



General Assembly

**Substitute Bill No. 5474**

January Session, 2009

\*        HB05474PD        042109        \*

**AN ACT CONCERNING PRIVATE, MUNICIPAL AND STATE  
RECYCLING, BENEFICIAL USE PERMITS AND ZONING  
ORDINANCES.**

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

1       Section 1. Subsection (h) of section 22a-220 of the general statutes is  
2       repealed and the following is substituted in lieu thereof (*Effective*  
3       *October 1, 2009*):

4       (h) On or before August 31, 1991, and annually thereafter, each  
5       municipality, or its designated regional agent, shall provide a report to  
6       the Commissioner of Environmental Protection describing the  
7       measures taken during the preceding year to meet its obligations  
8       under this section. The commissioner shall provide each municipality  
9       with a form for such report by June 1, 1991. Such form may be  
10      amended from time to time. Such report shall include, but not be  
11      limited to, (1) a description of the efforts made by the municipality to  
12      promote recycling, (2) a description of its efforts to ensure compliance  
13      with separation requirements, [(3) the amount of each recyclable item  
14      contained in its solid waste stream which has been delivered to a  
15      recycling facility as reported to the municipality or its designated  
16      regional agent by the owner or operator of a recycling facility pursuant  
17      to section 22a-208e or by a scrap metal processor pursuant to section  
18      22a-208f, and (4)] and (3) the amount of solid waste generated within  
19      its boundaries which has been delivered to a resources recovery

20 facility or solid waste facility for disposal as reported to the  
21 municipality or its designated regional agent by the owner or operator  
22 of the resources recovery facility or solid waste facility pursuant to  
23 section 22a-208e.

24 Sec. 2. Section 22a-241b of the general statutes is repealed and the  
25 following is substituted in lieu thereof (*Effective October 1, 2009*):

26 (a) (1) On or before February 1, 1988, the Commissioner of  
27 Environmental Protection shall adopt regulations in accordance with  
28 the provisions of chapter 54 designating items that are required to be  
29 recycled. The commissioner may designate other items as suitable for  
30 recycling and amend said regulations accordingly. (2) On or before  
31 October 1, 2010, the Commissioner of Environmental Protection shall  
32 amend the regulations adopted under subdivision (1) of this  
33 subsection to require the recycling of (A) containers made of  
34 polyethylene terephthalate plastic and high-density polyethylene  
35 plastic, (B) boxboard, and (C) paper, including but not limited to,  
36 magazines and white and colored office and residential paper.

37 (b) Any item designated for recycling pursuant to subsection (a) of  
38 this section shall be recycled by a municipality within three months of  
39 the establishment of service to such municipality by a regional  
40 processing center or local processing system.

41 (c) [On and after January 1, 1991, (1) each] (1) Each person who  
42 generates solid waste from residential property shall, in accordance  
43 with subsection (f) of section 22a-220, separate from other solid waste  
44 the items designated for recycling pursuant to subdivision (1) of  
45 subsection (a) of this section, and (2) every other person who generates  
46 solid waste shall, in accordance with subsection (f) of section 22a-220,  
47 make provision for and cause the separation from other solid waste of  
48 the items designated for recycling pursuant to subdivision (1) of  
49 subsection (a) of this section. On and after July 1, 2011, the provisions  
50 of this subsection shall apply to items designated for recycling  
51 pursuant to subdivision (2) of subsection (a) of this section.

52        (d) For the purposes of this section, "boxboard" means a lightweight  
53 paperboard made from a variety of recovered fibers having sufficient  
54 folding properties and thickness to be used to manufacture folding or  
55 set-up boxes.

56        Sec. 3. (NEW) (*Effective October 1, 2009*) (a) For purposes of this  
57 section, "commercial entity" means any individual or sole  
58 proprietorship, partnership, firm, corporation, trust, limited liability  
59 company, limited liability partnership, joint stock company, joint  
60 venture, association or other legal entity through which business for  
61 profit or not-for-profit is conducted, and "recyclable items" means the  
62 items designated for recycling in accordance with subsection (a) of  
63 section 22a-241b of the general statutes, as amended by this act. On  
64 and after October 1, 2009, no commercial entity shall enter into or  
65 renew a contract for the collection of solid waste without specifying  
66 within such contract how recyclable items will be separated and  
67 processed.

