

# Development & Construction in Connecticut:

## Many Steps, Many Stops

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Various state and local commissions, departments, utilities and agencies a builder or developer may be required to get approval from are noted below. Others are noted because they also need to be consulted before construction begins. In addition to the multitude of potential reviews and stops, there is some cross-over among municipal, state and federal jurisdictions due either to joint jurisdiction or delegations of authority by various statutes from one government level to another.

The agency or issue involved, along with the statutory chapter and initial section of Conn. General Statutes (CGA) for the authority is noted in the left column. Comments appear in the right column. For each permit review or agency stop, there may be permit and inspection fees, bonding requirements, and legal, engineering and consulting fees. Skilled, professional and educated developers who have been in the business twenty or more years report that they still do not always know which agencies or departments they are required to approach about a particular project or issue. These myriad processes and permits need to be streamlined and coordinated if Connecticut is to attract investment and thrive in a worldwide economy.

In addition to the government agency stops noted below, development applicants must also consider the positions of neighborhood groups, local land trusts, various environmental organizations (Audubon, Sierra Club, CFE – CT Fund for Environment, ELF – Earth Liberation Front, etc.), development competitors, and any potential NIMBY (Not In My Back Yard); CAVE (Citizens Against Virtually Everything); NIMTO (Not In My Term of Office); and BANANA (Build Absolutely Nothing Anywhere Near Anybody/Anything) – many of whom have the ability and willingness through litigation and otherwise to delay or stop a potential development activity.

### Municipal Level (agencies, individuals or issues to check or consider):

<p>Zoning Commission Chapter 124 (CGA Sec. 8-2)</p>	<p>Ensure land is zoned properly (i.e., use restrictions); Many other issues to consider in zoning regulations (<b>site plan approval</b>/requirements; <b>special exception/permits</b>; <b>certificate of zoning compliance</b>; set-backs from street, side-yards; buildable square restrictions; <b>gravel/mining permits</b> to remove dirt and rock; residential density restrictions; building height, bulk limits; <b>sign permits</b>/requirements or limits; <b>aesthetic considerations</b> in village district zones (CGA 8-2j) and incentive housing zones ; etc. – see below)</p>
<p>Planning Commission Chapter 126 (CGA Sec. 8-25)</p>	<p>If subdividing land, need subdivision approval; resubdivision approvals; many specific requirements in subdivision regulations; conservation/open space requirements vary by town, often very abusive in the amount of land taken from the private owner, very loosely controlled by statute, if at all; etc.</p>
<p>Planning Department / Town Planner / ZEO</p>	<p>Check with staff for regulations, process, knowledge of area, history</p>

Performance bond authority	P&Z commissions have authority to require developers to post performance bonds to guarantee site work will be done as approved; abuses of this authority by some towns led to PA 11-5 and PA 12-182 to make the process more uniform, provide some reasonable alternatives to developers and prohibit one practice of requiring posting cash bonds (i.e., endowments) that developers never get back to fund the life-time maintenance of public facilities (this practice is essentially an illegal impact fee).
<i>About 40 municipalities have separate zoning and planning commissions; the rest have combined P&amp;Z commissions.</i>	
Zoning Board of Appeals Chapter 124	Possibly; controls <b>variances</b> from zoning regulations; some initial permitting authority (e.g., motor vehicle dealerships ?)
Inland Wetlands & Watercourses Agency Chapter 440 (CGA Sec. 22a-36)	Local authority to regulate adverse impacts to inland wetlands and watercourses, both defined by statute; designated agency may also be any local commission (some towns use conservation commissions, or combine its chap. 440 authority into P&Z commissions); sometime a two-step process – 1 <sup>st</sup> a map amendment request to delineate boundary of wetland at issue; 2 <sup>nd</sup> an application to review proposed activity.
Conservation Commission Chapter 97 (CGA 7-131a)	Local non-regulatory commission with broad advisory authority to comment on proposed developments (may act as regulating agency for chapter 440 purposes – see inland wetlands ...); also has authority to submit proposals for greenway plans, watershed management plans, acquire land for open space, etc. Given various levels of deference by different planning, zoning and inland wetland commissions.
Design Review Commission, Board or Authority	Advisory commission that reviews proposed developments for architectural, aesthetic or other design elements. Given various levels of deference by different planning and zoning commissions.
Different types of Beautification Committees	
Historic District Commission / Historical Society / Historic Comm'n Staff Chapter 97a (CGA 7-147a)	Certificate of Appropriateness if in historic district
Parks & Recreation Commission	
Open Space Commission	Sometimes Parks & Recreation and Open Space Commissions fight to preserve the same property, with developer caught in the middle.
Public Works Commission	
Public Works Department/Town Engineer	

