



General Assembly

Substitute Bill No. 6783

January Session, 2005

* _____ HB06783ENVPD_032905 _____ *

**AN ACT CONCERNING THE PRESERVATION AND USE OF
AGRICULTURAL LANDS.**

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

1 Section 1. Section 8-3 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) Such zoning commission shall provide for the manner in which
4 regulations under section 8-2 or 8-2j and the boundaries of zoning
5 districts shall be respectively established or changed. No such
6 regulation or boundary shall become effective or be established or
7 changed until after a public hearing in relation thereto, held by a
8 majority of the members of the zoning commission or a committee
9 thereof appointed for that purpose consisting of at least five members.
10 Such hearing shall be held in accordance with the provisions of section
11 8-7d. A copy of such proposed regulation or boundary shall be filed in
12 the office of the town, city or borough clerk, as the case may be, in such
13 municipality, but, in the case of a district, in the offices of both the
14 district clerk and the town clerk of the town in which such district is
15 located, for public inspection at least ten days before such hearing, and
16 may be published in full in such paper. The commission may require a
17 filing fee to be deposited with the commission to defray the cost of
18 publication of the notice required for a hearing.

19 (b) Such regulations and boundaries shall be established, changed

20 or repealed only by a majority vote of all the members of the zoning
21 commission, except as otherwise provided in this chapter. In making
22 its decision the commission shall take into consideration the plan of
23 conservation and development, prepared pursuant to section 8-23, and
24 shall state on the record its findings on consistency of the proposed
25 establishment, change or repeal of such regulations and boundaries
26 with such plan. If a protest against a proposed change is filed at or
27 before a hearing with the zoning commission, signed by the owners of
28 twenty per cent or more of the area of the lots included in such
29 proposed change or of the lots within five hundred feet in all
30 directions of the property included in the proposed change, such
31 change shall not be adopted except by a vote of two-thirds of all the
32 members of the commission.

33 (c) All petitions requesting a change in the regulations or the
34 boundaries of zoning districts shall be submitted in writing and in a
35 form prescribed by the commission and shall be considered at a public
36 hearing within the period of time permitted under section 8-7d. A
37 petition requesting a regulation change or a change in a zoning district
38 boundary on land for which development rights are held by the state
39 pursuant to sections 22-26aa to 22-26jj, inclusive, shall only be
40 considered if such petition is accompanied by a letter of approval for
41 such regulation or boundary change from the Commissioner of
42 Agriculture or the commissioner's designee. The commission shall act
43 upon the changes requested in such petition. Whenever such
44 commission makes any change in a regulation or boundary it shall
45 state upon its records the reason why such change is made. No such
46 commission shall be required to hear any petition or petitions relating
47 to the same changes, or substantially the same changes, more than
48 once in a period of twelve months.

49 (d) Zoning regulations or boundaries or changes therein shall
50 become effective at such time as is fixed by the zoning commission,
51 provided a copy of such regulation, boundary or change shall be filed
52 in the office of the town, city or borough clerk, as the case may be, but,
53 in the case of a district, in the office of both the district clerk and the

54 town clerk of the town in which such district is located, and notice of
55 the decision of such commission shall have been published in a
56 newspaper having a substantial circulation in the municipality before
57 such effective date. In any case in which such notice is not published
58 within the fifteen-day period after a decision has been rendered, any
59 applicant or petitioner may provide for the publication of such notice
60 within ten days thereafter.

61 (e) The zoning commission shall provide for the manner in which
62 the zoning regulations shall be enforced.

63 (f) No building permit or certificate of occupancy shall be issued for
64 a building, use or structure subject to the zoning regulations of a
65 municipality without certification in writing by the official charged
66 with the enforcement of such regulations that such building, use or
67 structure is in conformity with such regulations or is a valid
68 nonconforming use under such regulations. Such official shall inform
69 the applicant for any such certification that such applicant may
70 provide notice of such certification by either (1) publication in a
71 newspaper having substantial circulation in such municipality stating
72 that the certification has been issued, or (2) any other method provided
73 for by local ordinance. Any such notice shall contain (A) a description
74 of the building, use or structure, (B) the location of the building, use or
75 structure, (C) the identity of the applicant, and (D) a statement that an
76 aggrieved person may appeal to the zoning board of appeals in
77 accordance with the provisions of section 8-7. An application for a
78 building permit or certificate of occupancy for a building, use or
79 structure on lands for which development rights are held by the state
80 pursuant to sections 22-26aa to 22-26jj, inclusive, shall be accompanied
81 by a letter of approval from the Commissioner of Agriculture or the
82 commissioner's designee. Such letter shall verify that the application is
83 in compliance with existing deed covenants pursuant to sections 22-
84 26aa to 22-26jj, inclusive.