68        (b) The provisions of this section shall not be construed to require  
69 any commercial entity to contract for the removal of such recyclable  
70 items.

71        Sec. 4. Subsection (a) of section 8-2 of the general statutes is repealed  
72 and the following is substituted in lieu thereof (*Effective October 1,*  
73 *2009*):

74        (a) The zoning commission of each city, town or borough is  
75 authorized to regulate, within the limits of such municipality, the  
76 height, number of stories and size of buildings and other structures;  
77 the percentage of the area of the lot that may be occupied; the size of  
78 yards, courts and other open spaces; the density of population and the  
79 location and use of buildings, structures and land for trade, industry,  
80 residence or other purposes, including water-dependent uses, as  
81 defined in section 22a-93, and the height, size and location of  
82 advertising signs and billboards. Such bulk regulations may allow for  
83 cluster development, as defined in section 8-18. Such zoning

84 commission may divide the municipality into districts of such number,  
85 shape and area as may be best suited to carry out the purposes of this  
86 chapter; and, within such districts, it may regulate the erection,  
87 construction, reconstruction, alteration or use of buildings or  
88 structures and the use of land. All such regulations shall be uniform  
89 for each class or kind of buildings, structures or use of land throughout  
90 each district, but the regulations in one district may differ from those  
91 in another district, and may provide that certain classes or kinds of  
92 buildings, structures or uses of land are permitted only after obtaining  
93 a special permit or special exception from a zoning commission,  
94 planning commission, combined planning and zoning commission or  
95 zoning board of appeals, whichever commission or board the  
96 regulations may, notwithstanding any special act to the contrary,  
97 designate, subject to standards set forth in the regulations and to  
98 conditions necessary to protect the public health, safety, convenience  
99 and property values. Such regulations shall be made in accordance  
100 with a comprehensive plan and in adopting such regulations the  
101 commission shall consider the plan of conservation and development  
102 prepared under section 8-23. Such regulations shall be designed to  
103 lessen congestion in the streets; to secure safety from fire, panic, flood  
104 and other dangers; to promote health and the general welfare; to  
105 provide adequate light and air; to prevent the overcrowding of land; to  
106 avoid undue concentration of population and to facilitate the adequate  
107 provision for transportation, water, sewerage, schools, parks and other  
108 public requirements. Such regulations shall be made with reasonable  
109 consideration as to the character of the district and its peculiar  
110 suitability for particular uses and with a view to conserving the value  
111 of buildings and encouraging the most appropriate use of land  
112 throughout such municipality. Such regulations may, to the extent  
113 consistent with soil types, terrain, infrastructure capacity and the plan  
114 of conservation and development for the community, provide for  
115 cluster development, as defined in section 8-18, in residential zones.  
116 Such regulations shall also encourage the development of housing  
117 opportunities, including opportunities for multifamily dwellings,  
118 consistent with soil types, terrain and infrastructure capacity, for all

119 residents of the municipality and the planning region in which the  
120 municipality is located, as designated by the Secretary of the Office of  
121 Policy and Management under section 16a-4a. Such regulations shall  
122 also promote housing choice and economic diversity in housing,  
123 including housing for both low and moderate income households, and  
124 shall encourage the development of housing which will meet the  
125 housing needs identified in the housing plan prepared pursuant to  
126 section 8-37t and in the housing component and the other components  
127 of the state plan of conservation and development prepared pursuant  
128 to section 16a-26. Zoning regulations shall be made with reasonable  
129 consideration for their impact on agriculture. Zoning regulations may  
130 be made with reasonable consideration for the protection of historic  
131 factors and shall be made with reasonable consideration for the  
132 protection of existing and potential public surface and ground  
133 drinking water supplies. On and after July 1, 1985, the regulations shall  
134 provide that proper provision be made for soil erosion and sediment  
135 control pursuant to section 22a-329. Such regulations may also  
136 encourage energy-efficient patterns of development, the use of solar  
137 and other renewable forms of energy, and energy conservation. The  
138 regulations may also provide for incentives for developers who use  
139 passive solar energy techniques, as defined in subsection (b) of section  
140 8-25, in planning a residential subdivision development. The  
141 incentives may include, but not be limited to, cluster development,  
142 higher density development and performance standards for roads,  
143 sidewalks and underground facilities in the subdivision. Such  
144 regulations may provide for a municipal system for the creation of  
145 development rights and the permanent transfer of such development  
146 rights, which may include a system for the variance of density limits in  
147 connection with any such transfer. Such regulations may also provide  
148 for notice requirements in addition to those required by this chapter.  
149 Such regulations may provide for conditions on operations to collect  
150 spring water or well water, as defined in section 21a-150, including the  
151 time, place and manner of such operations. No such regulations shall  
152 prohibit the operation of any family day care home or group day care  
153 home in a residential zone. No such regulations shall prohibit the use