Economic or Municipal Development Commission or Agency / Town Economic Development Officer	Usually an advisory group, but may have to make presentation on proposed development and seek their comments. Given different levels of deference in different towns.
Water Pollution Control Authority (WPCA)	Sewer and water hookups; fees have become enormous in many cases.
Water Department or Authority or Company	Water dept. = municipal owned utility; Water authority = regional water authority; Water co. = investor owned co.: All with different rules, regulations, fees and admin. processes.
Sewer Department	Could also be municipal or regional
Health Department/District/Officer	Municipal or Regional: <b>septic system permits; well water permits</b> ; approval of certain renovations of any pre-1978 building containing <b>lead-paint</b> ; possibly other environmental considerations in rehab developments – <b>asbestos, vermin inspections and removal</b> . State DPH: smaller (<5,000 GPD; equivalent to 33 total bedrooms or less) advanced wastewater treatment (AT) systems (once DPH regulations are adopted, which the agency refuses to write, so currently DEP regulates all AT systems); may be delegated to health depts.?
Town Sanitarian	
Flood hazards	Flood plain restrictions/requirements; Approval to encroach in Special Flood Hazard Area; review FIRMs (flood insurance rate maps), issued by FEMA (Federal Emergency Management Agency) (state coordinating agency for FEMA is CT DEP)
Stormwater runoff	Drainage issues; detention/retention basins; Soil Erosion and Sedimentation Control Plan Certification Approval, receive from P&Z commission – i.e., in addition to state DEEP storm water permits, and possibly federal effluent limitation standards (see below)
Coastal Zone Management	Specific considerations in coastal areas administered by municipality; Coastal Site Plan Approval
Fire Marshal	Fire <u>safety</u> code issues applicable to new construction; fire <u>prevention</u> code applicable to operation/maintenance issues, but new construction requirements creeping into fire prevention code – may conflict with State Building Code; street width requirements for passage of emergency vehicles
Police Chief/Department	Controls traffic issues, such as traffic lights, turn lanes
Traffic/Parking	Parking facilities, parking spaces, traffic engineering studies required; local legislative review of proposed street names
Building Official	Municipal official implements State Building Code; issues <b>building permits, certificates of occupancy, demolition permits</b> (Note: CT has a statewide building code that cannot be varied by municipalities; State Building Inspector is the only authority that can officially interpret

	the Code); Compliance with building design requirements of ADA, Americans with Disabilities Act.
Town Clerk	For land recordation issues, title searches, fees
Urban Forester / Tree Warden	Tree cutting permits on private land; permits to clear within town right of way for roads/driveways
Waterway Protection Lines Authority Approval CGS Sec. 7-147	
Harbor Management Commission Review CGS Sec. 22a-113p	
Connecticut River Assembly referral to the P&Z Commission (Upper CT River Conservation Zone) CGS Sec. 25-102ff	
Connecticut River Gateway referral to the P&Z Commission (Lower CT River Conservation Zone) CGS Sec. 25-102hh	
CT River Estuary Commission	
Redevelopment, Urban Renewal, Community Development Project Approval (Local Redevelopment Agency) CGS Sec. 8-124 ... CGS Sec. 8-140 ... CGS Sec. 8-169a ...	
Local/State Operating Permits	Liquor, Restaurant, Hotel, ...
Local limits, misc.	Permits or limits to comply with hours of operations, truck routes, blasting, noise, dust, ...

