



General Assembly

February Session, 2008

Raised Bill No. 5865

LCO No. 2935

02935 _____ ENV

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT ALLOWING HISTORIC FARMS TO CONTINUE CERTAIN FARMING PRACTICES.

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

1 Section 1. Section 22a-40 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) The following operations and uses shall be permitted in
4 wetlands and watercourses, as of right:

5 (1) Grazing, pasturing and watering of cattle, farming, nurseries,
6 gardening and harvesting of crops and farm ponds of three acres or
7 less essential to the farming operation, and activities conducted by, or
8 under the authority of, the Department of Environmental Protection
9 for the purposes of wetland or watercourse restoration or
10 enhancement or mosquito control. The provisions of this subdivision
11 shall not be construed to include road construction or the erection of
12 buildings not directly related to the farming operation, relocation of
13 watercourses with continual flow, filling or reclamation of wetlands or
14 watercourses with continual flow, clear cutting of timber except for the
15 expansion of agricultural crop land, the mining of top soil, peat, sand,

16 gravel or similar material from wetlands or watercourses for the
17 purposes of sale;

18 (2) A residential home (i) for which a building permit has been
19 issued, or (ii) on a subdivision lot, provided the permit has been issued
20 or the subdivision has been approved by a municipal planning, zoning
21 or planning and zoning commission as of the effective date of
22 promulgation of the municipal regulations pursuant to subsection (b)
23 of section 22a-42a or as of July 1, 1974, whichever is earlier, and further
24 provided no residential home shall be permitted as of right pursuant
25 to this subdivision unless the permit was obtained on or before July 1,
26 1987;

27 (3) Boat anchorage or mooring;

28 (4) Uses incidental to the enjoyment and maintenance of residential
29 property, such property defined as equal to or smaller than the largest
30 minimum residential lot site permitted anywhere in the municipality,
31 provided in any town, where there are no zoning regulations
32 establishing minimum residential lot sites, the largest minimum lot site
33 shall be two acres. Such incidental uses shall include maintenance of
34 existing structures and landscaping but shall not include removal or
35 deposition of significant amounts of material from or onto a wetland
36 or watercourse or diversion or alteration of a watercourse;

37 (5) Construction and operation, by water companies as defined in
38 section 16-1 of the 2008 supplement to the general statutes or by
39 municipal water supply systems as provided for in chapter 102, of
40 dams, reservoirs and other facilities necessary to the impounding,
41 storage and withdrawal of water in connection with public water
42 supplies except as provided in sections 22a-401 and 22a-403; and

43 (6) Maintenance relating to any drainage pipe which existed before
44 the effective date of any municipal regulations adopted pursuant to
45 section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe
46 is on property which is zoned as residential but which does not

47 contain hydrophytic vegetation. For purposes of this subdivision,
48 "maintenance" means the removal of accumulated leaves, soil, and
49 other debris whether by hand or machine, while the pipe remains in
50 place.

51 (b) The following operations and uses shall be permitted, as
52 nonregulated uses in wetlands and watercourses, provided they do not
53 disturb the natural and indigenous character of the wetland or
54 watercourse by removal or deposition of material, alteration or
55 obstruction of water flow or pollution of the wetland or watercourse:

56 (1) Conservation of soil, vegetation, water, fish, shellfish and
57 wildlife; and

58 (2) Outdoor recreation including play and sporting areas, golf
59 courses, field trials, nature study, hiking, horseback riding, swimming,
60 skin diving, camping, boating, water skiing, trapping, hunting, fishing
61 and shellfishing where otherwise legally permitted and regulated.

62 (c) Any dredging or any erection, placement, retention or
63 maintenance of any structure, fill, obstruction or encroachment, or any
64 work incidental to such activities, conducted by a state agency, which
65 activity is regulated under sections 22a-28 to 22a-35, inclusive, or
66 sections 22a-359b to 22a-363f, inclusive, shall not require any permit or
67 approval under sections 22a-36 to 22a-45, inclusive.

