



General Assembly

January Session, 2007

Raised Bill No. 1084

LCO No. 3697

03697_____PD_

Referred to Committee on Planning and Development

Introduced by:

(PD)

***AN ACT REORGANIZING LOCAL LAND USE COMMISSIONS,
BOARDS AND AGENCIES.***

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

1 Section 1. (NEW) (*Effective January 1, 2008*) (a) The legislative body
2 of a municipality may adopt the provisions of sections 2 to 11,
3 inclusive, of this act, provided that all sections are adopted. If a
4 municipality does not adopt said sections, no section of this public act
5 shall be construed to effect any existing authority of the municipality
6 under the provisions of any general statutes, special acts or municipal
7 charter.

8 (b) It is declared by the General Assembly that (1) municipalities
9 may implement an alternative to the existing land use system of
10 boards and commissions created by the General Assembly and
11 delegated to municipalities over many decades, (2) an updated and
12 reorganized system of local land use authorities created pursuant to
13 sections 2 to 11, inclusive, of this act will benefit public health, safety
14 and welfare, as set forth in subsection (c) of this section, in
15 municipalities adopting the provisions of said sections 2 to 11,
16 inclusive, (3) the existing system of local land use boards and

17 commissions, including, but not limited to, zoning commissions,
18 planning commissions, planning and zoning commissions, inland
19 wetland agencies and zoning boards of appeal could be improved by
20 reorganization into the following three local commissions and boards
21 with distinct functions: (A) A land use commission created by section 4
22 of this act, (B) a development review agency created by section 5 of this
23 act and (C) a land use board of appeals created by sections 7 to 9,
24 inclusive, of this act, and (4) to prevent the proliferation of various
25 types of land use systems in the state, the optional alternative system
26 authorized pursuant to sections 2 to 11, inclusive, of this act must be
27 adopted in total.

28 (c) The reorganization of local land use commissions and boards
29 pursuant to sections 2 to 11, inclusive, of this act is intended to have
30 the following public benefits: (1) To preserve local control over land
31 uses under planning, zoning and other land use enabling statutes; (2)
32 to clarify, simplify and streamline the land use process for all
33 constituents; (3) to better coordinate land use planning with regulatory
34 implementation; (4) to ensure that the local plan of conservation and
35 development and all land use maps, zoning and natural resource
36 boundaries and regulations are coordinated through their adoption by
37 the same local commission; (5) to ensure that all local land use maps,
38 zoning and natural resource boundaries and all land use regulations
39 are coordinated, eliminating conflicting provisions, and consolidated
40 into a single regulatory structure; (6) to provide a single responsible
41 commission for creating the land use vision of a municipality,
42 planning its land uses and facilitating the public involvement in such
43 process; (7) to eliminate unnecessary permit and other approval
44 processing delays and applicant referrals to other boards and
45 commissions for approvals; (8) to create a single, one-stop review
46 agency for all land use applications to ensure a land use application
47 complies with all applicable regulations; and (9) to empower local
48 citizens to better plan and design their municipality through adoption
49 of the local plan of conservation and development and implementing
50 land use regulations while reviewing land use applications in a

51 streamlined administrative process.

52 (d) The Legislative Commissioners' Office in codifying the
53 provisions of this section and sections 2 to 11, inclusive, of this act shall
54 codify such provisions in a new chapter of the general statutes. Any
55 municipality adopting the land use system established by said sections
56 shall be known as a land use municipality under said chapter.

57 Sec. 2. (NEW) (*Effective January 1, 2008*) (a) Wherever authority has
58 been delegated by any provision of the general statutes or special act to
59 a local land use commission, board or agency to adopt local land use
60 plans, maps, natural resource boundaries or regulations under chapter
61 124, 125a, 126, 126a or 440 of the general statutes, or to receive petitions
62 or requests to adopt or amend such plans, maps, boundaries or
63 regulations, such authority shall be vested in the land use commission
64 established by a municipality under section 3 of this act.

