 residence or other purposes, including water-dependent uses as  
11 defined in section 22a-93, and the height, size and location of  
12 advertising signs and billboards. Such bulk regulations may allow for  
13 cluster development as defined in section 8-18. Such zoning  
14 commission may divide the municipality into districts of such number,  
15 shape and area as may be best suited to carry out the purposes of this  
16 chapter; and, within such districts, it may regulate the erection,

17 construction, reconstruction, alteration or use of buildings or  
18 structures and the use of land. All such regulations shall be uniform  
19 for each class or kind of buildings, structures or use of land throughout  
20 each district, but the regulations in one district may differ from those  
21 in another district, and may provide that certain classes or kinds of  
22 buildings, structures or uses of land are permitted only after obtaining  
23 a special permit or special exception from a zoning commission,  
24 planning commission, combined planning and zoning commission or  
25 zoning board of appeals, whichever commission or board the  
26 regulations may, notwithstanding any special act to the contrary,  
27 designate, subject to standards set forth in the regulations and to  
28 conditions necessary to protect the public health, safety, convenience  
29 and property values. Such regulations shall be made in accordance  
30 with a comprehensive plan and in adopting such regulations the  
31 commission shall consider the plan of conservation and development  
32 prepared under section 8-23. Such regulations shall be designed to  
33 lessen congestion in the streets; to secure safety from fire, panic, flood  
34 and other dangers; to promote health and the general welfare; to  
35 provide adequate light and air; to prevent the overcrowding of land; to  
36 avoid undue concentration of population and to facilitate the adequate  
37 provision for transportation, water, sewerage, schools, parks and other  
38 public requirements. Such regulations shall be made with reasonable  
39 consideration as to the character of the district and its peculiar  
40 suitability for particular uses and with a view to conserving the value  
41 of buildings and encouraging the most appropriate use of land  
42 throughout such municipality. Such regulations may, to the extent  
43 consistent with soil types, terrain, infrastructure capacity and the plan  
44 of conservation and development for the community, provide for  
45 cluster development, as defined in section 8-18, in residential zones.  
46 Such regulations shall also encourage the development of housing  
47 opportunities, including opportunities for multifamily dwellings,  
48 consistent with soil types, terrain and infrastructure capacity, for all  
49 residents of the municipality and the planning region in which the  
50 municipality is located, as designated by the Secretary of the Office of

51 Policy and Management under section 16a-4a. Such regulations shall  
52 also promote housing choice and economic diversity in housing,  
53 including housing for both low and moderate income households, and  
54 shall encourage the development of housing which will meet the  
55 housing needs identified in the housing plan prepared pursuant to  
56 section 8-37t and in the housing component and the other components  
57 of the state plan of conservation and development prepared pursuant  
58 to section 16a-26. Zoning regulations shall be made with reasonable  
59 consideration for their impact on agriculture. Zoning regulations may  
60 be made with reasonable consideration for the protection of historic  
61 factors and shall be made with reasonable consideration for the  
62 protection of existing and potential public surface and ground  
63 drinking water supplies. On and after July 1, 1985, the regulations shall  
64 provide that proper provision be made for soil erosion and sediment  
65 control pursuant to section 22a-329. Such regulations may also  
66 encourage energy-efficient patterns of development, the use of solar  
67 and other renewable forms of energy, and energy conservation. [The  
68 regulations may also provide for incentives for developers who use  
69 passive solar energy techniques, as defined in subsection (b) of section  
70 8-25, in planning a residential subdivision development.] The  
71 incentives may include, but not be limited to, cluster development,  
72 higher density development and performance standards for roads,  
73 sidewalks and underground facilities in the subdivision. Such  
74 regulations may provide for a municipal system for the creation of  
75 development rights and the permanent transfer of such development  
76 rights, which may include a system for the variance of density limits in  
77 connection with any such transfer. Such regulations may also provide  
78 for notice requirements in addition to those required by this chapter.  
79 Such regulations may provide for conditions on operations to collect  
80 spring water or well water, as defined in section 21a-150, including the  
81 time, place and manner of such operations. No such regulations shall  
82 prohibit the operation of any family day care home or group day care  
83 home in a residential zone. Such regulations shall not impose  
84 conditions and requirements on manufactured homes having as their

