



General Assembly

Substitute Bill No. 860

January Session, 2011

* _____SB00860PD_____032811_____*

**AN ACT CONCERNING BONDS AND OTHER SURETY FOR
APPROVED SITE PLANS AND SUBDIVISIONS.**

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

1 Section 1. Subsection (g) of section 8-3 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (g) (1) The zoning regulations may require that a site plan be filed
5 with the commission or other municipal agency or official to aid in
6 determining the conformity of a proposed building, use or structure
7 with specific provisions of such regulations. If a site plan application
8 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
9 inclusive, the applicant shall submit an application for a permit to the
10 agency responsible for administration of the inland wetlands
11 regulations not later than the day such application is filed with the
12 zoning commission. The commission shall, within the period of time
13 established in section 8-7d, accept the filing of and shall process,
14 pursuant to section 8-7d, any site plan application involving land
15 regulated as an inland wetland or watercourse under chapter 440. The
16 decision of the zoning commission shall not be rendered on the site
17 plan application until the inland wetlands agency has submitted a
18 report with its final decision. In making its decision, the commission
19 shall give due consideration to the report of the inland wetlands

20 agency and if the commission establishes terms and conditions for
21 approval that are not consistent with the final decision of the inland
22 wetlands agency, the commission shall state on the record the reason
23 for such terms and conditions. A site plan may be modified or denied
24 only if it fails to comply with requirements already set forth in the
25 zoning or inland wetlands regulations. Approval of a site plan shall be
26 presumed unless a decision to deny or modify it is rendered within the
27 period specified in section 8-7d. A certificate of approval of any plan
28 for which the period for approval has expired and on which no action
29 has been taken shall be sent to the applicant within fifteen days of the
30 date on which the period for approval has expired. A decision to deny
31 or modify a site plan shall set forth the reasons for such denial or
32 modification. A copy of any decision shall be sent by certified mail to
33 the person who submitted such plan within fifteen days after such
34 decision is rendered. The zoning commission may, as a condition of
35 approval of any modified site plan, require a bond in an amount not to
36 exceed the cost to perform any modifications required by such
37 modified site plan plus an additional amount of up to ten per cent of
38 the amount of the bond and with surety and conditions satisfactory to
39 it, securing that any modifications of such site plan are made or may
40 grant an extension of the time to complete work in connection with
41 such modified site plan. [The commission may condition the approval
42 of such extension on a determination of the adequacy of the amount of
43 the bond or other surety furnished under this section.] The commission
44 shall publish notice of the approval or denial of site plans in a
45 newspaper having a general circulation in the municipality. In any
46 case in which such notice is not published within the fifteen-day
47 period after a decision has been rendered, the person who submitted
48 such plan may provide for the publication of such notice within ten
49 days thereafter. The provisions of this subsection shall apply to all
50 zoning commissions or other final zoning authority of each
51 municipality whether or not such municipality has adopted the
52 provisions of this chapter or the charter of such municipality or special
53 act establishing zoning in the municipality contains similar provisions.

54 (2) To satisfy any bond requirement, the commission shall accept, at
55 the discretion of the person posting such bond, surety bonds, cash
56 bonds in a form acceptable to the commission, passbook or statement
57 savings accounts in a form acceptable to the commission and other
58 surety including, but not limited to, letters of credit, provided the
59 financial institution or other entity issuing any letter of credit is
60 acceptable to the commission. Such bond may, at the discretion of the
61 person posting such bond, be posted at any time before all
62 modifications of the site plan are complete, except that the commission
63 may require a bond for erosion control prior to the commencement of
64 any such modifications. No certificate of occupancy shall be issued
65 before a required bond is posted. For any site plan that is approved for
66 development in phases, the surety provisions of this section shall
67 apply as if each phase was approved as a separate site plan.
68 Notwithstanding the provisions of any special act, municipal charter
69 or ordinance, no commission shall require a bond or other surety to
70 securitize the maintenance of roads, streets or other improvements
71 associated with such site plan.

72 (3) If the person posting a bond under this section requests a release
73 of all or a portion of such bond, the commission or its agent shall, not
74 later than thirty days after receiving such request, (A) release any such
75 bond or portion thereof, provided the commission or its agent is
76 reasonably satisfied that the modifications for which such bond or
77 portion thereof was posted have been completed, or (B) provide the
78 person posting such bond with a written explanation as to the
79 additional modifications that must be completed before such bond or
80 portion thereof may be released.