85 (g) The zoning regulations may require that a site plan be filed with
86 the commission or other municipal agency or official to aid in

87 determining the conformity of a proposed building, use or structure
88 with specific provisions of such regulations. If a site plan application
89 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
90 inclusive, the applicant shall submit an application for a permit to the
91 agency responsible for administration of the inland wetlands
92 regulations not later than the day such application is filed with the
93 zoning commission. The decision of the zoning commission shall not
94 be rendered on the site plan application until the inland wetlands
95 agency has submitted a report with its final decision. In making its
96 decision the zoning commission shall give due consideration to the
97 report of the inland wetlands agency. A site plan may be modified or
98 denied only if it fails to comply with requirements already set forth in
99 the zoning or inland wetlands regulations. Approval of a site plan
100 shall be presumed unless a decision to deny or modify it is rendered
101 within the period specified in section 8-7d. A certificate of approval of
102 any plan for which the period for approval has expired and on which
103 no action has been taken shall be sent to the applicant within fifteen
104 days of the date on which the period for approval has expired. A
105 decision to deny or modify a site plan shall set forth the reasons for
106 such denial or modification. A copy of any decision shall be sent by
107 certified mail to the person who submitted such plan within fifteen
108 days after such decision is rendered. The zoning commission may, as a
109 condition of approval of any modified site plan, require a bond in an
110 amount and with surety and conditions satisfactory to it, securing that
111 any modifications of such site plan are made or may grant an
112 extension of the time to complete work in connection with such
113 modified site plan. The commission may condition the approval of
114 such extension on a determination of the adequacy of the amount of
115 the bond or other surety furnished under this section. The commission
116 shall publish notice of the approval or denial of site plans in a
117 newspaper having a general circulation in the municipality. In any
118 case in which such notice is not published within the fifteen-day
119 period after a decision has been rendered, the person who submitted
120 such plan may provide for the publication of such notice within ten
121 days thereafter.

122 (h) Notwithstanding the provisions of the general statutes or any
123 public or special act or any local ordinance, when a change is adopted
124 in the zoning regulations or boundaries of zoning districts of any
125 town, city or borough, no improvements or proposed improvements
126 shown on a site plan for residential property which has been approved
127 prior to the effective date of such change, either pursuant to an
128 application for special exception or otherwise, by the zoning
129 commission of such town, city or borough, or other body exercising
130 the powers of such commission, and filed or recorded with the town
131 clerk, shall be required to conform to such change.

132 (i) In the case of any site plan approved on or after October 1, 1984,
133 except as provided in subsection (j) of this section, all work in
134 connection with such site plan shall be completed within five years
135 after the approval of the plan. The certificate of approval of such site
136 plan shall state the date on which such five-year period expires. Failure
137 to complete all work within such five-year period shall result in
138 automatic expiration of the approval of such site plan, except in the
139 case of any site plan approved on or after October 1, 1989, the zoning
140 commission or other municipal agency or official approving such site
141 plan may grant one or more extensions of the time to complete all or
142 part of the work in connection with the site plan provided the total
143 extension or extensions shall not exceed ten years from the date such
144 site plan is approved. "Work" for purposes of this subsection means all
145 physical improvements required by the approved plan.

146 (j) In the case of any site plan for a project consisting of four
147 hundred or more dwelling units approved on or after June 19, 1987, all
148 work in connection with such site plan shall be completed within ten
149 years after the approval of the plan. In the case of any commercial,
150 industrial or retail project having an area equal to or greater than four
151 hundred thousand square feet approved on or after October 1, 1988,
152 the zoning commission or other municipal agency or official approving
153 such site plan shall set a date for the completion of all work in
154 connection with such site plan, which date shall be not less than five
155 nor more than ten years from the date of approval of such site plan,

156 provided such commission, agency or official approving such plan and
157 setting a date for completion which is less than ten years from the date
158 of approval may extend the date of completion for an additional
159 period or periods, not to exceed ten years in the aggregate from the
160 date of the original approval of such site plan. The certificate of
161 approval of such site plan shall state the date on which such work shall
162 be completed. Failure to complete all work within such period shall
163 result in automatic expiration of the approval of such site plan. "Work"
164 for purposes of this subsection means all physical improvements
165 required by the approved plan.

