



# STATE OF CONNECTICUT

## OFFICE OF POLICY AND MANAGEMENT

To: Municipal Chief Elected Officials and Chief Executive Officers  
From: Scott D. Jackson, Undersecretary *sdj*  
Date: June 12, 2015  
Subject: Updated Guidance on Discretionary State Funding Eligibility

In April 2015, the Office of Policy and Management (OPM) provided guidance to municipalities on how to manage the impending prohibition on *discretionary state funding* under CGS Section 8-23(b). Such prohibition was supposed to broadly take effect on July 1, 2015 for any municipality that has not adopted a local plan of conservation and development (POCD) within the past 10 years.

Please be aware that Public Act 15-95 amends CGS Section 8-23(b) by changing the effective date of the *discretionary state funding* prohibition to July 1, 2016 for all municipalities. This means that any municipality with an expired POCD will remain eligible for *discretionary state funding* until July 1, 2016. Therefore, affected municipalities do not need to submit the sample "Waiver Request Letter" that was included with OPM's earlier guidance.

Regardless of this important change, CGS Section 8-23(a)(2) still requires the chief elected official of an affected municipality to submit a "Notice of Expired POCD" letter whenever the municipal planning/P&Z commission is unable to adopt a new POCD within the required 10 year period. In order to assist affected municipalities, I have attached a revised sample "Notice of Expired POCD" letter that you should use if your POCD is currently greater than 10 years old, or will be so in the future.

In the coming months, my staff will compile a master list of municipal POCD adoption dates that will be made publicly available and used by administering state agencies to uniformly implement CGS Section 8-23(b) beginning July 1, 2016. Each municipality will be prompted at a later date to verify the accuracy of the information my staff has compiled.

Finally, I expect to provide supplemental guidance on this matter next spring, particularly with regard to how the waiver process will be administered after the July 1, 2016 effective date. In the meantime, I urge every municipality to plan and budget appropriately to adopt its POCD in a timely manner, so that it does not risk becoming ineligible for *discretionary state funding*.

If you have any questions on the process outlined above, please contact Dan Morley of my staff at (860) 418-6343 or [Daniel.Morley@ct.gov](mailto:Daniel.Morley@ct.gov).

Attachments: A) Sample "Notice of Expired POCD" (revised)  
B) Public Act 15-95: An Act Concerning Municipal Plans of Conservation and Development

Cc: Planning & Development Committee  
Regional COG Directors

## **Attachment A**

Sample "Notice of Expired POCD"

Insert Municipal Header

Date

Secretary Benjamin Barnes  
Office of Policy and Management  
450 Capitol Avenue  
Hartford, CT 06106-1379

Commissioner James P. Redeker  
Department of Transportation  
2800 Berlin Turnpike  
Newington, CT 06111

Commissioner Robert J. Klee  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

Commissioner Catherine H. Smith  
Department of Economic and Community Development  
505 Hudson Street  
Hartford, CT 06106-7106

RE: Notice of Expired Plan of Conservation and Development

Dear Secretary Barnes and Commissioners Redeker, Klee, and Smith:

In accordance with Section 8-23 of the Connecticut General Statutes (CGS), as amended by Public Act 15-95, I am notifying you that the Plan of Conservation and Development (POCD) for the Town/City of [redacted] was last adopted by its Planning Commission/Planning and Zoning Commission on Date, [redacted] and is considered to be expired because it is more than 10 years old. I understand that the Town/City of [redacted] will become ineligible for discretionary state funding if the Planning Commission/Planning and Zoning Commission does not adopt a new POCD prior to July 1, 2016.

Briefly explain the reason(s) why the POCD was not revised and adopted in a timely manner and the steps being taken to comply with CGS Section 8-23.

In summary, I would like to reaffirm the Town/City of [redacted]'s commitment to a thorough and comprehensive public process for developing and adopting its POCD.

Sincerely,

Name of Chief Elected Official

Cc: Planning Commission/Planning and Zoning Commission

## **Attachment B**

Public Act 15-95, An Act Concerning Municipal Plans of Conservation and Development



*Senate Bill No. 1045*

*Public Act No. 15-95*

***AN ACT CONCERNING MUNICIPAL PLANS OF CONSERVATION AND DEVELOPMENT.***

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

Section 1. Section 8-23 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) At least once every ten years, the commission shall prepare or amend and shall adopt a plan of conservation and development for the municipality. Following adoption, the commission shall regularly review and maintain such plan. The commission may adopt such geographical, functional or other amendments to the plan or parts of the plan, in accordance with the provisions of this section, as it deems necessary. The commission may, at any time, prepare, amend and adopt plans for the redevelopment and improvement of districts or neighborhoods which, in its judgment, contain special problems or opportunities or show a trend toward lower land values.

(2) If a plan is not amended decennially, the chief elected official of the municipality shall submit a letter to the Secretary of the Office of Policy and Management and the Commissioners of Transportation, Energy and Environmental Protection and Economic and Community Development that explains why such plan was not amended. A copy of such letter shall be included in each application by the municipality for discretionary state funding submitted to any state agency.

