



General Assembly

February Session, 2002

Raised Bill No. 5065

LCO No. 508

Referred to Committee on Planning and Development

Introduced by:
(PD)

AN ACT CONCERNING FLOODPLAIN MANAGEMENT AND HAZARD MITIGATION.

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

1 Section 1. (NEW) (*Effective October 1, 2002*) (a) As used in this
2 section, "floodplain" means that area of a municipality located within
3 the real or theoretical limits of the base flood or base flood for a critical
4 activity, as determined by the Federal Emergency Management
5 Agency in its flood insurance study or flood insurance rate map for the
6 municipality prepared pursuant to the National Flood Insurance
7 Program (44 CFR Part 59 et seq).

8 (b) Whenever a municipality, pursuant to the National Flood
9 Insurance Program (44 CFR Part 59 et seq), is required to revise its
10 zoning regulation or any other ordinance regulating a proposed
11 building, structure, development or use located in a floodplain, the
12 revision shall provide for restrictions for flood storage and conveyance
13 of water for floodplains that are not tidally influenced as follows:

14 (1) Within a designated floodplain, all encroachments, including fill,
15 new construction, substantial improvements to existing structures and

16 any other development, are prohibited unless the applicant provides
17 certification to the commission by a registered professional engineer
18 that such encroachment shall not result in any increase in base flood
19 elevation;

20 (2) The water holding capacity of the floodplain shall (A) not be
21 reduced by any form of development unless such reduction is
22 compensated for by deepening or widening the floodplain, (B) be on-
23 site, unless adjacent property owners grant easements, (C) be within
24 the same hydraulic reach and a volume not previously used for flood
25 storage, (D) be hydraulically comparable and incrementally equal to
26 the theoretical volume of flood water at each elevation, up to and
27 including the hundred year flood elevation, which would be displaced
28 by the proposed project, and (E) have an unrestricted hydraulic
29 connection to the same waterway or water body; and

30 (3) Work within adjacent land subject to flooding, including work to
31 provide compensatory storage, shall not restrict flows resulting in
32 increased flood stage or velocity.

33 (c) Notwithstanding the provisions of subsection (b) of this section,
34 a municipality may adopt more stringent restrictions for flood storage
35 and conveyance of water for floodplains that are not tidally influenced.

36 Sec. 2. Section 16a-27 of the general statutes, as amended by section
37 3 of public act 01-9 of the June special session, is repealed and the
38 following is substituted in lieu thereof (*Effective October 1, 2002*):

39 (a) The secretary, after consultation with all appropriate state,
40 regional and local agencies and other appropriate persons shall prior
41 to March 1, 2003, complete a revision of the existing plan and enlarge it
42 to include, but not be limited to, policies relating to transportation,
43 energy and air. Any revision made after May 15, 1991, shall identify
44 the major transportation proposals, including proposals for mass
45 transit, contained in the master transportation plan prepared pursuant
46 to section 13b-15. Any revision made after July 1, 1995, shall take into

47 consideration the conservation and development of greenways that
48 have been designated by municipalities and shall recommend that
49 state agencies coordinate their efforts to support the development of a
50 state-wide greenways system. The Commissioner of Environmental
51 Protection shall identify state-owned land for inclusion in the plan as
52 potential components of a state greenways system. Any revision made
53 after March 1, 2003, shall (1) take into consideration risks associated
54 with natural hazards, including, but not limited to, flooding, high
55 winds and wildfires; (2) identify the potential impacts of natural
56 hazards on infrastructure and property; and (3) make
57 recommendations for the siting of future infrastructure and property
58 development to minimize the use of areas prone to natural hazards,
59 including, but not limited to, flooding, high winds and wildfires.

60 (b) Thereafter on or before March first in each revision year the
61 secretary shall complete a revision of the plan of conservation and
62 development.

