



General Assembly

Substitute Bill No. 362

February Session, 2008

* SB00362APP 041608 *

AN ACT CONCERNING RIVERFRONT PROTECTION.

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

1 Section 1. Section 22a-36 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) The inland wetlands and watercourses of the state of
4 Connecticut are an indispensable and irreplaceable but fragile natural
5 resource with which the citizens of the state have been endowed. The
6 wetlands and watercourses are an interrelated web of nature essential
7 to an adequate supply of surface and underground water; to
8 hydrological stability and control of flooding and erosion; to the
9 recharging and purification of groundwater; and to the existence of
10 many forms of animal, aquatic and plant life. Many inland wetlands
11 and watercourses have been destroyed or are in danger of destruction
12 because of unregulated use by reason of the deposition, filling or
13 removal of material, the diversion or obstruction of water flow, the
14 erection of structures and other uses, all of which have despoiled,
15 polluted and eliminated wetlands and watercourses. Such unregulated
16 activity has had, and will continue to have, a significant, adverse
17 impact on the environment and ecology of the state of Connecticut and
18 has and will continue to imperil the quality of the environment thus
19 adversely affecting the ecological, scenic, historic and recreational
20 values and benefits of the state for its citizens now and forever more.

21 The preservation and protection of the wetlands and watercourses
22 from random, unnecessary, undesirable and unregulated uses,
23 disturbance or destruction is in the public interest and is essential to
24 the health, welfare and safety of the citizens of the state. It is, therefore,
25 the purpose of sections 22a-36 to 22a-45, inclusive, as amended by this
26 act, to protect the citizens of the state by making provisions for the
27 protection, preservation, maintenance and use of the inland wetlands
28 and watercourses by minimizing their disturbance and pollution;
29 maintaining and improving water quality in accordance with the
30 highest standards set by federal, state or local authority; preventing
31 damage from erosion, turbidity or siltation; preventing loss of fish and
32 other beneficial aquatic organisms, wildlife and vegetation and the
33 destruction of the natural habitats thereof; deterring and inhibiting the
34 danger of flood and pollution; protecting the quality of wetlands and
35 watercourses for their conservation, economic, aesthetic, recreational
36 and other public and private uses and values; and protecting the state's
37 potable fresh water supplies from the dangers of drought, overdraft,
38 pollution, misuse and mismanagement by providing an orderly
39 process to balance the need for the economic growth of the state and
40 the use of its land with the need to protect its environment and ecology
41 in order to forever guarantee to the people of the state, the safety of
42 such natural resources for their benefit and enjoyment and for the
43 benefit and enjoyment of generations yet unborn.

44 (b) Protected, vegetated riverfront areas provide important public
45 safety, public health, water purity and ecological benefits to the
46 citizens of the state and the environment. Riverfront areas and
47 associated vegetation and soils maintain the biological and ecological
48 productivity of stream ecosystems, filter polluted stormwater runoff,
49 protect water quality and public and private drinking water supplies,
50 prevent erosion and provide sedimentation control, absorb overland
51 water flows in streamside soils, reduce the impact of flooding, and
52 minimize the loss of property. Such areas and vegetation help preserve
53 natural stream flow and aquifer recharge capabilities and proper water
54 temperatures, provide travel corridors, food and cover for numerous

55 wildlife species, preserve stream ecosystems, and protect fish and
56 shellfish. These functions provide and enhance important
57 socioeconomic benefits, including, but not limited to, scenic vistas and
58 recreational opportunities, a desirable quality of life for the citizens of
59 the state, increased tourism and attractive settings for waterfront
60 businesses.

61 Sec. 2. Section 22a-37 of the general statutes is repealed and the
62 following is substituted in lieu thereof (*Effective October 1, 2008*):

63 Sections 22a-36 to 22a-45, inclusive, as amended by this act, shall be
64 known and may be cited as the "Inland Wetlands and Watercourses
65 and Riverfront Protection Act".

66 Sec. 3. Section 22a-38 of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective October 1, 2008*):

68 As used in sections 22a-36 to 22a-45a, inclusive, as amended by this
69 act:

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

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

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

78 (4) "Inland wetlands agency" means a municipal board or
79 commission established pursuant to and acting under section 22a-42,
80 as amended by this act;

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 or riverfront area involving removal or
107 deposition of material, or any obstruction, construction, alteration or
108 pollution, of such wetlands or watercourses or riverfront areas, but
109 shall not include the specified activities in section 22a-40, as amended
110 by this act;

111 (14) "License" means the whole or any part of any permit, certificate
112 of approval or similar form of permission which may be required of

113 any person by the provisions of sections 22a-36 to 22a-45a, inclusive, as
114 amended by this act;

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

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

133 (17) "Feasible" means able to be constructed or implemented
134 consistent with sound engineering principles;