65 (b) Wherever authority has been delegated by any provision of the
66 general statutes or special act to a local land use commission, board or
67 agency to accept, review, approve, deny or otherwise act upon an
68 application or request to use or conduct an activity on land under
69 chapter 124, 125a, 126, 126a or 440 of the general statutes, such
70 authority shall be vested in the development review agency
71 established by a municipality pursuant to section 4 this act.

72 (c) The authority of zoning boards of appeal shall be vested in a
73 land use board of appeal established pursuant to section 6 this act.

74 Sec. 3. (NEW) (*Effective January 1, 2008*) (a) To the extent that a
75 municipality has adopted the provisions of chapter 124, 125a, 126, 126a
76 or 440 of the general statutes, each such municipality shall, by
77 ordinance adopted by its legislative body or municipal charter,
78 establish a land use commission. The land use commission shall adopt
79 a local plan of conservation and development, zoning and natural
80 resource maps and boundaries and regulations that control the use of
81 or activities on land, and shall receive petitions or requests to adopt or

82 amend such plans, maps, boundaries or regulations under said
83 chapters 124, 125a, 126, 126a and 440.

84 (b) Such commission shall consist of either five, seven or nine
85 members, with minority representation as determined under section 9-
86 167a of the general statutes, who shall be electors of such municipality
87 and whose terms of office and method of election or appointment shall
88 be fixed in the ordinance or charter. The number of such members and
89 the method of selection and removal for cause and terms of office shall
90 be determined by ordinance or charter. No such ordinance or charter
91 may designate the legislative body of the municipality to act as the
92 commission, except that in a municipality with a population of less
93 than five thousand, such ordinance or charter may designate the
94 selectmen as such land use commission. The ordinance or charter may
95 provide that members may be municipal employees if the municipality
96 has adopted an ordinance authorizing such membership pursuant to
97 the provisions of subparagraph (C) of subdivision (2) of subsection (e)
98 of section 7-421 of the general statutes. The chief executive officer of
99 the municipality and the engineer thereof or commissioner of public
100 works, if any, shall also be members of the land use commission,
101 without voting privileges. The terms of office shall be so arranged that
102 the terms of not more than three shall expire in any one year if such
103 commission has five members, not more than four shall expire in any
104 one year if such commission has seven members, or not more than five
105 shall expire in any one year if such commission has nine members.
106 Unless otherwise provided by ordinance or charter, vacancies shall be
107 filled by such commission for the unexpired portion of the term. Such
108 commission shall elect a chairperson and a secretary from its members,
109 shall adopt rules for the transaction of business and shall keep a public
110 record of its activities. Such commission shall file an annual report
111 with the legislative body thereof.

112 (c) Each municipality, in addition to such powers as it has under the
113 provisions of the general statutes or any special act, shall have the
114 power to provide, by ordinance adopted by its legislative body or

115 municipal charter, for the appointment or election of up to three
116 alternate members to its land use commission. Such alternate members
117 shall have all the powers and duties set forth in the general statutes or
118 any special act relating to such municipality for such commission and
119 its members. Such alternate members shall be electors and shall not be
120 members of the development review agency established pursuant to
121 section 4 of this act or land use board of appeals established pursuant
122 to section 6 of this act. Such ordinance or charter shall provide for the
123 manner of designating alternates to act on matters before the
124 commission.

125 Sec. 4. (NEW) (*Effective January 1, 2008*) (a) To the extent that a
126 municipality has adopted the provisions of chapter 124, 125a, 126, 126a
127 or 440 of the general statutes, each such municipality shall, by
128 ordinance adopted by its legislative body or municipal charter,
129 establish a development review agency. The development review
130 agency shall review and act on all applications or requests to use land
131 or conduct an activity on land requiring a permit or other approval
132 pursuant to maps, boundaries and regulations adopted by the land use
133 commission.