166 (k) A separate zoning district may be established for shorefront land
167 areas utilized for water-dependent uses, as defined in section 22a-93,
168 existing on October 1, 1987. Such district may be composed of a single
169 parcel of land, provided the owner consents to such establishment. The
170 provisions of this section shall not be construed to limit the authority
171 of a zoning commission to establish and apply land use districts for the
172 promotion and protection of water-dependent uses pursuant to section
173 8-2 and sections 22a-101 to 22a-104, inclusive. The provisions of this
174 subsection shall apply to all zoning commissions or other final zoning
175 authority of each municipality whether or not such municipality has
176 adopted the provisions of this chapter or the charter of such
177 municipality or special act establishing zoning in the municipality
178 contains similar provisions.

179 (l) Notwithstanding the provisions of this section to the contrary,
180 any site plan approval made under this section on or before October 1,
181 1989, except an approval made under subsection (j) of this section,
182 shall expire not more than seven years from the date of such approval
183 and the commission may grant one or more extensions of time to
184 complete all or part of the work in connection with such site plan,
185 provided the time for all extensions under this subsection shall not
186 exceed ten years from the date the site plan was approved.

187 Sec. 2. Section 22-6e of the general statutes is repealed and the
188 following is substituted in lieu thereof (*Effective October 1, 2005*):

189 (a) The commissioner may develop a program to encourage the use
190 of vacant public land owned by the state for gardening or agricultural
191 purposes. In order to carry out said program, the commissioner shall:
192 (1) In cooperation with other state agencies, compile a list of all vacant
193 public land owned by the state, that in the opinion of such agencies
194 and the commissioner may be feasibly used for gardening or
195 agriculture, and (2) establish a procedure for application to the
196 department on a form to be furnished by the commissioner for a
197 permit to use available vacant public land for gardening or agricultural
198 purposes. The commissioner shall adopt regulations pursuant to
199 chapter 54 to carry out the provisions of this section, including but not
200 limited to requirements for agreements to use vacant public land for
201 gardening or agricultural purposes, establishment of a fee for such
202 permit, except that no fee shall be charged for gardening permits, and
203 requirements for the use of such land for agricultural purposes based
204 on competitive open bidding. Permits shall be for a period prescribed
205 by the commissioner but shall not exceed [seven] ten years from the
206 date of issuance. After such period permit holders may apply for a
207 new permit or renewal of the permit. Applicants shall submit a plan
208 for such use and shall agree to maintain the land in a condition
209 consistent with such land use plan, and shall agree to abide by
210 regulations adopted by the department pursuant to chapter 54. Failure
211 to carry out the conditions of agreement shall result in the forfeiture of
212 the garden or agriculture permit. Any applicant who is granted the use
213 of vacant public land for gardening or agricultural purposes shall
214 indemnify and save harmless the state and all of its officers, agents and
215 employees against suits and claims of liability of each name and nature
216 arising out of, or in consequence of the use of vacant public land.

217 (b) Any permit issued pursuant to subsection (a) may be terminated
218 by the commissioner, without cause, upon written notice to the
219 permittee.

220 (c) A sponsor who has a gardening permit may assess a fee to
221 individual gardeners for the sole purpose of reimbursing such sponsor
222 for costs incurred in land preparation.

223 (d) Any payments by the permit holder pursuant to an agreement
224 for the use of state land for agricultural purposes shall be credited in
225 equal shares to the General Fund [account] accounts of the [agency]
226 agencies whose land is being used for such purposes and to the
227 Department of Agriculture for the purpose of administering the
228 program.

229 Sec. 3. Section 22-26cc of the general statutes is repealed and the
230 following is substituted in lieu thereof (*Effective October 1, 2005*):

231 (a) There is established within the Department of Agriculture a
232 program to solicit, from owners of agricultural land, offers to sell the
233 development rights to such land and to inform the public of the
234 purposes, goals and provisions of this chapter. The commissioner, with
235 the approval of the State Properties Review Board, shall have the
236 power to acquire or accept as a gift, on behalf of the state, the
237 development rights of any agricultural land, if offered by the owner.
238 Notice of the offer shall be filed in the land records wherein the
239 agricultural land is situated. If ownership of any land for which
240 development rights have been offered is transferred, the offer shall be
241 effective until the subsequent owner revokes the offer in writing. The
242 state conservation and development plan established pursuant to
243 section 16a-24 shall be applied as an advisory document to the
244 acquisition of development rights of any agricultural lands. The factors
245 to be considered by the commissioner in deciding whether or not to
246 acquire such rights shall include, but not be limited to, the following:
247 (1) The probability that the land will be sold for nonagricultural
248 purposes; (2) the current productivity of such land and the likelihood
249 of continued productivity; (3) the suitability of the land as to soil
250 classification and other criteria for agricultural use; (4) the degree to
251 which such acquisition would contribute to the preservation of the
252 agricultural potential of the state; (5) any encumbrances on such land;
253 [] (6) the cost of acquiring such rights; and (7) the degree to which
254 such acquisition would mitigate damage due to flood hazards.
255 Ownership by a nonprofit organization authorized to hold land for
256 conservation and preservation purposes of land which prior to such