81 Sec. 2. Section 8-25 of the general statutes is repealed and the
82 following is substituted in lieu thereof (*Effective October 1, 2011*):

83 (a) No subdivision of land shall be made until a plan for such
84 subdivision has been approved by the commission. Any person, firm
85 or corporation making any subdivision of land without the approval of
86 the commission shall be fined not more than five hundred dollars for

87 each lot sold or offered for sale or so subdivided. Any plan for
88 subdivision shall, upon approval, or when taken as approved by
89 reason of the failure of the commission to act, be filed or recorded by
90 the applicant in the office of the town clerk not later than ninety days
91 after the expiration of the appeal period under section 8-8, or in the
92 case of an appeal, not later than ninety days after the termination of
93 such appeal by dismissal, withdrawal or judgment in favor of the
94 applicant but, if it is a plan for subdivision wholly or partially within a
95 district, it shall be filed in the offices of both the district clerk and the
96 town clerk, and any plan not so filed or recorded within the prescribed
97 time shall become null and void, except that the commission may
98 extend the time for such filing for two additional periods of ninety
99 days and the plan shall remain valid until the expiration of such
100 extended time. All such plans shall be delivered to the applicant for
101 filing or recording not more than thirty days after the time for taking
102 an appeal from the action of the commission has elapsed or not more
103 than thirty days after the date that plans modified in accordance with
104 the commission's approval and that comply with section 7-31 are
105 delivered to the commission, whichever is later, and in the event of an
106 appeal, not more than thirty days after the termination of such appeal
107 by dismissal, withdrawal or judgment in favor of the applicant or not
108 more than thirty days after the date that plans modified in accordance
109 with the commission's approval and that comply with section 7-31 are
110 delivered to the commission, whichever is later. No such plan shall be
111 recorded or filed by the town clerk or district clerk or other officer
112 authorized to record or file plans until its approval has been endorsed
113 thereon by the chairman or secretary of the commission, and the filing
114 or recording of a subdivision plan without such approval shall be void.
115 Before exercising the powers granted in this section, the commission
116 shall adopt regulations covering the subdivision of land. No such
117 regulations shall become effective until after a public hearing held in
118 accordance with the provisions of section 8-7d. Such regulations shall
119 provide that the land to be subdivided shall be of such character that it
120 can be used for building purposes without danger to health or the
121 public safety, that proper provision shall be made for water, sewerage

122 and drainage, including the upgrading of any downstream ditch,
123 culvert or other drainage structure which, through the introduction of
124 additional drainage due to such subdivision, becomes undersized and
125 creates the potential for flooding on a state highway, and, in areas
126 contiguous to brooks, rivers or other bodies of water subject to
127 flooding, including tidal flooding, that proper provision shall be made
128 for protective flood control measures and that the proposed streets are
129 in harmony with existing or proposed principal thoroughfares shown
130 in the plan of conservation and development as described in section
131 8-23, especially in regard to safe intersections with such thoroughfares,
132 and so arranged and of such width, as to provide an adequate and
133 convenient system for present and prospective traffic needs. Such
134 regulations shall also provide that the commission may require the
135 provision of open spaces, parks and playgrounds when, and in places,
136 deemed proper by the planning commission, which open spaces, parks
137 and playgrounds shall be shown on the subdivision plan. Such
138 regulations may, with the approval of the commission, authorize the
139 applicant to pay a fee to the municipality or pay a fee to the
140 municipality and transfer land to the municipality in lieu of any
141 requirement to provide open spaces. Such payment or combination of
142 payment and the fair market value of land transferred shall be equal to
143 not more than ten per cent of the fair market value of the land to be
144 subdivided prior to the approval of the subdivision. The fair market
145 value shall be determined by an appraiser jointly selected by the
146 commission and the applicant. A fraction of such payment the
147 numerator of which is one and the denominator of which is the
148 number of approved parcels in the subdivision shall be made at the
149 time of the sale of each approved parcel of land in the subdivision and
150 placed in a fund in accordance with the provisions of section 8-25b.
151 The open space requirements of this section shall not apply if the
152 transfer of all land in a subdivision of less than five parcels is to a
153 parent, child, brother, sister, grandparent, grandchild, aunt, uncle or
154 first cousin for no consideration, or if the subdivision is to contain
155 affordable housing, as defined in section 8-39a, equal to twenty per
156 cent or more of the total housing to be constructed in such subdivision.

157 Such regulations, on and after July 1, 1985, shall provide that proper
158 provision be made for soil erosion and sediment control pursuant to
159 section 22a-329. Such regulations shall not impose conditions and
160 requirements on manufactured homes having as their narrowest
161 dimension twenty-two feet or more and built in accordance with
162 federal manufactured home construction and safety standards or on
163 lots containing such manufactured homes which are substantially
164 different from conditions and requirements imposed on single-family
165 dwellings and lots containing single-family dwellings. Such
166 regulations shall not impose conditions and requirements on
167 developments to be occupied by manufactured homes having as their
168 narrowest dimension twenty-two feet or more and built in accordance
169 with federal manufactured home construction and safety standards
170 which are substantially different from conditions and requirements
171 imposed on multifamily dwellings, lots containing multifamily
172 dwellings, cluster developments or planned unit developments. The
173 commission may also prescribe the extent to which and the manner in
174 which streets shall be graded and improved and public utilities and
175 services provided and, in lieu of the completion of such work and
176 installations previous to the final approval of a plan, the commission
177 may accept a bond in an amount and with surety and conditions
178 satisfactory to it securing to the municipality the actual construction,
179 maintenance and installation of such public improvements and utilities
180 within a period specified in the bond. Such regulations may provide,
181 in lieu of the completion of the work and installations above referred
182 to, previous to the final approval of a plan, for an assessment or other
183 method whereby the municipality is put in an assured position to do
184 such work and make such installations at the expense of the owners of
185 the property within the subdivision. Such regulations may provide
186 that in lieu of either the completion of the work or the furnishing of a
187 bond or other surety as provided in this section, the commission may
188 authorize the filing of a plan with a conditional approval endorsed
189 thereon. Such approval shall be conditioned on (1) the actual
190 construction, maintenance and installation of any improvements or
191 utilities prescribed by the commission, or (2) the provision of a bond or

