

REFERRAL
REVIEW PROCEDURES
of the
WINDHAM REGION COUNCIL OF GOVERNMENTS
REGIONAL PLANNING COMMISSION

Adopted by
Windham Region Council of Governments
April 4, 2008

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INTRODUCTION

Connecticut's General Statutes (C.G.S.) require various land use and development related activities to be referred to a Regional Planning Agency for review and comment. In the case of a Regional Council of Governments, the Regional Council of Governments is subject to all of the responsibilities and duties provided for in the General Statutes pertaining to Regional Planning Agencies.

The General Statutes provide that the planning duties and responsibilities of a Regional Council of Governments may be carried out by a Regional Planning Commission, acting on behalf of and as a subdivision of the Regional Council of Governments.

The Regional Planning Commission's duties include making a regional plan of development as well as considering and commenting upon matters referred to the Regional Council of Governments by state statute or otherwise. The review of such referrals is to be carried out in accordance with procedures recommended by the Regional Planning Commission and adopted by the Council of Governments with the concurrence of the Regional Planning Commission.

The following Referral Review Procedures are those recommended by the Regional Planning Commission of the Windham Region Council of Governments for use in carrying out its statutory duties.

REQUIRED REFERRALS

The following statutes, as amended, dictate which land use and development related activities must be referred to the Regional Planning Commission (RPC):

<u>C.G.S.</u>	<u>Type of Referral Required</u>
Sec. 8-3b	<u>Notice to RPC of proposed zone or zone use change.</u> The zoning commission of a municipality shall provide written notice via certified mail, return receipt requested, to the RPC of any proposal to establish or change a zone or any zoning regulation affecting the use of a zone or any portion of which is within 500 feet of the boundary of another municipality, no later than 30 days before the public hearing on the proposal.
Sec. 8-26b	<u>Notice to RPC of proposed subdivision/resubdivision.</u> Before taking action on the plan, the planning commission of a municipality shall provide written notice via certified mail, return receipt requested, to the RPC of any proposal to subdivide or resubdivide a parcel of land, which abuts or includes land in two or more municipalities, to the RPC (s) in which it and the other municipality(s) is located, no later than 30 days before the public hearing on the proposal. In the event that a public hearing is not determined to be necessary for a subdivision application, the planning commission shall notify the RPC of the pendency of the application as soon as possible and no later than 30 days before taking action on the application.
Sec. 8-23(f)(4)	<u>Notice to RPC of proposed adoption or amendment of Plan of Conservation and Development.</u> The planning commission of a municipality shall provide a copy to the RPC of any proposal to prepare, amend or adopt a municipal Plan of Conservation and Development, no later than 65 days before the public hearing on the proposal.

The above-mentioned statutes are included at the end of this report.

State planning documents such as the *Conservation and Development Policies Plan for Connecticut*, the *State Transportation Improvement Program (STIP)*, the *Statewide Comprehensive Outdoor Recreation Plan (SCORP)* among others are usually referred to RPC's to make them available for public review in the RPC's offices. RPC's may comment on these documents. Federally-required environmental impact statements (EIS's) and findings of no significant impact (FONSI's) are often referred to RPC's for comment. Municipal feasibility studies for public facilities and services may be reviewed and recommendations made by the RPC.

REVIEW PROCEDURES

1. Review Criteria

It is hereby made the policy of the RPC that in conducting its review of projects and proposals referred to it, the RPC shall be concerned primarily with evaluating:

- A. Whether and how the proposal conforms or complies with and/or is compatible with adopted regional plans and policies;
- B. Whether the proposal is likely to create adverse intermunicipal or interregional impacts for adjacent municipalities.

The RPC's comments on a proposal shall reflect findings determined from the review conducted to determine conformance/compliance/compatibility with adopted and regional plans and policies and intermunicipal/interregional impacts.