257 ownership qualified for the program established pursuant to this
258 section shall not be deemed to diminish the probability that the land
259 will be sold for nonagricultural purposes. After a preliminary
260 evaluation of such factors by the Commissioner of Agriculture, he shall
261 obtain and review one or more fee appraisals of the property selected
262 in order to determine the value of the development rights of such
263 property. The commissioner shall notify the Department of
264 Transportation, the Department of Economic and Community
265 Development, the Department of Environmental Protection and the
266 Office of Policy and Management that such property is being
267 appraised. Any appraisal of the value of such land obtained by the
268 owner and performed in a manner approved by the commissioner
269 shall be considered by the commissioner in making such
270 determination. The value of development rights for all purposes of this
271 section shall be the difference between the value of the property for its
272 highest and best use and its value for agricultural purposes as
273 determined by the commissioner. The use or presence of pollutants or
274 chemicals in the soil shall not be deemed to diminish the agricultural
275 value of the land or to prohibit the commissioner from acquiring the
276 development rights to such land. The commissioner may purchase
277 development rights for a lesser amount provided he complies with all
278 factors for acquisition specified in this subsection and in any
279 implementing regulations. In determining the value of the property for
280 its highest and best use, consideration shall be given but not limited to
281 sales of comparable properties in the general area, use of which was
282 unrestricted at the time of sale.

283 (b) Upon the acquisition by the commissioner of the development
284 rights of agricultural land, said commissioner shall cause to be filed in
285 the appropriate land records and in the office of the Secretary of the
286 State a notice of such acquisition which shall set forth a description of
287 the agricultural land as will be sufficient to give any prospective
288 purchaser of such agricultural land or creditor of the owner thereof
289 notice of such restriction. Upon the filing as aforesaid of the notice, the
290 owner of such agricultural land shall not be permitted to exercise

291 development rights with respect to such land, and such development
292 rights shall be considered and deemed dedicated to the state in
293 perpetuity except as hereinafter provided. If restricted land is to be
294 sold, the former owner shall notify, in writing, the commissioner of
295 such impending sale not more than ninety days before transfer of title
296 to the land and shall provide him with the name and address of the
297 new owner.

298 (c) The commissioner shall have no power to release such land from
299 its agricultural restriction, except as set forth in this subsection. The
300 commissioner, in consultation with the Commissioner of
301 Environmental Protection and such advisory groups as the
302 Commissioner of Agriculture may appoint, may approve (1) a petition
303 by the owner of the restricted agricultural land to remove such
304 restriction provided such petition is approved by resolution of the
305 legislative body of the town, or (2) a petition by the legislative body of
306 the town in which such land is situated to remove such restriction
307 provided such petition is approved in writing by said owner. Upon
308 approval of such a petition by the commissioner, the legislative body
309 of the town shall submit to the qualified voters of such town the
310 question of removing the agricultural restriction from such land or a
311 part thereof, at a referendum held at a regular election or a special
312 election warned and called for that purpose. In the event a majority of
313 those voting at such referendum are in favor of such removal, the
314 restriction shall be removed from the agricultural land upon filing of
315 the certified results of such referendum in the land records and the
316 office of the Secretary of the State, and the commissioner shall convey
317 the development rights to such owner provided such owner shall pay
318 the commissioner an amount equal to the value of such rights. Such
319 petition shall set forth the facts and circumstances upon which the
320 commissioner shall consider approval, and said commissioner shall
321 deny such approval unless he determines that the public interest is
322 such that there is an overriding necessity to relinquish control of the
323 development rights. The commissioner shall hold at least one public
324 hearing prior to the initiation of any proceedings hereunder. The

325 expenses, if any, of the hearing and the referendum shall be borne by
326 the petitioner. In the event that the state sells any development rights
327 under the procedure provided in this subsection, it shall receive the
328 value of such rights.