**Coordinate development with public/private utilities for all designs / installations (requirements by various utilities affects permitting and processing at various government levels):**

Water / Sewer	MDC or other utility
Electric	NU/CL&P; UI
Natural Gas	Yankee Gas; CNG; Southern CT Gas; City of Norwich Dept. Public Utilities; Nat gas utility requirements on developers have become abusive, pushing developers away from using nat gas and toward propane
Telecommunications	AT&T; Comcast; etc.
Cable TV	Comcast; Cox; etc.

**Consider Private Restrictions on land use (from deed restrictions, option contracts, etc.)**

Deed Restrictions	
Option Contract Requirements	
Condominium or Other Restrictive Covenants	

**State Level Agencies and Issues (any of which require permits and/or review):**

<b>On-Site Community Septic Systems and Community Wells for Larger Developments (DEEP and DPH)</b>	Advanced wastewater treatment (AT) systems – (> 5,000 GPD = DEEP permit); (<5,000 GPD = DPH permit once DPH regulations are adopted – may be delegated to local/regional health depts..?) – However, DPH refuses to adopt regulations, leaving all AT systems within DEP, defeating the purpose of the legislation bifurcating jurisdiction; Community Water System Approvals (DEEP/DPH)
<b>Water Pollution Control (DEEP)</b>	
Water Discharge Permit CGS Sec. 22a-416; Regs Sec. 22a-430-1	
Stormwater Permit	Either an individual permit or a general permit is required for virtually all development: leads to <b>wildlife, endangered species reviews, historic preservation review, and archeological reviews</b> ; DEEP last adopted (2011) stormwater general permits for industrial facilities; has adopted a new construction activities permit, and will be adopting a new MS4 permit (applicable to municipal storm sewer systems); but they're really not general permits since applicants must wait for approvals. In addition, the endangered species review included in the construction SW permit is illegal as CESA is not supposed to apply to private projects (see also Water Quality Certifications below).
Underground Storage Tank Registration CGS 22a-449(d); Regs Sec. 22a-449(d)-1 ...	
Water Quality Certifications (WQC)	WQC are required under federal law as a prerequisite to other Clean Water Act permits, such as the federal wetlands (Sec. 404) permit (see below under Federal Agencies). WQC authority is delegated to DEEP; DEEP in turn requires a endangered species review under the CT Endangered Species Act (CESA) before issuing a WQC. But for private projects on private land, this CESA review is illegal under CESA; same CESA illegality occurs for

	DEEP's stormwater permits.
<b>Water Resources Protection (DEEP)</b>	
Stream Channel Encroachment Line Permit CGS Sec. 22a-342	Legislation in 2011 was introduced to repeal this program because flood plain regulations already cover it.
Stream flow regulations	Subject of much controversy; DEEP's proposed regs aggressively expand reach by regulating all waterways, while scope of the problem with impaired water flows in waterways is less than 1% (according to DEEP's own data).
Water Diversion Permit CGS Sec. 22a-365 ...	
Dam Safety Permit CGS Sec. 22a-403	
<b>Tidal Wetlands Permit (DEEP)</b> CGS Sec. 22a-32; Regs Sec. 22a-30-1 ...	
<b>Coastal Area Protection (DEP)</b> CGS Sec. 22a-361	Permit for dredging or erection of structures, placement of fill, or mooring areas.
<b>Hazardous Waste Management (DEEP)</b>	
Compliance with state Hazardous Waste Management Regulations Regs Sec. 22a-449(c)-100...	Brownfield investigation, remediation, waste disposal; ASTM Phase I and II site assessments; underground tanks removal/cleanup; major brownfield legislation was adopted in 2011.
Connecticut Transfer Act	
Hazardous Waste Facilities Siting Requirements CGS Sec. 22a-117, 118; Regs Sec. 22a-116-3	
Superlien / Superfund CGS Sec. 22a-451 ...	
Oil/chemical spills, PCBs	
<b>Solid Waste Management (DEEP)</b>	
Solid Waste Facility CGS Sec. 22a-208a; Regs Sec. 22a-208a-1; 22a-209-4	
Construction and Demolition Waste Management & Recycling Program	
<b>Noise Pollution Control (DEEP)</b> Regs Sec. 22a-69-1 ...	
<b>Air Pollution Control (DEEP)</b>	
Stationary Source Permit	