63 Sec. 3. Section 8-23 of the general statutes, as amended by section 1
64 of public act 01-197, is repealed and the following is substituted in lieu
65 thereof (*Effective October 1, 2002*):

66 (a) (1) At least once every ten years, the commission shall prepare or
67 amend and shall adopt a plan of conservation and development for the
68 municipality. Following adoption, the commission shall regularly
69 review and maintain such plan. The commission may adopt such
70 geographical, functional or other amendments to the plan or parts of
71 the plan, in accordance with the provisions of this section, as it deems
72 necessary. The commission may, at any time, prepare, amend and
73 adopt plans for the redevelopment and improvement of districts or
74 neighborhoods which, in its judgment, contain special problems or
75 opportunities or show a trend toward lower land values. The
76 commission shall identify the potential impacts of natural hazards on
77 infrastructure and property and shall prepare, adopt and amend plans
78 for the siting of future infrastructure and property development to

79 minimize the use of areas prone to natural hazards, including, but not
80 limited to, flooding, high winds and wildfires.

81 (2) If a plan is not amended decennially, the chief elected official of
82 the municipality shall submit a letter to the Secretary of the Office of
83 Policy and Management and the Commissioners of Transportation,
84 Environmental Protection and Economic and Community
85 Development that explains why such plan was not amended. Until the
86 plan is amended in accordance with this subsection, a copy of such
87 letter shall be included in each application by the municipality for
88 funding for the conservation or development of real property
89 submitted to said secretary or commissioners.

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

102 (c) In preparing such plan, the commission or any special committee
103 shall consider the following: (1) The community development action
104 plan of the municipality, if any, (2) the need for affordable housing, (3)
105 the need for protection of existing and potential public surface and
106 ground drinking water supplies, (4) the use of cluster development
107 and other development patterns to the extent consistent with soil
108 types, terrain and infrastructure capacity within the municipality, (5)
109 the state plan of conservation and development adopted pursuant to
110 chapter 297, (6) the regional plan of development adopted pursuant to

111 section 8-35a, (7) physical, social, economic and governmental
112 conditions and trends, (8) the needs of the municipality including, but
113 not limited to, human resources, education, health, housing, recreation,
114 social services, public utilities, public protection, transportation and
115 circulation and cultural and interpersonal communications, [and] (9)
116 the objectives of energy-efficient patterns of development, the use of
117 solar and other renewable forms of energy and energy conservation,
118 and (10) risks associated with natural hazards, including, but not
119 limited to, flooding, high winds and wildfires.

120 (d) (1) Such plan of conservation and development shall (A) be a
121 statement of policies, goals and standards for the physical and
122 economic development of the municipality, (B) be designed to
123 promote, with the greatest efficiency and economy, the coordinated
124 development of the municipality and the general welfare and
125 prosperity of its people, (C) recommend the most desirable use of land
126 within the municipality for residential, recreational, commercial,
127 industrial, conservation and other purposes, (D) recommend the most
128 desirable density of population in the several parts of the municipality,
129 (E) note any inconsistencies it may have with the state plan of
130 conservation and development adopted pursuant to chapter 297, (F)
131 make provision for the development of housing opportunities,
132 including opportunities for multifamily dwellings, consistent with soil
133 types, terrain and infrastructure capacity, for all residents of the
134 municipality and the planning region in which the municipality is
135 located, as designated by the Secretary of the Office of Policy and
136 Management under section 16a-4a, (G) promote housing choice and
137 economic diversity in housing, including housing for both low and
138 moderate income households, and encourage the development of
139 housing which will meet the housing needs identified in the housing
140 plan prepared pursuant to section 8-37t and in the housing component
141 and the other components of the state plan of conservation and
142 development prepared pursuant to chapter 297.

143 (2) For any municipality that is contiguous to Long Island Sound,

144 such plan shall be (A) consistent with the Municipal Coastal Program
145 requirements of sections 22a-101 to 22a-104, inclusive, (B) made with
146 reasonable consideration for restoration and protection of the
147 ecosystem and habitat of Long Island Sound, and (C) designed to
148 reduce hypoxia, pathogens, toxic contaminants and floatable debris in
149 Long Island Sound.