134 (b) Such development review agency shall consist of either five,
135 seven or nine members, with minority representation as determined
136 under section 9-167a of the general statutes, who shall be electors of
137 such municipality and whose terms of office and method of election or
138 appointment shall be fixed in the ordinance or charter creating the
139 agency. The number of such members and the method of selection and
140 removal for cause and terms of office shall be determined by such
141 ordinance or charter, except that the legislative body of such
142 municipality shall not be designated to act as the development review
143 agency. The ordinance or charter may provide that members may be
144 municipal employees if the municipality has adopted an ordinance
145 authorizing such membership pursuant to the provisions of
146 subparagraph (C) of subdivision (2) of subsection (e) of section 7-421 of
147 the general statutes. The chief executive officer of the municipality and

148 the engineer thereof or commissioner of public works, if any, shall also
149 be members of the development review agency, without voting
150 privileges. The terms of office shall be so arranged that the terms of not
151 more than three shall expire in any one year if such agency has five
152 members, not more than four shall expire in any one year if such
153 agency has seven members, or not more than five shall expire in any
154 one year if such agency has nine members. Unless otherwise provided
155 by ordinance or charter, vacancies shall be filled by such agency for the
156 unexpired portion of the term. Such agency shall elect a chairperson
157 and a secretary from its members, shall adopt rules for the transaction
158 of business and shall keep a public record of its activities.

159 (c) Each municipality, in addition to such powers as it has under the
160 provisions of the general statutes or any special act, may by ordinance
161 adopted by its legislative body or municipal charter provide for the
162 appointment or election of up to three alternate members to its
163 development review agency. Such alternate members shall have all the
164 powers and duties set forth in the general statutes or any special act
165 relating to such municipality for such agency and its members. Such
166 alternate members shall be electors and shall not be members of the
167 land use commission established under section 3 of this act or land use
168 board of appeals established under section 6 of this act. Such ordinance
169 or charter shall provide for the manner of designating alternates to act
170 on matters before the agency.

171 (d) If a petition or request to adopt or amend such maps, boundaries
172 or regulations under chapters 124, 125a, 126, 126a and 440 of the
173 general statutes is filed with the land use commission established
174 pursuant to section 3 this act and such petition or request is related to
175 an application or request to use or conduct an activity on land that is
176 filed with the development review agency established under this
177 section, such petitions, requests and applications to the commission
178 and agency may be filed on or about the same time but,
179 notwithstanding any other time for decision provided for in the
180 general statutes, the decision of the development review agency may

181 be made not more than thirty-five days after the decision of the land
182 use commission. The land use commission and development review
183 agency shall conduct a joint public hearing on any applications
184 requesting a decision from the commission and agency.

185 Sec. 5. (NEW) (*Effective January 1, 2008*) Upon the establishment by a
186 municipality of a land use commission pursuant to section 3 of this act
187 and a development review agency pursuant to section 4 of this act, and
188 the appointment or election of members of such commission and
189 agency, any planning commission, zoning commission, planning and
190 zoning commission and inland wetland agency in the municipality
191 established under any previous act of the General Assembly or by
192 special act shall terminate, and its books and records related to plans,
193 maps, zoning and natural resource boundaries and regulations shall be
194 turned over to the land use commission established by said section 3
195 and its books and records related to denials, approvals, permits or
196 other actions on land use applications or requests to use or conduct an
197 activity on land pursuant to adopted maps, boundaries and
198 regulations shall be turned over to the development review agency
199 established under said section 4, provided all regulations adopted and
200 actions taken by such planning commission, zoning commission,
201 planning and zoning commission and inland wetland agency prior to
202 such transfer shall continue in full force and effect until modified,
203 repealed or superseded in accordance with the provisions of sections 1
204 to 11, inclusive, of this act.