154 of receptacles for the storage of items designated for recycling in  
155 accordance with section 22a-241b, as amended by this act, or require  
156 compliance with provisions for bulk or lot area, or similar provisions,  
157 except provisions for side yards, rear yards and front yards. Such  
158 regulations shall not impose conditions and requirements on  
159 manufactured homes having as their narrowest dimension twenty-two  
160 feet or more and built in accordance with federal manufactured home  
161 construction and safety standards or on lots containing such  
162 manufactured homes which are substantially different from conditions  
163 and requirements imposed on single-family dwellings and lots  
164 containing single-family dwellings. Such regulations shall not impose  
165 conditions and requirements on developments to be occupied by  
166 manufactured homes having as their narrowest dimension twenty-two  
167 feet or more and built in accordance with federal manufactured home  
168 construction and safety standards which are substantially different  
169 from conditions and requirements imposed on multifamily dwellings,  
170 lots containing multifamily dwellings, cluster developments or  
171 planned unit developments. Such regulations shall not prohibit the  
172 continuance of any nonconforming use, building or structure existing  
173 at the time of the adoption of such regulations. Such regulations shall  
174 not provide for the termination of any nonconforming use solely as a  
175 result of nonuse for a specified period of time without regard to the  
176 intent of the property owner to maintain that use. Any city, town or  
177 borough which adopts the provisions of this chapter may, by vote of  
178 its legislative body, exempt municipal property from the regulations  
179 prescribed by the zoning commission of such city, town or borough;  
180 but unless it is so voted municipal property shall be subject to such  
181 regulations.

182 Sec. 5. (NEW) (*Effective October 1, 2009*) The Commissioner of  
183 Environmental Protection may contract with municipalities or a  
184 qualified private organization for the enforcement of the provisions of  
185 subsection (c) of section 22a-241b of the general statutes, as amended  
186 by this act, subsection (i) of section 22a-220a of the general statutes or  
187 section 8 or 9 of this act, and permit such municipality to retain a

188 portion of the proceeds of any fines assessed in accordance with  
189 section 8 or 9 of this act.

190       Sec. 6. (NEW) (*Effective July 1, 2009*) Each state agency, as defined in  
191 section 1-79 of the general statutes, that occupies or manages a state  
192 building, facility or park shall, within the existing resources of such  
193 state agency, develop and execute a list of proposed actions concerning  
194 sustainability for such agency's state buildings, facilities or parks. Such  
195 list shall include, but not be limited to, methods to increase energy  
196 efficiency, provision of a sufficient number of recycling receptacles, a  
197 preference for the use of biodegradable cleaning products when  
198 feasible and appropriate separation and processing of recyclable  
199 materials. Such list shall be filed with the Department of  
200 Environmental Protection not later than August 1, 2010. For the  
201 purposes of this section, "state building" means buildings and real  
202 property owned or leased by the state, and "recyclable materials"  
203 means those items designated for recycling in accordance with  
204 subsection (a) of section 22a-241b of the general statutes, as amended  
205 by this act.

206       Sec. 7. (NEW) (*Effective October 1, 2009*) (a) Each municipality shall  
207 offer curbside recycling to all residents and businesses for which such  
208 municipality provides municipal curbside collection of solid waste,  
209 except that the provisions of this section shall not apply to any  
210 municipality that the Commissioner of Environmental Protection  
211 determines recycles its solid waste in a percentage that exceeds the  
212 state-wide average for the amount of municipal solid waste recycled.

213       (b) Each trash hauler that offers curbside collection of solid waste  
214 generated by residences in a municipality shall offer curbside recycling  
215 to each of such trash hauler's customers at no additional charge above  
216 the trash hauler's charge for solid waste collection. The provisions of  
217 this subsection shall not be construed to prohibit any trash hauler from  
218 determining and adjusting its fees for combined curbside collection  
219 services.