2. Review Process

- a. Receipt to be carried out by WINCOG staff:
 - 1) Date of receipt to be stamped on proposal received.
 - 2) WINCOG Referral # assigned.
 - 3) Referral logged in master referral list.
 - 4) Referral file created consisting of all documents, maps, comments and RPC / WINCOG actions.
 - 5) Staff reviews referral and prepares a recommendation for the RPC.
 - 6) Staff may request comments from interested parties.
 - 7) Staff prepares file for RPC review.
- b. RPC review to be carried out by RPC with assistance of WINCOG staff:
 - 1) RPC reviews pending referrals at regularly scheduled meetings. Special meetings to be scheduled only in unusual circumstances.
 - 2) RPC reviews staff recommendations.
 - 3) RPC discusses wording of the official RPC comments to be adopted.
 - 4) RPC official vote taken on comments.
 - 5) RPC comments transmitted to referring entity in a letter format signed by the RPC Chairman or the WINCOG Executive Director.
 - 6) Copy of RPC transmittal filed in referral file.
- c. WINCOG review to be carried out by WINCOG with assistance of WINCOG staff:
 - 1) If referring entity requests, per CGS 4-124o, WINCOG has the authority to review and revise, in whole or in part, the comments and recommendations of the RPC on the proposal.
 - 2) If such a request is received, WINCOG staff will transmit it to WINCOG immediately upon receipt along with copies of any RPC comments and recommendations, and enter it into the master list and referral file.
 - 3) A record of any WINCOG action taken on the request shall be sent to the RPC and also shall be entered in the file of that referral by WINCOG staff.

REVIEW GUIDELINES

I. Zoning C.G.S. 8-3b

Notices of changes to zoning districts, zoning district boundaries, zoning regulations and zone uses are generally made by a municipal zoning commission or a combined planning and zoning commission. Such notice is often in the form of a letter or memo. Notice may be made on the WINCOG Referral Form (see Appendix C), if desired. In order for WINCOG staff to review and evaluate the proposal, a copy of the proposal should also be submitted (text, map, or other relevant information).

Upon receipt, WINCOG staff processes, reviews and evaluates the proposal based on the following guidelines:

1. Conformance/compliance/compatibility with:
 - a. adopted WINCOG regional plans
 - b. adopted municipal plans
 - c. adopted state plans; municipal, state and federal laws, rules or regulations; or other legal documents.
2. Potential conflicts with zoning or land uses in adjacent WINCOG member municipalities
3. Potential inter-municipal or inter-regional conflicts, particularly land use conflicts related to: differences in existing land uses, proposed land uses/zoning, and/or density; traffic generation; health and safety issues.

If staff determines that there may be issues of non-conformance, non-compliance, incompatibility or potential conflicts, staff may request input/comments from interested parties. Staff prepares preliminary comments and recommendations.

The staff's evaluation of the proposal is presented to the RPC. The RPC then discusses the proposal, the staff recommendation and the wording of the official RPC comments to be adopted. The RPC then votes to approve comments to be sent. The official RPC comments are then transmitted via a letter signed by the RPC Chairman or WINCOG Executive Director. Copies of the transmittal shall be filed in the referral file.

The RPC comments on zoning matters must be included in the public record for the proposal although the comments are advisory only.

II. Subdivision C.G.S. 8-26b

Notices of subdivisions which abut or include land in two or more municipalities are generally made by the municipal planning commission(s) or combined planning and zoning commission(s). Such notice is often in the form of a letter or memo. Notice can be made on the WINCOG Referral Form (see Appendix C), if desired. In order for WINCOG staff to review and evaluate the subdivision, a copy of the subdivision plan should be submitted.

Upon receipt, WINCOG staff processes, reviews and evaluates the proposal based on the following guidelines:

1. Conformance/compliance/compatibility with:
 - a. adopted WINCOG regional plans
 - b. adopted municipal plans
 - c. adopted state plans; municipal state and federal laws, rules or regulations; or other legal documents.
2. Potential conflicts with zoning or land uses in adjacent WINCOG member municipalities
3. Potential inter-municipal or inter-regional conflicts, particularly land use conflicts related to: differences in existing land uses, proposed land uses/zoning, and/or density; traffic generation; health and safety issues.