[(3) Notwithstanding any provision of subdivisions (1) and (2) of this subsection, no commission shall be obligated to prepare or amend a plan of conservation and development for such municipality from July 1, 2010, to June 30, 2014, inclusive.]

(b) On and after [the first day of July following the adoption of the state Conservation and Development Policies Plan 2013-2018, in accordance with section 16a-30] July 1, 2016, a municipality that fails to comply with the requirements of subdivisions (1) and (2) of subsection (a) of this section shall be ineligible for discretionary state funding unless such prohibition is expressly waived by the secretary, ], except that any municipality that does not prepare or amend a plan of conservation and development pursuant to subdivision (3) of subsection (a) of this section shall continue to be eligible for discretionary state funding unless such municipality fails to comply with the requirements of said subdivisions (1) and (2) on or after July 1, 2015.]

(c) In the preparation of such plan, the commission may appoint one or more special committees to develop and make recommendations for the plan. The membership of any special committee may include: Residents of the municipality and representatives of local boards dealing with zoning, inland wetlands, conservation, recreation, education, public works, finance, redevelopment, general government and other municipal functions. In performing its duties under this section, the commission or any special committee may accept information from any source or solicit input from any organization or individual. The commission or any special committee may hold public informational meetings or organize other activities to inform residents about the process of preparing the plan.

(d) In preparing such plan, the commission or any special committee shall consider the following: (1) The community development action plan of the municipality, if any, (2) the need for affordable housing, (3) the need for protection of existing and potential public surface and ground drinking water supplies, (4) the use of cluster development and other development patterns to the extent consistent with soil types, terrain and infrastructure capacity within the municipality, (5) the state plan of conservation and development adopted pursuant to chapter 297, (6) the regional plan of conservation and development adopted pursuant to section 8-35a, (7) physical, social, economic and governmental conditions and trends, (8) the needs of the

municipality including, but not limited to, human resources, education, health, housing, recreation, social services, public utilities, public protection, transportation and circulation and cultural and interpersonal communications, (9) the objectives of energy-efficient patterns of development, the use of solar and other renewable forms of energy and energy conservation, (10) protection and preservation of agriculture, and (11) sea level change scenarios published by the National Oceanic and Atmospheric Administration in Technical Report OAR CPO-I.

(e) (1) Such plan of conservation and development shall (A) be a statement of policies, goals and standards for the physical and economic development of the municipality, (B) provide for a system of principal thoroughfares, parkways, bridges, streets, sidewalks, multipurpose trails and other public ways as appropriate, (C) be designed to promote, with the greatest efficiency and economy, the coordinated development of the municipality and the general welfare and prosperity of its people and identify areas where it is feasible and prudent (i) to have compact, transit accessible, pedestrian-oriented mixed use development patterns and land reuse, and (ii) to promote such development patterns and land reuse, (D) recommend the most desirable use of land within the municipality for residential, recreational, commercial, industrial, conservation, agricultural and other purposes and include a map showing such proposed land uses, (E) recommend the most desirable density of population in the several parts of the municipality, (F) note any inconsistencies with the following growth management principles: (i) Redevelopment and revitalization of commercial centers and areas of mixed land uses with existing or planned physical infrastructure; (ii) expansion of housing opportunities and design choices to accommodate a variety of household types and needs; (iii) concentration of development around transportation nodes and along major transportation corridors to support the viability of transportation options and land reuse; (iv) conservation and restoration of the natural environment, cultural and historical resources and existing farmlands; (v) protection of environmental assets critical to public health and safety; and (vi) integration of planning across all levels of government to address issues on a local, regional and state-wide basis, (G) make provision for the development of housing opportunities, including opportunities for multifamily dwellings, consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located, as designated by the Secretary of the Office of Policy and Management under section 16a-4a, (H) promote housing choice and economic diversity in housing, including housing for both low and moderate income households, and encourage the development of housing which will meet the housing needs identified in the state's consolidated plan for housing and community development prepared pursuant to section 8-37t and in the housing component and the other components of the state plan of conservation and development prepared pursuant to chapter 297, and (I) consider allowing older adults and persons with a disability the ability to live in their homes and communities whenever possible. Such plan may: (i) Permit home sharing in single-family zones between up to four adult persons of any age with a disability or who are sixty years of age or older, whether or not related, who receive supportive services in the home; (ii) allow accessory apartments for persons with a disability or persons sixty years of age or older, or their caregivers, in all residential zones, subject to municipal zoning regulations concerning design and long-term use of the principal property after it is no longer in use by such persons; and (iii) expand the definition of "family" in single-family zones to allow for accessory apartments for persons sixty years of age or older, persons with a disability or their caregivers. In preparing such plan the commission shall consider focusing development and revitalization in areas with existing or planned physical infrastructure. For purposes of this subsection, "disability" has the same meaning as provided in section 46a-8.

(2) For any municipality that is contiguous to Long Island Sound, such plan shall be (A) consistent with the municipal coastal program requirements of sections 22a-101 to 22a-104, inclusive, (B) made with reasonable consideration for restoration and protection of the ecosystem and habitat of Long Island Sound, and (C) designed to reduce hypoxia, pathogens, toxic contaminants and floatable debris in Long Island Sound.