150 (e) Such plan may show the commission's and any special
151 committee's recommendation for (1) conservation and preservation of
152 traprock and other ridgelines, (2) a system of principal thoroughfares,
153 parkways, bridges, streets and other public ways, (3) airports, parks,
154 playgrounds and other public grounds, (4) the general location,
155 relocation and improvement of public buildings, (5) the general
156 location and extent of public utilities and terminals, whether publicly
157 or privately owned, for water, sewerage, light, power, transit and other
158 purposes, (6) the extent and location of public housing projects, (7)
159 programs for the implementation of the plan, including (A) a schedule,
160 (B) a budget for public capital projects, (C) a program for enactment
161 and enforcement of zoning and subdivision controls, building and
162 housing codes and safety regulations, (D) plans for implementation of
163 affordable housing, and (E) plans for open space acquisition and
164 greenways protection and development, and (8) any other
165 recommendations as will, in the commission's or any special
166 committee's judgment, be beneficial to the municipality. The plan may
167 include any necessary and related maps, explanatory material,
168 photographs, charts or other pertinent data and information relative to
169 the past, present and future trends of the municipality.

170 (f) A plan of conservation and development or any part thereof or
171 amendment thereto prepared by the commission or any special
172 committee shall be reviewed, and may be amended, by the
173 commission prior to scheduling at least one public hearing on
174 adoption. At least sixty-five days prior to the public hearing on
175 adoption, the commission shall submit a copy of such plan or part
176 thereof or amendment thereto for review and comment to the

177 legislative body. Such body may hold one or more hearings on the
178 proposed plan and shall submit any comments to the commission
179 prior to the public hearing on adoption. The failure of such body to
180 report prior to or at the public hearing shall be taken as approval of the
181 plan. At least sixty-five days prior to the public hearing on adoption,
182 the commission shall submit a copy of such plan to the regional
183 planning agency for review and comment. The regional planning
184 agency shall report its comments to the commission at or before the
185 hearing. The failure of the regional planning agency to report at or
186 before the hearing shall be taken as approval of the plan. The report of
187 the regional planning agency shall be advisory. Prior to the public
188 hearing on adoption, the commission shall file in the office of the town
189 clerk a copy of such plan or part thereof or amendment thereto but, in
190 the case of a district commission, such commission shall file such
191 information in the offices of both the district clerk and the town clerk.
192 The commission shall cause to be published in a newspaper having a
193 general circulation in the municipality, at least twice at intervals of not
194 less than two days, the first not more than fifteen days, nor less than
195 ten days, and the last not less than two days prior to the date of each
196 such hearing, notice of the time and place of any such public hearing.
197 Such notice shall make reference to the filing of such plan in the office
198 of the town clerk, or both the district clerk and the town clerk, as the
199 case may be.

200 (g) The commission may adopt the plan or any part thereof or
201 amendment thereto by a single resolution or may, by successive
202 resolutions, adopt parts of the plan and amendments thereto. Any
203 plan, section of a plan or recommendation in the plan, not endorsed by
204 the legislative body of the municipality may be adopted by the
205 commission by a vote of not less than two-thirds of all the members of
206 the commission. Upon adoption by the commission, any plan or part
207 thereof or amendment thereto shall become effective at a time
208 established by the commission, provided notice thereof shall be
209 published in a newspaper having a general circulation in the
210 municipality prior to such effective date. Any plan or part thereof or

211 amendment thereto shall be filed in the office of the town clerk, except
212 that, if it is a district plan or amendment, it shall be filed in the offices
213 of both the district and town clerk.

214 (h) Following adoption of a new plan by the commission, the
215 legislative body of any municipality may hold one or more hearings on
216 the proposed plan and, by resolution, may endorse the plan for the
217 municipality.