If staff determines that there may be issues of non-conformance, non-compliance, incompatibility or potential conflicts, staff may request input/comments from interested parties. Staff prepares preliminary comments and recommendations.

The staff's evaluation of the proposal is presented to the RPC. The RPC then discusses the proposal, the staff recommendation and the wording of the official RPC comments to be adopted. The RPC then votes to approve comments to be sent. The official RPC comments are then transmitted via a letter signed by the RPC Chairman or WINCOG Executive Director. Copies of the transmittal shall be filed in the referral file.

In the case of subdivisions, the RPC's comments often serve as a means of communication between the affected towns and the subdivider, so copies of the RPC's comments should be sent to all affected towns and the subdivision applicant. The RPC comments on the subdivision or resubdivision must be included in the public record for the proposal although the comments are advisory only.

III. Plans of Conservation and Development C.G.S. 8-23(f)(4)

Any proposal to prepare, adopt, update or amend a municipal Plan of Conservation and Development must be forwarded to the RPC for review and comment. In order for WINCOG staff to review and evaluate the draft plan or amendments thereto, the full text of the draft plan including any maps and/or diagrams should be submitted. Notice can be made on the WINCOG Referral Form (see Appendix C), if desired.

Upon receipt, WINCOG staff processes, reviews and evaluates the proposal based on the following guidelines:

1. Conformance/compliance/compatibility with:
 - a. adopted WINCOG regional plans,
 - b. adopted municipal plans,
 - c. adopted state plans; municipal state and federal laws, rules or regulations; or other legal documents.
2. Potential conflicts with zoning or land uses in adjacent WINCOG member municipalities
3. Potential inter-municipal or inter-regional conflicts, particularly land use conflicts related to: differences in existing land uses, proposed land uses/zoning, and/or density;

traffic generation; health and safety issues.

If staff determines that there may be issues of non-conformance, non-compliance, incompatibility or potential conflicts, staff may request input/comments from interested parties. Staff prepares preliminary comments and recommendations.

The staff's evaluation of the proposal is presented to the RPC. The RPC then discusses the proposed plan, the staff recommendation and the wording of the official RPC comments to be adopted. The RPC then votes to approve comments to be sent. The official RPC comments are then transmitted via a letter signed by the RPC Chairman or WINCOG Executive Director. Copies of the transmittal shall be filed in the referral file.

The RPC comments on the draft plan of conservation and development and amendments thereto must be included in the public record for the proposal although the comments are advisory only.

IV. Other Referrals

Other referrals made to WINCOG or which WINCOG and its RPC choose to review and comment upon should utilize substantially the same procedures as those detailed above for zoning matters, subdivisions and plans of conservation and development.

V. Requests for WINCOG Review/Revision of RPC comments/recommendations

If a referring entity requests WINCOG to review and revise, in whole or in part, the comments and recommendations made by WINCOG's RPC, as allowed by C.G.S. 4-124o, WINCOG shall consider such a request at their next regularly scheduled meeting, or may schedule a special meeting, in accordance with WINCOG Bylaws.

The full WINCOG Board of Representatives or its Executive Committee may entertain the request to review and/or revise the RPC position.

In considering whether to review and revise the RPC position, WINCOG shall utilize the same review guidelines specified in parts I, II, and III, above.

A copy of the WINCOG action taken, as contained in the WINCOG minutes, and/or a copy of the transmittal sent by WINCOG to the entity requesting the review/revision shall be sent to the RPC and filed in the referral file.

VI. All Referrals

In order to coordinate an appropriate response to any referral, WINCOG, the RPC, their executive committees and the WINCOG staff are allowed and encouraged to communicate and confer with one another and with other interested or informed parties.