85 narrowest dimension twenty-two feet or more and built in accordance  
86 with federal manufactured home construction and safety standards or  
87 on lots containing such manufactured homes which are substantially  
88 different from conditions and requirements imposed on single-family  
89 dwellings and lots containing single-family dwellings. Such  
90 regulations shall not impose conditions and requirements on  
91 developments to be occupied by manufactured homes having as their  
92 narrowest dimension twenty-two feet or more and built in accordance  
93 with federal manufactured home construction and safety standards  
94 which are substantially different from conditions and requirements  
95 imposed on multifamily dwellings, lots containing multifamily  
96 dwellings, cluster developments or planned unit developments. Such  
97 regulations shall not prohibit the continuance of any nonconforming  
98 use, building or structure existing at the time of the adoption of such  
99 regulations. Such regulations shall not provide for the termination of  
100 any nonconforming use solely as a result of nonuse for a specified  
101 period of time without regard to the intent of the property owner to  
102 maintain that use. Any city, town or borough which adopts the  
103 provisions of this chapter may, by vote of its legislative body, exempt  
104 municipal property from the regulations prescribed by the zoning  
105 commission of such city, town or borough; but unless it is so voted  
106 municipal property shall be subject to such regulations. The  
107 regulations may also provide for incentives for developers who use  
108 passive solar energy techniques in planning a residential subdivision  
109 development. As used in this subsection, passive solar energy  
110 techniques mean site design techniques which maximize solar heat  
111 gain, minimize heat loss and provide thermal storage within a building  
112 during the heating season and minimize heat gain and provide for  
113 natural ventilation during the cooling season. The site design  
114 techniques shall include, but not be limited to: (1) House orientation;  
115 (2) street and lot layout; (3) vegetation; (4) natural and man-made  
116 topographical features; and (5) protection of solar access within the  
117 development.

118 Sec. 2. Subsection (b) of section 8-25 of the general statutes is

119 repealed and the following is substituted in lieu thereof (*Effective*  
120 *October 1, 2007*):

121 (b) The regulations adopted under subsection (a) of this section shall  
122 also encourage energy-efficient patterns of development and land use,  
123 the use of solar and other renewable forms of energy, and energy  
124 conservation. [The regulations shall require any person submitting a  
125 plan for a subdivision to the commission under subsection (a) of this  
126 section to demonstrate to the commission that such person has  
127 considered, in developing the plan, using passive solar energy  
128 techniques which would not significantly increase the cost of the  
129 housing to the buyer, after tax credits, subsidies and exemptions. As  
130 used in this subsection and section 8-2, passive solar energy techniques  
131 mean site design techniques which maximize solar heat gain, minimize  
132 heat loss and provide thermal storage within a building during the  
133 heating season and minimize heat gain and provide for natural  
134 ventilation during the cooling season. The site design techniques shall  
135 include, but not be limited to: (1) House orientation; (2) street and lot  
136 layout; (3) vegetation; (4) natural and man-made topographical  
137 features; and (5) protection of solar access within the development.]