(f) Such plan may show the commission's and any special committee's recommendation for (1) conservation and preservation of traprock and other ridgelines, (2) airports, parks, playgrounds and other public grounds, (3) the general location, relocation and improvement of schools and other public buildings, (4) the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, [sewerage,] light, power, transit and other purposes, (5) the extent and location of public housing projects, (6) programs for the implementation of the plan, including (A) a schedule, (B) a budget for public capital projects, (C) a program for enactment and enforcement of zoning and subdivision controls, building and housing codes and safety regulations, (D) plans for implementation of affordable housing, (E) plans for open space acquisition and greenways protection and development, and (F) plans for corridor management areas along limited access highways or rail lines, designated under section 16a-27, (7) proposed priority funding areas, and (8) any other recommendations as will, in the commission's or any special committee's judgment, be beneficial to the municipality. The plan may include any necessary and related maps, explanatory material, photographs, charts or other pertinent data and information relative to the past, present and future trends of the municipality.

(g) Any municipal plan of conservation and development scheduled for adoption on or after July 1, 2015, shall identify the general location and extent of any (1) areas served by existing sewerage systems, (2) areas where sewerage systems are planned, and (3) areas where sewers are to be avoided. In identifying such areas, the commission shall consider the provisions of this section and the priority funding area provisions of chapter 297a.

~~[(g)]~~ (h) (1) A plan of conservation and development or any part thereof or amendment thereto prepared by the commission or any special committee shall be reviewed, and may be amended, by the commission prior to scheduling at least one public hearing on adoption.

(2) At least sixty-five days prior to the public hearing on adoption, the commission shall submit a copy of such plan or part thereof or amendment thereto for review and comment to the legislative body or, in the case of a municipality for which the legislative body of the municipality is a town meeting or representative town meeting, to the board of selectmen. The legislative body or board of selectmen, as the case may be, may hold one or more public hearings on the plan and shall endorse or reject such entire plan or part thereof or amendment and may submit comments and recommended changes to the commission. The commission may render a decision on the plan without the report of such body or board.

(3) At least thirty-five days prior to the public hearing on adoption, the commission shall post the plan on the Internet web site of the municipality, if any.

(4) At least sixty-five days prior to the public hearing on adoption, the commission shall submit a copy of such plan or part thereof or amendment thereto to the regional council of governments for review and comment. The regional council of governments shall submit an advisory report along with its comments to the commission at or before the hearing. Such comments shall include a finding on the consistency of the plan with (A) the regional plan of conservation and development, adopted under section 8-35a, (B) the state plan of conservation and development, adopted pursuant to chapter 297, and (C) the plans of conservation and development of other municipalities in the area of operation of the regional council of governments. The commission may render a decision on the plan without the report of the regional council of governments.

(5) At least thirty-five days prior to the public hearing on adoption, the commission shall file in the office of the town clerk a copy of such plan or part thereof or amendment thereto but, in the case of a district commission, such commission shall file such information in the offices of both the district clerk and the town clerk.

(6) The commission shall cause to be published in a newspaper having a general circulation in the municipality, at least twice at intervals of not less than two days, the first not more than fifteen days, or less than ten days, and the last not less than two days prior to the date of each such hearing, notice of the time and place of any such public hearing. Such notice shall make reference to the filing of such draft plan in the office of the town clerk, or both the district clerk and the town clerk, as the case may be.

~~[(h)]~~ (i) (1) After completion of the public hearing, the commission may revise the plan and may adopt the plan or any part thereof or amendment thereto by a single resolution or may, by successive resolutions, adopt parts of the plan and amendments thereto.

(2) Any plan, section of a plan or recommendation in the plan that is not endorsed in the report of the legislative body or, in the case of a municipality for which the legislative body is a town meeting or representative town meeting, by the board of selectmen, of the municipality may only be adopted by the commission by a vote of not less than two-thirds of all the members of the commission.

(3) Upon adoption by the commission, any plan or part thereof or amendment thereto shall become effective at a time established by the commission, provided notice thereof shall be published in a newspaper having a general circulation in the municipality prior to such effective date.

(4) Not more than thirty days after adoption, any plan or part thereof or amendment thereto shall be posted on the Internet web site of the municipality, if any, and shall be filed in the office of the town clerk, except that, if it is a district plan or amendment, it shall be filed in the offices of both the district and town clerks.

(5) Not more than sixty days after adoption of the plan, the commission shall submit a copy of the plan to the Secretary of the Office of Policy and Management and shall include with such copy a description of any inconsistency between the plan adopted by the commission and the state plan of conservation and development and the reasons therefor.

~~[(i)]~~ (j) Any owner or tenant, or authorized agent of such owner or tenant, of real property or buildings thereon located in the municipality may submit a proposal to the commission requesting a change to the plan of conservation and development. Such proposal shall be submitted in writing and on a form prescribed by the commission. Notwithstanding the provisions of subsection (a) of section 8-7d, the commission shall review and may approve, modify and approve or reject the proposal in accordance with the provisions of subsection ~~[(g)]~~ (h) of this section.