Appendix A: WINCOG Bylaws re: RPC

ARTICLE IX REGIONAL PLANNING COMMISSION

Section A. **Powers and Duties:** Planning duties and responsibilities of the Council, including the duties in the following sections of the Connecticut General Statutes, and as amended:

- 8-3b Referral of zoning changes, abutting municipalities
- 8-26b Referral of subdivisions, abutting municipalities
- 8-35a Regional Plan of Development
- 8-35b Recommendations for intermunicipal arrangements
- 8-35c Municipal Feasibility Studies upon request
- 8-35d Referral of proposed interlocal agreements and formation of districts (repealed)
- 8-35e Interagency committees and staff sharing

shall be carried out exclusively by the Regional Planning Commission, acting on behalf of and as a subdivision of the Council. All matters referred to the Council which by Statute or otherwise are required to be considered and commented on by the regional planning agency shall be considered and commented upon by the Regional Planning Commission in accordance with procedures recommended by the Commission and adopted by the Council with the concurrence of the Commission. The Council shall have the authority, at the request of a party having referred any such matter to the Council's attention, to review and revise, in whole or in part, the comments and recommendations of the Regional Planning Commission as to such matter.

Section B. **Membership and Representation:** Each member municipality shall be entitled to one Representative to the Regional Planning Commission. The municipal Representative shall be an elector and member of the municipality's planning commission and shall be appointed by such planning commission with the concurrence of its Board of Selectmen or Town Council. Each member municipality is also entitled to an Alternate, who shall be an elector of such member municipality and who shall be appointed by such planning commission with the concurrence of its Board of Selectmen or Town Council. In the absence of a municipality's Representative, the Alternate shall have all the powers and duties of the Representative. An Alternate Representative shall not be eligible to serve as an officer of the Commission or to exercise any of the functions of an officer of the Commission. The Representative and Alternate shall serve until a successor is appointed by the appointing authorities.

Where authorized by State Statutes, each Representative shall be entitled to vote in the affairs of the Commission, but shall not be entitled to vote in the affairs of the Council.

Section C. **Meetings of the Commission:**

1. Regular Meetings shall be held on a schedule to be established by the Commission. The Agenda for such meetings shall be mailed to Representative, Alternates and municipal clerks at least ten (10) days prior to such meeting.
2. Special meetings may be held, at the call of the Commission Chairman or by petition to the Secretary from two or more Representative, at a time and place specified in the Call of the Meeting. A 24-hour advanced notice must be provided by filing the notice of the Special Meeting with the Clerk of each member municipality.

3. Notice: The Schedule of regular meetings for the ensuing year shall be filed with the clerk of each member municipality not later than January 31 of each year. Each Representative and Alternate shall be mailed a notice and agenda of each regular meeting post-marked at least ten days in advance of the meeting date.
4. Procedure: The conduct of the Commission's meetings shall be by Robert's Rules of Order.
5. Quorum: Fifty percent (50%) of the authorized Representatives or their designated Alternates shall constitute a quorum.

Section D. Action of the Commission: Action of the Commission shall be by majority vote of those Representatives or their designated Alternates constituting the quorum; provided, however, that the adoption of a comprehensive or other plan or part or amendment thereof, shall be by the affirmative vote of not less than a 2/3 (two-thirds) majority of all authorized Representatives of the Commission. Such plans shall then be submitted to the Council, which may ratify, reject, amend, or refer them back to the Commission for another consideration.

Section E. Officers: Officers of the Commission shall include a Chairman, a Vice-Chairman and a Secretary, to be elected by the Commission representatives. As a member of the RPC, the Chairman or the presiding officer, shall have the right to vote on all matters which may come before the RPC. The Officers shall perform all duties related to their particular offices. The Officers shall serve for one year with new officers to be elected once a year at the regular meeting of the Commission in the month of February unless otherwise provided. At the time of the election of Officers, one Representative-at-Large shall also be elected.