68 Sec. 2. Section 22a-38 of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2008*):

70 As used in sections 22a-36 to 22a-45a, inclusive:

71 (1) "Commissioner" means the Commissioner of Environmental
72 Protection;

73 (2) "Person" means any person, firm, partnership, association,
74 corporation, limited liability company, company, organization or legal
75 entity of any kind, including municipal corporations, governmental

76 agencies or subdivisions thereof;

77 (3) "Municipality" means any town, consolidated town and city,
78 consolidated town and borough, city and borough;

79 (4) "Inland wetlands agency" means a municipal board or
80 commission established pursuant to and acting under section 22a-42;

81 (5) "Soil scientist" means an individual duly qualified in accordance
82 with standards set by the federal Office of Personnel Management;

83 (6) "Material" means any substance, solid or liquid, organic or
84 inorganic, including, but not limited to soil, sediment, aggregate, land,
85 gravel, clay, bog, mud, debris, sand, refuse or waste;

86 (7) "Waste" means sewage or any substance, liquid, gaseous, solid or
87 radioactive, which may pollute or tend to pollute any of the waters of
88 the state;

89 (8) "Pollution" means harmful thermal effect or the contamination or
90 rendering unclean or impure of any waters of the state by reason of
91 any waste or other materials discharged or deposited therein by any
92 public or private sewer or otherwise so as directly or indirectly to
93 come in contact with any waters;

94 (9) "Rendering unclean or impure" means any alteration of the
95 physical, chemical or biological properties of any of the waters of the
96 state, including, but not limited to change in odor, color, turbidity or
97 taste;

98 (10) "Discharge" means the emission of any water, substance or
99 material into waters of the state whether or not such substance causes
100 pollution;

101 (11) "Remove" includes, but shall not be limited to, drain, excavate,
102 mine, dig, dredge, suck, bulldoze, dragline or blast;

103 (12) "Deposit" includes, but shall not be limited to, fill, grade, dump,

104 place, discharge or emit;

105 (13) "Regulated activity" means any operation within or use of a
106 wetland or watercourse involving removal or deposition of material,
107 or any obstruction, construction, alteration or pollution, of such
108 wetlands or watercourses, but shall not include the specified activities
109 in section 22a-40, as amended by this act;

110 (14) "License" means the whole or any part of any permit, certificate
111 of approval or similar form of permission which may be required of
112 any person by the provisions of sections 22a-36 to 22a-45a, inclusive;

113 (15) "Wetlands" means land, including submerged land, not
114 regulated pursuant to sections 22a-28 to 22a-35, inclusive, which
115 consists of any of the soil types designated as poorly drained, very
116 poorly drained, alluvial, and floodplain by the National Cooperative
117 Soils Survey, as may be amended from time to time, of the Natural
118 Resources Conservation Service of the United States Department of
119 Agriculture;

120 (16) "Watercourses" means rivers, streams, brooks, waterways,
121 lakes, ponds, marshes, swamps, bogs and all other bodies of water,
122 natural or artificial, vernal or intermittent, public or private, which are
123 contained within, flow through or border upon this state or any
124 portion thereof, not regulated pursuant to sections 22a-28 to 22a-35,
125 inclusive. For purposes of this subdivision, rivers means only those
126 rivers with high flow volume and does not include vernal pools,
127 streams, brooks, creeks or other low flow volume bodies of water.
128 Intermittent watercourses shall be delineated by a defined permanent
129 channel and bank and the occurrence of two or more of the following
130 characteristics: (A) Evidence of scour or deposits of recent alluvium or
131 detritus, (B) the presence of standing or flowing water for a duration
132 longer than a particular storm incident, and (C) the presence of
133 hydrophytic vegetation;

134 (17) "Feasible" means able to be constructed or implemented

135 consistent with sound engineering principles;

136 (18) "Prudent" means economically and otherwise reasonable in
137 light of the social benefits to be derived from the proposed regulated
138 activity provided cost may be considered in deciding what is prudent
139 and further provided a mere showing of expense will not necessarily
140 mean an alternative is imprudent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	22a-40
Sec. 2	October 1, 2008	22a-38

Statement of Purpose:

To allow historic farms to continue certain farming practices.

[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.]