220 (c) For the purposes of this section, "curbside recycling" means the  
221 collection, by either municipal or private recycling vehicles, of  
222 presorted recyclable items left for such collection by residents and  
223 businesses in the front of the property of such residents and on the  
224 property of businesses, "recyclable items" means the items designated  
225 for recycling in accordance with subsection (a) of section 22a-241b of  
226 the general statutes, as amended by this act, and excludes bulk items  
227 such as furniture, demolition waste or trees, and "collector" has the  
228 same meaning as in subsection (g) of section 22a-220a of the general  
229 statutes.

230 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) Each owner or lessee of a  
231 public place shall provide recycling receptacles that are accessible to  
232 the public at the same location as trash receptacles. Such recycling  
233 receptacles shall, at a minimum, allow for the collection of beverage  
234 containers of twenty-one ounces or less, and the owner or lessee may  
235 also provide receptacles intended for the recycling of other recyclable  
236 items. For the purpose of this section, "recyclable items" means those  
237 items designated for recycling in accordance with subsection (a) of  
238 section 22a-241b of the general statutes, as amended by this act, and  
239 "public place" means any area or building, or portion thereof, that is  
240 open to the public during normal business hours, including, but not  
241 limited to, any (1) building that provides facilities or shelter for public  
242 assembly, (2) inn, hotel, motel, sports arena, supermarket,  
243 transportation terminal, retail store, restaurant or other commercial  
244 establishment that provides services or retails merchandise, and (3)  
245 museum, hospital, auditorium, movie theater and university building.

246 (b) The Commissioner of Environmental Protection may adopt  
247 regulations, in accordance with the provisions of chapter 54 of the  
248 general statutes, to implement the provisions of this section.

249 (c) Any owner or lessee who violates this section may be subject to a  
250 civil penalty of not more than one thousand dollars for each offense.  
251 Each violation of this section shall be a separate and distinct offense  
252 and, in case of a continuing violation, each day's continuance thereof

253 shall be deemed to be a separate and distinct offense. The Attorney  
254 General, upon the request of the Commissioner of Environmental  
255 Protection, shall bring an action in superior court for the judicial  
256 district of Hartford to recover such penalty.

257       Sec. 9. (NEW) (*Effective October 1, 2009*) (a) No person shall  
258 recombine previously segregated items required to be recycled  
259 pursuant to subsection (a) of section 22a-241b of the general statutes, as  
260 amended by this act, with nonrecyclable solid waste.

261       (b) Any person who violates subsection (a) of this section shall be  
262 subject to a civil penalty of two hundred dollars for each offense. Each  
263 violation of said subsection (a) shall be a separate and distinct offense,  
264 and, in case of a continuing violation, each day's continuance thereof  
265 shall be deemed to be a separate and distinct offense. The Attorney  
266 General, upon the request of the Commissioner of Environmental  
267 Protection, shall bring an action in superior court for the judicial  
268 district of Hartford to recover such penalty.

269       Sec. 10. (NEW) (*Effective July 1, 2009*) (a) For the purposes of this  
270 section, "resources recovery facility" has the same meaning as in  
271 section 22a-207 of the general statutes and "recyclable item" means the  
272 items designated for recycling in accordance with section 22a-241b of  
273 the general statutes, as amended by this act.

274       (b) No contract between a municipality and a resources recovery  
275 facility entered into or renewed on or after July 1, 2009, may provide  
276 that the fees paid by such municipality to such facility shall increase if  
277 the tonnage of solid waste delivered to such facility is reduced and the  
278 tonnage of recyclable items delivered to such facility is increased.

279       (c) The provisions of this section shall not be construed to permit a  
280 municipality to sell such recyclable items to an entity other than the  
281 facility in violation of any such contract.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	22a-220(h)
Sec. 2	<i>October 1, 2009</i>	22a-241b
Sec. 3	<i>October 1, 2009</i>	New section
Sec. 4	<i>October 1, 2009</i>	8-2(a)
Sec. 5	<i>October 1, 2009</i>	New section
Sec. 6	<i>July 1, 2009</i>	New section
Sec. 7	<i>October 1, 2009</i>	New section
Sec. 8	<i>October 1, 2009</i>	New section
Sec. 9	<i>October 1, 2009</i>	New section
Sec. 10	<i>July 1, 2009</i>	New section

**PD**      *Joint Favorable Subst.*