205 Sec. 6. (NEW) (*Effective January 1, 2008*) (a) To the extent that a
206 municipality has adopted the provisions of chapter 124, 125a, 126, 126a
207 or 440 of the general statutes, each such municipality shall, by
208 ordinance adopted by its legislative body or municipal charter,
209 establish a land use board of appeals consisting of five regular
210 members and three alternate members, unless otherwise provided by
211 special act. Such alternate members may be referred to as the panel of
212 alternates. Such alternate members shall, when seated in accordance
213 with the provisions of this section, have all the powers and duties set

214 forth in the general statutes relating to land use boards of appeals and
215 their members. Notwithstanding the provisions of any special act, the
216 regular members and alternate members of such land use board of
217 appeals shall be electors and shall not be members of the land use
218 commission or development review agency. Such board and such
219 panel of alternates shall, unless otherwise provided by special act, be
220 elected or appointed in such manner and for such terms as is
221 determined for each by ordinance or charter adopted by the
222 municipality. Any vacancy in such board, including any vacancy in the
223 panel of alternates, unless otherwise provided by ordinance, charter or
224 special act, shall be filled for the unexpired portion of the term, by the
225 board of selectmen of towns or the chief executive officer of cities and
226 boroughs. Such board by vote of its regular members only shall elect a
227 chairperson from among its members, unless otherwise provided by
228 special act, and all meetings of such board shall be held at the call of
229 the chairperson and at such other times as the board determines and
230 shall be open to the public. Such chairperson, or in his or her absence
231 the acting chairperson, may administer oaths and compel the
232 attendance of witnesses. The board shall keep minutes of its
233 proceedings showing the vote of each member and each alternate
234 member when seated upon each question or, if absent or failing to
235 vote, indicating such fact, and shall also keep records of its
236 examinations and other official actions. Each rule or regulation and
237 each amendment or repeal thereof and each order, requirement or
238 decision of the board shall immediately be filed in the office of the
239 board and shall be a public record.

240 (b) The land use board of appeals of any town shall have
241 jurisdiction over that part of the town outside of any city or borough
242 contained therein except that the legislative body of any city or
243 borough may, by ordinance adopted by its legislative body, designate
244 the land use board of appeals of the town in which such city or
245 borough is situated as the land use board of appeals of such city or
246 borough.

247 (c) If a regular member of a land use board of appeals is absent,
248 such member may designate an alternate from the panel of alternates
249 to act in his or her place. If such member fails to make such
250 designation or is disqualified, the chairperson of the board shall
251 designate an alternate from such panel, choosing alternates in rotation
252 so that the alternates act as nearly equal a number of times as possible.
253 If any alternate is not available in accordance with such rotation, such
254 fact shall be recorded in the minutes of the meeting.

255 (d) Any town, city or borough, in addition to such powers as it has
256 under the provisions of the general statutes or any special act, may
257 provide by ordinance adopted by its legislative body for the
258 appointment of three alternate members to its land use board of
259 appeals as is set forth in this section.

260 Sec. 7. (NEW) (*Effective January 1, 2008*) (a) The land use board of
261 appeals established in section 6 of this act shall have the following
262 powers and duties: (1) To hear and decide appeals where it is alleged
263 that there is an error in any order, requirement or decision made by the
264 official charged with the enforcement of chapters 124, 125a, 126, 126a
265 and 440 of the general statutes or the enforcement of any bylaw,
266 ordinance or regulation adopted under the provisions of chapters 124,
267 125a, 126, 126a and 440 of the general statutes; (2) to hear and decide
268 all matters including special exceptions and special exemptions under
269 section 8-2g of the general statutes upon which it is required to pass by
270 the specific terms of the zoning bylaw, ordinance or regulation; and (3)
271 to determine and vary the application of any bylaws, ordinances or
272 regulations adopted under chapters 124, 125a, 126, 126a and 440 of the
273 general statutes in harmony with their general purposes and intent
274 and with due consideration for conserving the public health, safety,
275 convenience, welfare and property values solely with respect to a
276 parcel of land where, owing to conditions especially affecting such
277 parcel but not affecting generally the district in which it is situated, a
278 literal enforcement of such bylaws, ordinances or regulations would
279 result in exceptional difficulty or unusual hardship so that substantial

280 justice will be done and the public safety and welfare secured,
281 provided the zoning regulations may specify the extent to which uses
282 shall not be permitted by variance in districts in which such uses are
283 not otherwise allowed. No such board shall be required to hear any
284 application for the same variance or substantially the same variance for
285 a period of six months after a decision by the board or by a court on an
286 earlier such application.