192 other surety as provided in this section. Upon the occurrence of either
193 of such events, the commission shall cause a final approval to be
194 endorsed thereon in the manner provided by this section. Any such
195 conditional approval shall lapse five years from the date it is granted,
196 provided the applicant may apply for and the commission may, in its
197 discretion, grant a renewal of such conditional approval for an
198 additional period of five years at the end of any five-year period,
199 except that the commission may, by regulation, provide for a shorter
200 period of conditional approval or renewal of such approval. Any
201 person who enters into a contract for the purchase of any lot
202 subdivided pursuant to a conditional approval may rescind such
203 contract by delivering a written notice of rescission to the seller not
204 later than three days after receipt of written notice of final approval if
205 such final approval has additional amendments or any conditions that
206 were not included in the conditional approval and are unacceptable to
207 the buyer. Any person, firm or corporation who, prior to such final
208 approval, transfers title to any lot subdivided pursuant to a conditional
209 approval shall be fined not more than one thousand dollars for each lot
210 transferred. Nothing in this subsection shall be construed to authorize
211 the marketing of any lot prior to the granting of conditional approval
212 or renewal of such conditional approval.

213 (b) The regulations adopted under subsection (a) of this section shall
214 also encourage energy-efficient patterns of development and land use,
215 the use of solar and other renewable forms of energy, and energy
216 conservation. The regulations shall require any person submitting a
217 plan for a subdivision to the commission under subsection (a) of this
218 section to demonstrate to the commission that such person has
219 considered, in developing the plan, using passive solar energy
220 techniques which would not significantly increase the cost of the
221 housing to the buyer, after tax credits, subsidies and exemptions. As
222 used in this subsection and section 8-2, passive solar energy techniques
223 mean site design techniques which maximize solar heat gain, minimize
224 heat loss and provide thermal storage within a building during the
225 heating season and minimize heat gain and provide for natural

226 ventilation during the cooling season. The site design techniques shall
227 include, but not be limited to: (1) House orientation; (2) street and lot
228 layout; (3) vegetation; (4) natural and man-made topographical
229 features; and (5) protection of solar access within the development.

230 (c) The regulations adopted under subsection (a) of this section,
231 may, to the extent consistent with soil types, terrain, infrastructure
232 capacity and the plan of development for the community, provide for
233 cluster development, and may provide for incentives for cluster
234 development such as density bonuses, or may require cluster
235 development.

236 (d) (1) To satisfy any bond or other surety requirement in this
237 section, the commission shall accept, at the discretion of the person
238 posting such bond or other surety, surety bonds, cash bonds in a form
239 acceptable to the commission, passbook or statement savings accounts
240 in a form acceptable to the commission and other surety including, but
241 not limited to, letters of credit, provided the financial institution or
242 other entity issuing any letter of credit is acceptable to the commission.
243 Such bond or other surety may, at the discretion of the person posting
244 such bond or other surety, be posted at any time before all public
245 improvements and utilities are constructed and installed, except that
246 the commission may require a bond or other surety for erosion control
247 prior to the commencement of any such construction or installation.
248 No lot shall be transferred to a buyer before any required bond or
249 other surety is posted. For any subdivision that is approved for
250 development in phases, the surety provisions of this section shall
251 apply as if each phase was approved as a separate subdivision.
252 Notwithstanding the provisions of any special act, municipal charter
253 or ordinance, no commission shall require a bond or other surety to
254 securitize the maintenance of roads, streets or other improvements
255 associated with such subdivision.

256 (2) If the person posting a bond under this section requests a release
257 of all or a portion of such bond, the commission shall, not later than
258 thirty days after receiving such request, (A) release any such bond or

259 portion thereof, provided the commission or its agent is reasonably
260 satisfied that the modifications for which such bond or portion thereof
261 was posted have been completed, or (B) provide the person posting
262 such bond with a written explanation as to the additional
263 modifications that must be completed before such bond or portion
264 thereof may be released.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	8-3(g)
Sec. 2	<i>October 1, 2011</i>	8-25

PD *Joint Favorable Subst.*