138 Sec. 3. Section 8-26 of the general statutes is repealed and the  
139 following is substituted in lieu thereof (*Effective October 1, 2007*):

140 All plans for subdivisions and resubdivisions, including  
141 subdivisions and resubdivisions in existence but which were not  
142 submitted to the commission for required approval, whether or not  
143 shown on an existing map or plan or whether or not conveyances have  
144 been made of any of the property included in such subdivisions or  
145 resubdivisions, shall be submitted to the commission with an  
146 application in the form to be prescribed by it. The commission shall  
147 have the authority to determine whether the existing division of any  
148 land constitutes a subdivision or resubdivision under the provisions of  
149 this chapter, provided nothing in this section shall be deemed to  
150 authorize the commission to approve any such subdivision or

151 resubdivision which conflicts with applicable zoning regulations. Such  
152 regulations may contain provisions whereby the commission may  
153 waive certain requirements under the regulations by a three-quarters  
154 vote of all the members of the commission in cases where conditions  
155 exist which affect the subject land and are not generally applicable to  
156 other land in the area, provided that the regulations shall specify the  
157 conditions under which a waiver may be considered and shall provide  
158 that no waiver shall be granted that would have a significant adverse  
159 effect on adjacent property or on public health and safety. The  
160 commission shall state upon its records the reasons for which a waiver  
161 is granted in each case. The commission may establish a schedule of  
162 fees and charge such fees. The amount of the fees shall be sufficient to  
163 cover the costs of processing subdivision applications, including, but  
164 not limited to, the cost of registered or certified mailings and the  
165 publication of notices, and the costs of inspecting subdivision  
166 improvements. Any schedule of fees established under this section  
167 shall be superseded by fees established by ordinance under section 8-  
168 1c. The commission may hold a public hearing regarding any  
169 subdivision proposal if, in its judgment, the specific circumstances  
170 require such action. No plan of resubdivision shall be acted upon by  
171 the commission without a public hearing. Such public hearing shall be  
172 held in accordance with the provisions of section 8-7d. The  
173 commission shall approve, modify and approve, or disapprove any  
174 subdivision or resubdivision application or maps and plans submitted  
175 therewith, including existing subdivisions or resubdivisions made in  
176 violation of this section, within the period of time permitted under  
177 section 8-26d. Notice of the decision of the commission shall be  
178 published in a newspaper having a substantial circulation in the  
179 municipality and addressed by certified mail to any person applying to  
180 the commission under this section, by its secretary or clerk, under his  
181 signature in any written, printed, typewritten or stamped form, within  
182 fifteen days after such decision has been rendered. In any case in  
183 which such notice is not published within such fifteen-day period, the  
184 person who made such application may provide for the publication of

185 such notice within ten days thereafter. Such notice shall be a simple  
186 statement that such application was approved, modified and approved  
187 or disapproved, together with the date of such action. The failure of  
188 the commission to act thereon shall be considered as an approval, and  
189 a certificate to that effect shall be issued by the commission on  
190 demand. The grounds for its action shall be stated in the records of the  
191 commission. No planning commission shall be required to consider an  
192 application for approval of a subdivision plan while another  
193 application for subdivision of the same or substantially the same parcel  
194 is pending before the commission. For the purposes of this section, an  
195 application is not "pending before the commission" if the commission  
196 has rendered a decision with respect to such application and such  
197 decision has been appealed to the Superior Court. If an application  
198 involves land regulated as an inland wetland or watercourse under the  
199 provisions of chapter 440, the applicant shall submit an application to  
200 the agency responsible for administration of the inland wetlands  
201 regulations no later than the day the application is filed for the  
202 subdivision or resubdivision. The commission shall not render a  
203 decision until the inland wetlands agency has submitted a report with  
204 its final decision to such commission. In making its decision the  
205 commission shall give due consideration to the report of the inland  
206 wetlands agency. [In making a decision on an application, the  
207 commission shall consider information submitted by the applicant  
208 under subsection (b) of section 8-25 concerning passive solar energy  
209 techniques. The provisions of this section shall apply to any  
210 municipality which exercises planning power pursuant to any special  
211 act.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	8-2(a)
Sec. 2	<i>October 1, 2007</i>	8-25(b)
Sec. 3	<i>October 1, 2007</i>	8-26

**Statement of Purpose:**

To eliminate the requirement that subdivision applicants demonstrate consideration of passive solar energy techniques.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*