287 (b) Any variance granted by a land use board of appeals shall run
288 with the land and shall not be personal in nature to the person who
289 applied for and received the variance. A variance shall not be
290 extinguished solely because of the transfer of title to the property or
291 the invalidity of any condition attached to the variance that would
292 affect the transfer of the property from the person who initially applied
293 for and received the variance.

294 (c) Whenever an application to a land use board of appeals for the
295 grant of a variance is joined with an appeal from any order,
296 requirement or decision made by the official charged with the
297 enforcement of chapters 124, 125a, 126, 126a and 440 of the general
298 statutes, or the enforcement of any bylaw, ordinance or regulation
299 adopted under the provisions of said chapters 124, 125a, 126, 126a and
300 440, the board shall first decide the issues presented by such appeal.

301 (d) The concurring vote of four members of the land use board of
302 appeals shall be necessary to reverse any order, requirement or
303 decision of the official charged with the enforcement of the regulations
304 adopted under chapters 124, 125a, 126, 126a and 440 of the general
305 statutes or to decide in favor of the applicant upon any matter upon
306 which it is required to pass under any bylaw, ordinance, rule or
307 regulation or to vary the application of any such bylaw, ordinance,
308 rule or regulation. An appeal may be taken to the land use board of
309 appeals by any person aggrieved or by any officer, department, board,
310 commission agency or bureau of any municipality aggrieved and shall
311 be taken within such time as is prescribed by a rule adopted by said

312 board, or, if no such rule is adopted by the board, within thirty days,
313 by filing with the land use commission, development review agency or
314 the officer from whom the appeal has been taken and with said board
315 a notice of appeal specifying the grounds thereof. Such appeal period
316 shall commence for an aggrieved person at the earliest of the
317 following: (1) Upon receipt of the order, requirement or decision from
318 which such person may appeal, (2) upon the publication of a notice in
319 accordance with subsection (f) of section 8-3 of the general statutes, or
320 (3) upon actual or constructive notice of such order, requirement or
321 decision. The officer from whom the appeal has been taken shall
322 immediately transmit to said board all the papers constituting the
323 record upon which the action appealed from was taken. An appeal
324 shall not stay any such order, requirement or decision which prohibits
325 further construction or expansion of a use in violation of such
326 regulations except to such extent that the board grants a stay thereof.
327 An appeal from any other order, requirement or decision shall stay all
328 proceedings in the action appealed from unless the land use
329 commission, development review agency or the officer from whom the
330 appeal has been taken certifies to the land use board of appeals after
331 the notice of appeal has been filed that by reason of facts stated in the
332 certificate a stay would cause imminent peril to life or property, in
333 which case proceedings shall not be stayed, except by a restraining
334 order which may be granted by a court of record on application, on
335 notice to the land use commission, development review agency or the
336 officer from whom the appeal has been taken and on due cause shown.
337 The board shall hold a public hearing on such appeal in accordance
338 with the provisions of section 8-7d of the general statutes. Such board
339 may reverse or affirm wholly or partly or may modify any order,
340 requirement or decision appealed from and shall make such order,
341 requirement or decision as in its opinion should be made in the
342 premises and shall have all the powers of the officer from whom the
343 appeal has been taken but only in accordance with the provisions of
344 this section. Whenever a land use board of appeals grants or denies
345 any special exception or variance in the regulations applicable to any