Section F. Committees and Liaison to Other Organizations:

1. Executive Committee — The Executive Committee shall consist of the Chairman, Vice-Chairman, Secretary, and one Representative-at-Large of the Commission elected at the time of formation and thereafter annually at the regular meeting of the Commission in February unless otherwise provided. Three Executive Committee members shall constitute a quorum. The Executive Committee shall have such powers and responsibilities as may be assigned to such committee by the Commission.
2. Standing Committee: Reference Committee — The Chairman of the Commission shall appoint a minimum of three-members to a reference committee which shall conduct advisory reviews required under State or Federal law. Two members of the reference committee shall constitute a quorum. In the absence of a reference committee quorum, the executive committee of the Commission shall act as the reference committee.
3. Special Committees/Subcommittees — The Commission from time to time may create other special committees or subcommittees as it deems necessary or desirable and determine their size. Such committees shall report to the Commission at the Commission's direction.
4. Liaison to Other Organizations — The Commission, as it deems necessary or desirable may designate from among its Representatives or Alternates, or from among the Council staff, individuals to serve as liaison to other organizations. The purpose of such liaison shall be to enhance other organizations whose functions are related to the planning responsibilities of the Commission. The Chairman of the Regional Planning Commission or his/her designee shall serve as a non-voting ex officio member of the Council.

Appendix B: CT Statutes Related to Referrals

Sec. 4-124m. Rights and duties of councils. Except as otherwise provided in sections 4-124i to 4-124p, inclusive, any regional council of governments shall be entitled to exercise all of the rights and authority and shall be subject to all of the responsibilities and duties provided for in the general statutes, as amended, pertaining to regional councils of elected officials and regional planning agencies.

Sec. 4-124o. Regional planning commissions. The planning duties and responsibilities of a regional council of governments, including the making of a plan of development pursuant to section 8-35a, may be carried out by the council or a regional planning commission, acting on behalf of and as a subdivision of the council. Each member shall be entitled to a representative on the regional planning commission who shall be an elector of such member and on its planning commission. Such representative shall be appointed by such planning commission, with the concurrence of the appointing authority of such member. Each member may also appoint an alternate representative who shall be an elector of such member and who shall be appointed by its planning commission, with the concurrence of the appointing authority of such member. Such alternate representative shall, when the representative of the member from which he or she was appointed is absent, have all the powers and duties of such representative. Each regional planning commission representative shall be entitled to one vote in the affairs of such commission but shall not otherwise be entitled to vote in the affairs of the council. All matters referred to the council which by statute or otherwise are required to be referred to and considered by a regional planning agency shall be considered and commented upon by the council or regional planning commission in accordance with procedures recommended by such commission and adopted by the council with the concurrence of such commission. The council shall have the authority, at the request of a party having referred any such matter to the council's attention, to review and revise, in whole or in part, the comments and recommendations of the regional planning commission as to such matter. If at any time the council is deemed a regional council of elected officials under subsection (d) of section 4-124l, the existence of such regional planning commission shall terminate forthwith.

Sec. 8-3b. Notice to regional planning agency of proposed zone or zone use change. When the zoning commission of any municipality proposes to establish or change a zone or any regulation affecting the use of a zone any portion of which is within five hundred feet of the boundary of another municipality located within the area of operation of a regional planning agency, the zoning commission shall give written notice of its proposal to the regional planning agency or agencies of the region in which it and the other municipality are located. Such notice shall be made by certified mail, return receipt requested not later than thirty days before the public hearing to be held in relation thereto. The regional planning agency shall study such proposal and shall report its findings and recommendations thereon to the zoning commission at or before the hearing, and such report shall be made a part of the record of such hearing. The report of any regional planning agency of any region that is contiguous to Long Island Sound shall include findings and recommendations on the environmental impact of the proposal on the ecosystem and habitat of Long Island Sound. If such report of the regional planning agency is not submitted at or before the hearing, it shall be presumed that such agency does not disapprove of the proposal. A regional planning agency receiving such a notice may transmit such notice to the Secretary of the Office of Policy and Management or his designee for comment. The planning agency may designate its executive committee to act for it under this section or may establish a subcommittee for the purpose. The report of said planning agency shall be purely advisory.

Sec. 8-23. Preparation, amendment or adoption of plan of conservation and development. excerpt
(f) (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 planning agency for review and comment. The regional planning agency 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 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 planning agency. The commission may render a decision on the plan without the report of the regional planning agency.