329 (d) Whenever the commissioner acquires the development rights of
330 any agricultural land and the purchase price of such development
331 rights is ten thousand dollars or more, said commissioner and the
332 owner of such land may enter into a written agreement which
333 provides for the payment of the purchase price in two or three annual
334 installments, but no interest shall be paid on any unpaid balance of
335 such purchase price.

336 (e) Whenever the commissioner acquires the development rights to
337 any agricultural land, and any municipality in which all or part of the
338 land is situated paid a part of the purchase price from a fund
339 established pursuant to section 7-131q, such municipality and the state
340 may jointly own the development rights, provided joint ownership by
341 such municipality shall be limited to land within its boundaries. The
342 land may be released from its agricultural restriction in accordance
343 with the provisions of subsection (c) of this section. The commissioner
344 shall adopt regulations in accordance with the provisions of chapter 54
345 establishing procedures for the joint acquisition of development rights
346 to agricultural land.

347 (f) The acquisition of the development rights to any agricultural
348 land by the commissioner shall not be deemed to be ownership of such
349 land and the state shall not be liable for pollution or contamination of
350 such land and no person may bring a civil action against the state for
351 damages resulting from pollution or contamination of such
352 agricultural land.

353 (g) The commissioner may issue a letter of intent requesting the
354 assistance of a nonprofit organization, as defined in [subsection (c)(3)
355 of Section 501 of the United States Internal Revenue Code] Section
356 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent

357 corresponding internal revenue code of the United States, as from time
358 to time amended, in acquiring the development rights to certain
359 agricultural land. If such organization acquires such rights it may sell
360 them to the commissioner based on a purchase agreement. Such
361 agreement may include reimbursement for reasonable expenses
362 incurred in the acquisition of the rights as well as payment for the
363 rights. The commissioner may enter into joint ownership agreements
364 to acquire the development rights to any qualified agricultural land
365 with any nonprofit organization, as defined in Section 501(c)(3) of the
366 Internal Revenue Code of 1986, or any subsequent corresponding
367 internal revenue code of the United States, as from time to time
368 amended, provided the mission of such nonprofit organization is the
369 permanent protection of agricultural land for the purposes of
370 continued agricultural use.

371 (h) In addition to development rights, the commissioner may
372 acquire or accept as a gift the rights of the owner to construct any
373 residences or any farm structures on agricultural land.

374 (i) The Commissioner of Agriculture, pursuant to any cooperative
375 agreement with the United States Department of Agriculture for the
376 disbursement of funds under federal law, may require that any
377 property to which rights are acquired under this section with such
378 funds shall be managed in accordance with a conservation plan which
379 utilizes the standards and specifications of the Natural Resources
380 Conservation Service field office technical guide and is approved by
381 such service. Any instrument by which the commissioner acquires
382 such rights and for which any such funds are used may provide for a
383 contingent right in the United States of America in the event that the
384 state of Connecticut fails to enforce any of the terms of its rights
385 acquired under this section which failure shall be determined by the
386 United States Secretary of Agriculture. Such contingent right shall
387 entitle the secretary to enforce any rights acquired by the state under
388 this section by any authority provided under law. Such instrument
389 may provide that such rights shall become vested in the United States
390 of America in the event that the state of Connecticut attempts to

391 terminate, transfer or otherwise divest itself of any such rights without
392 the prior consent of the United States Secretary of Agriculture and
393 payment of consideration to the United States and may further provide
394 that title to such rights may be held by the United States of America at
395 any time at the request of the United States Secretary of Agriculture. In
396 connection with such an agreement, the commissioner may hold the
397 United States harmless from any action based on negligence in the
398 procurement or management of any rights acquired under this section
399 and may assure that proper title evidence is secured, that the title is
400 insured to the amount of the federal cost paid for the interest of the
401 United States of America and that, in the event of a failure of title, as
402 determined by a court of competent jurisdiction, and payment of
403 insurance to the state, the state will reimburse the United States for the
404 amount of the federal cost paid.

405 (j) The commissioner, when acquiring the development rights of any
406 agricultural lands on behalf of the state, may incorporate deed
407 requirements in accordance with the provisions of the federal Farm
408 and Ranch Lands Protection Program, 7 CFR 1491.1, et seq..

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	8-3
Sec. 2	October 1, 2005	22-6e
Sec. 3	October 1, 2005	22-26cc

ENV

Joint Favorable Subst. C/R

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