346 property or sustains or reverses wholly or partly any order,
347 requirement or decision appealed from, it shall state upon its records
348 the reason for its decision and the bylaw, ordinance or regulation
349 which is varied in its application or to which an exception is granted
350 and, when a variance is granted, describe specifically the exceptional
351 difficulty or unusual hardship on which its decision is based. Notice of
352 the decision of the board shall be published in a newspaper having a
353 substantial circulation in the municipality and addressed by certified
354 mail to any person who appeals to the board, by its secretary or clerk,
355 under his or her signature in any written, printed, typewritten or
356 stamped form, within fifteen days after such decision has been
357 rendered. In any case in which such notice is not published within
358 such fifteen-day period, the person who requested or applied for such
359 special exception or variance or took such appeal may provide for the
360 publication of such notice within ten days thereafter. Such exception or
361 variance shall become effective upon the filing of a copy thereof (A) in
362 the office of the town, city or borough clerk, as the case may be, but, in
363 the case of a district, in the offices of both the district clerk and the
364 town clerk of the town in which such district is located, and (B) in the
365 land records of the town in which the affected premises are located, in
366 accordance with the provisions of section 8-3d of the general statutes.

367 Sec. 8. (NEW) (*Effective January 1, 2008*) Upon the establishment of
368 the land use board of appeals as provided for in section 6 of this act,
369 and the appointment or election of members of such board, any zoning
370 board of appeals established under any previous act of the General
371 Assembly or by special act shall terminate, and its books and records
372 shall be transferred to the land use board of appeals established by
373 said section 6, provided all regulations adopted and actions taken by
374 such board prior to such transfer shall continue in full force and effect
375 until modified, repealed or superseded in accordance with the
376 provisions of sections 1 to 11, inclusive, of this act.

377 Sec. 9. (NEW) (*Effective January 1, 2008*) Wherever the words "zoning
378 commission", "planning commission", "planning and zoning

379 commission", "zoning board of appeals" or "inland wetlands agency"
 380 or similar terms referring to such local commissions, boards or
 381 agencies are used in the general statutes, upon establishment by a
 382 municipality of a land use commission pursuant to section 3 of this act,
 383 a development review agency pursuant to section 4 of this act, a land
 384 use board of appeals pursuant to section 5 of this act and upon the
 385 appointment or election of members to each such commission, agency
 386 and board, such terms shall be deemed to refer to such land use
 387 commission, development review agency or land use board of appeals
 388 as is appropriate for the authority provided to and exercised by such
 389 commissions, agencies or boards pursuant to the provisions of sections
 390 1 to 11, inclusive, of this act.

391 Sec. 10. (NEW) (*Effective January 1, 2008*) Any municipality may, by
 392 ordinance adopted by its legislative body or municipal charter,
 393 establish a single land use and review commission to carry out the
 394 provisions of sections 1 to 11, inclusive of this act. No land use board
 395 of appeals established pursuant to section 6 of this act shall be
 396 combined with a land use commission or a development review
 397 agency.

398 Sec. 11. (NEW) (*Effective January 1, 2008*) Two or more
 399 municipalities, upon approval of the legislative bodies of each such
 400 municipality, may establish a joint land use commission, joint
 401 development review agency, joint land use and review commission or
 402 joint land use board of appeals to carry out the provisions of sections 1
 403 to 11, inclusive, of this act within the jurisdictions of such
 404 municipalities.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2008</i>	New section
Sec. 2	<i>January 1, 2008</i>	New section
Sec. 3	<i>January 1, 2008</i>	New section
Sec. 4	<i>January 1, 2008</i>	New section

Sec. 5	<i>January 1, 2008</i>	New section
Sec. 6	<i>January 1, 2008</i>	New section
Sec. 7	<i>January 1, 2008</i>	New section
Sec. 8	<i>January 1, 2008</i>	New section
Sec. 9	<i>January 1, 2008</i>	New section
Sec. 10	<i>January 1, 2008</i>	New section
Sec. 11	<i>January 1, 2008</i>	New section

Statement of Purpose:

To reorganize local land use agencies in each municipality in order to improve adoption and administration of local land use policies and regulations, thereby providing benefits to municipalities, the general public and other participants in land use planning and regulation.

[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.]