Sec. 8-26b. Notice to regional planning agency of proposed subdivision; report of agency findings.

Whenever a subdivision of land is planned, the area of which will abut or include land in two or more municipalities one or both of which are within a region or regions having a regional planning agency or agencies, the planning commission, where one exists, of each such municipality shall, before approving the plan, give written notice of such subdivision plan to the regional planning agency or agencies of the region in which it or the other municipality is located. Such notice shall be made by certified mail, return receipt requested not later than thirty days before the public hearing to be held in relation thereto. A regional planning agency receiving such notice shall, at or before the hearing report to each such planning commission and to the proponent of such subdivision on its findings on the intermunicipal aspects of the proposed subdivision, including street layout, storm drainage, sewer and water service and such other matters as it considers appropriate. If such report of a regional planning agency is not submitted, at or before the hearing, it shall be presumed that such agency does not disapprove of the proposed subdivision. A regional planning agency may designate its executive committee to act for it under this section or it may establish a subcommittee for the purpose. The report of such regional planning agency shall be purely advisory.

Sec. 8-35c. Feasibility studies for municipalities. Whenever any municipality is considering the feasibility of developing or operating a physical facility and services, the regional planning agency may, upon request from such municipality, render assistance by making studies and recommendations and may make contractual arrangements with the municipality for the conduct of such studies.

Appendix C: WINCOG Referral Form

11.1.07

REFERRAL FORM

FOR ZONING, SUBDIVISION, and POCD REFERRALS

FOR WINCOG OFFICE USE	
REFERRAL #	_____
POSTMARKED	_____
RECEIVED	_____
CERTIFIED MAIL NO.	_____
PUBLIC HEARING	_____

FROM: PLANNING AND ZONING COMM. ZONING COMMISSION PLANNING COMMISSION

TOWN OF _____

MAILING ADDRESS _____

DATE: _____

**TO: WINDHAM REGION COUNCIL OF GOVERNMENTS
700 MAIN STREET
WILLIMANTIC, CT 06226**

NOTE: ZONING AND SUBDIVISION REFERRALS MUST BE SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AT LEAST 30 DAYS PRIOR TO THE PUBLIC HEARING. PLANS OF CONSERVATION AND DEVELOPMENT (OR AMENDMENTS THERETO) MUST BE RECEIVED AT LEAST 65 DAYS PRIOR TO THE PUBLIC HEARING.

PROPOSAL (CHECK ONE)

INFORMATION SUBMITTED

ZONE MAP CHANGE

MAP ENCLOSED

C.G.S. Sec. 8-3b ESTABLISHMENT OR CHANGE OF ZONE BOUNDARY WITHIN 500 FEET OF ANOTHER MUNICIPALITY

PRESENT ZONING _____
PROPOSED ZONING _____

ZONING REGULATION CHANGE

SECTION(S) TO BE REVISED _____

C.G.S. Sec. 8-3b ADOPTION OR AMENDMENT OF ZONING REGULATIONS AFFECTING LAND WITHIN 500 FEET OF ANOTHER MUNICIPALITY

WORDING OF PROPOSED REGULATION _____

TEXT ENCLOSED

AREA AFFECTED _____

SUBDIVISION

SKETCH MAP ENCLOSED

SUBDIVISION PLANS ENCLOSED

C.G.S. Sec. 8-26b PROPOSED SUBDIVISION WHICH WILL ABUT OR INCLUDE LAND IN TWO OR MORE MUNICIPALITIES

NAME OF SUBDIVISION _____
LOCATION _____

PLAN OF CONSERVATION & DEVELOPMENT

PLAN OR AMENDMENT ENCLOSED

C.G.S. Sec. 8-23(f)(4) PROPOSAL TO ADOPT A PLAN, PART THEREOF, OR AMENDMENT THERETO

FOR ALL REFERRALS:

PUBLIC HEARING DATE _____

SIGNED _____

FOR THE _____ COMMISSION.

Appendix D: Addresses of Adjacent Councils of Governments