218 Sec. 4. (NEW) (*Effective October 1, 2002*) The Commissioner of
219 Environmental Protection shall develop guidelines to be used by
220 municipalities in revising ordinances restricting flood storage and
221 conveyance of water for floodplains that are not tidally influenced.
222 Such guidelines shall include, but not be limited to, a model ordinance
223 that may be used by municipalities to comply with the provisions of
224 section 1 of this act. The commissioner shall make the guidelines
225 available to the public.

226 Sec. 5. Subsection (d) of section 20-327b of the general statutes is
227 repealed and the following is substituted in lieu thereof (*Effective*
228 *October 1, 2002*):

229 (d) (1) The Commissioner of Consumer Protection, shall, by
230 regulations adopted in accordance with the provisions of chapter 54,
231 prescribe the form of the written residential disclosure report required
232 by this section and sections 20-327c to 20-327e, inclusive. The
233 regulations shall provide that the form include information concerning
234 municipal assessments, including, but not limited to, sewer or water
235 charges applicable to the property. Such information shall include: (i)
236 Whether such assessment is in effect and the amount of the
237 assessment; (ii) whether there is an assessment on the property that
238 has not been paid, and if so, the amount of the unpaid assessment; and
239 (iii) to the extent of the seller's knowledge, whether there is reason to
240 believe that the municipality may impose an assessment in the future.

241 (2) Such form of the written residential disclosure report shall

242 contain the following:

243 (A) A certification by the seller in the following form:

244 "To the extent of the seller's knowledge as a property owner, the
245 seller acknowledges that the information contained above is true and
246 accurate for those areas of the property listed. In the event a real estate
247 broker or salesperson is utilized, the seller authorizes the brokers or
248 salespersons to provide the above information to prospective buyers,
249 selling agents or buyers' agents.

T1 (Date) (Seller)
T2 (Date) (Seller)"

250 (B) A certification by the buyer in the following form:

251 "The buyer is urged to carefully inspect the property and, if desired,
252 to have the property inspected by an expert. The buyer understands
253 that there are areas of the property for which the seller has no
254 knowledge and that this disclosure statement does not encompass
255 those areas. The buyer also acknowledges that the buyer has read and
256 received a signed copy of this statement from the seller or seller's
257 agent.

T3 (Date) (Seller)
T4 (Date) (Seller)"

258 (C) A statement concerning the responsibility of real estate brokers
259 in the following form:

260 "This report in no way relieves a real estate broker of the broker's
261 obligation under the provisions of section 20-328-5a of the Regulations
262 of Connecticut State Agencies to disclose any material facts. Failure to
263 do so could result in punitive action taken against the broker, such as
264 fines, suspension or revocation of license."

265 (D) A statement that any representations made by the seller on the
266 written residential disclosure report shall not constitute a warranty to
267 the buyer.

268 (E) A statement that the written residential disclosure report is not a
269 substitute for inspections, tests and other methods of determining the
270 physical condition of property.

271 (F) Information concerning environmental matters such as lead,
272 radon, subsurface sewage disposal, flood propensity and such other
273 topics as the Commissioner of Consumer Protection may determine
274 would be of interest to a buyer.

275 (G) A statement that information concerning the residence address
276 of a person convicted of a crime may be available from law
277 enforcement agencies or the Department of Public Safety and that the
278 Department of Public Safety maintains a site on the Internet listing
279 information about the residence address of persons required to register
280 under section 54-251, 54-252, 54-253 or 54-254, who have so registered.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>

Statement of Purpose:

To protect floodplains by requiring (1) municipalities to adopt minimum regulations to prevent reduction of water holding capacity in floodplains, (2) state and local plans of development to reflect

floodplain considerations, (3) the Commissioner of Environmental Protection to adopt guidelines for local revisions, and (4) the residential condition report form, prescribed by the Commissioner of Consumer Protection, including information concerning flooding propensity.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]