CGS Sec. 22a-174 ... Regs Sec. 22a-174-1 ...	
Asbestos Abatement Notification Requirements Regs Sec. 19a-332a-3	
<b>Traffic (OSTA) &amp; DOT</b>	May have to deal with OSTA (Office of State Traffic Administration) or other divisions of DOT
State Highway Driveway Permit CGS Sec. 13a-143-a	
STC Certificate of Operation CGS Sec. 14-311, 311a Regs Sec. 14-312-1	Affects all developments meeting certain threshold sizes or proposing certain parking spaces, even if development not on a state highway. Major reform of the STC process was passed in 2011, significantly changing the threshold for residential development and making other positive changes.
Encroachment Permit	DOT permit required for any access to state highway; Off-site improvements requested, the need for which are not caused by proposed activity or project
<b>CEPA / OPM</b>	Two CEPAs in CT: CT Environmental Policy Act, CT Environmental Protection Act – allows intervenors in any local or state regulatory permitting process to raise issues of environmental concern – if issue is within the jurisdiction of the permitting agency or commission. OPM utilized CEPA review if state money comes into play.
<b>OPM</b>	Various fund requirements; Housing Trust Fund; HOME/CT (Incentive Housing Program); interplay with DECD, DOH, OPM, etc.
<b>Economic &amp; Community Development (DECD), or Dept of Housing (DOH)</b>	Loan, grant and tax credit programs for new development and redevelopment can shape the development and/or slow processing; (STEAP, HOME, Flexible financing program, Urban Act funds, Housing Trust fund, pre-development loans, new brownfield program)
<b>Dept Public Health</b>	See wastewater above; health depts. above; water supply/wells/community water system requirements make it very difficult to provide multifamily housing outside of public water supply areas.
<b>State Fire Marshal</b>	Official interpretations of Fire Safety Code and Fire Prevention Code
<b>State Building Official</b>	Official interpretations of State Building Code

## Federal Level Agencies and Issues:

Army Corps of Engineers	Federal wetlands permit (Clean Water Act, Sec. 404) (distinct from local inland wetland permits, or state coastal wetland permits); leads to federal endangered species review by US Fish & Wildlife Service; and reviews by other federal natural resource protection agencies
EPA	CERCLA, RCRA hazardous waste issues
FHA/HUD/Attorney General	Housing finance issues; ADA, accessibility compliance issues; Fair Housing Act compliance
Federal Clean Air Act	
Federal Clean Water Act	
National Environmental Policy Act	
Safe Drinking Water Act	
Rivers & Harbor Act (refuse act)	
Stimulus funds from ARRA (American Rehabilitation & Recovery Act)	Many strings attached to federal stimulus funds severely limit its utility.

**Add: Constant, unrelenting battles at the state legislature, in state agencies and municipal boards, commissions and legislative bodies to prevent further regulations and fees on development businesses and activities.**

**UPDATE: 2016 experienced the lowest number of 1&2 family home building permits since permits began to be recorded 37 years ago (1980) (see line with markers below). Is this really a surprise to anyone? Is it any wonder why CT has such high housing costs?**