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

140 (19) "Riverfront area" means the area of land situated between the
141 ordinary high water mark of a river and a parallel line located one
142 hundred feet away, measured outward horizontally from the ordinary
143 high water mark of the river;

144 (20) "Ordinary high water mark" means the line on the shore of a
145 river established by the fluctuations of water and indicated by physical
146 characteristics such as a readily identifiable, natural line impressed on
147 the river bank or shelving, or by changes in the character of the soil or
148 absence of terrestrial vegetation;

149 (21) "Vegetation" means naturally occurring shrubs, trees or other
150 plants but does not include lawns; and

151 (22) "Clear cutting" means removal of more than eighty per cent of
152 standing vegetation greater than two inches in diameter at breast
153 height in a riverfront area.

154 Sec. 4. Section 22a-39 of the general statutes is repealed and the
155 following is substituted in lieu thereof (*Effective October 1, 2008*):

156 The commissioner shall:

157 (a) Exercise general supervision of the administration and
158 enforcement of sections 22a-36 to 22a-45, inclusive, as amended by this
159 act;

160 (b) Develop comprehensive programs in furtherance of the
161 purposes of said sections;

162 (c) Advise, consult and cooperate with other agencies of the state,
163 the federal government, other states and with persons and
164 municipalities in furtherance of the purposes of said sections;

165 (d) Encourage, participate in or conduct studies, investigations,
166 research and demonstrations, and collect and disseminate information,
167 relating to the purposes of said sections;

168 (e) Retain and employ consultants and assistants on a contract or
169 other basis for rendering legal, financial, technical or other assistance
170 and advice in furtherance of any of its purposes, specifically including,
171 but not limited to, soil scientists on a cost-sharing basis with the
172 United States Soil Conservation Service for the purpose of (1)

173 completing the state soils survey and (2) making on-site
174 interpretations, evaluations and findings as to soil types;

175 (f) Adopt such regulations, in accordance with the provisions of
176 chapter 54, as are necessary to protect the wetlands or watercourses or
177 any of them individually or collectively;

178 (g) Inventory or index the wetlands and watercourses in such form,
179 including pictorial representations, as the commissioner deems best
180 suited to effectuate the purposes of sections 22a-36 to 22a-45, inclusive,
181 as amended by this act;

182 (h) Grant, deny, limit or modify in accordance with the provisions
183 of section 22a-42a, as amended by this act, an application for a license
184 or permit for any proposed regulated activity conducted by any
185 department, agency or instrumentality of the state, except any local or
186 regional board of education, (1) after an advisory decision on such
187 license or permit has been rendered to the commissioner by the
188 wetland agency of the municipality within which such wetland is
189 located or (2) thirty-five days after receipt by the commissioner of such
190 application, whichever occurs first;

191 (i) Grant, deny, limit or modify in accordance with the provisions of
192 section 22a-42, as amended by this act, and section 22a-42a, as
193 amended by this act, an application for a license or permit for any
194 proposed regulated activity within a municipality which does not
195 regulate its wetlands and watercourses;

196 (j) Exercise all incidental powers including but not limited to the
197 issuance of orders necessary to enforce rules and regulations and to
198 carry out the purposes of sections 22a-36 to 22a-45, inclusive, as
199 amended by this act;

200 (k) Conduct a public hearing no sooner than thirty days and not
201 later than sixty days following the receipt by said commissioner of any
202 inland wetlands application, provided whenever the commissioner
203 determines that the regulated activity for which a permit is sought is

204 not likely to have a significant impact on the wetland or watercourse,
205 he may waive the requirement for public hearing after (1) publishing
206 notice, in a newspaper having general circulation in each town
207 wherever the proposed work or any part thereof is located, of his
208 intent to waive said requirement, and (2) mailing notice of such intent
209 to the chief administrative officer in the town or towns where the
210 proposed work, or any part thereof, is located, and the chairman of the
211 conservation commission and inland wetlands agency of each such
212 town or towns, except that the commissioner shall hold a hearing on
213 such application upon receipt, within thirty days after such notice has
214 been published or mailed, of a petition signed by at least twenty-five
215 persons requesting such a hearing. The commissioner shall (1) publish
216 notice of such hearing at least once not more than thirty days and not
217 fewer than ten days before the date set for the hearing in a newspaper
218 having a general circulation in each town where the proposed work, or
219 any part thereof, is located, and (2) mail notice of such hearing to the
220 chief administrative officer in the town or towns where the proposed
221 work, or any part thereof, is located, and the chairman of the
222 conservation commission and inland wetlands agency of each such
223 town or towns. All applications and maps and documents relating
224 thereto shall be open for public inspection at the office of the
225 commissioner. The commissioner shall state upon his records his
226 findings and reasons for the action taken;

227 (l) Develop a comprehensive training program for inland wetlands
228 agency members;

229 (m) Adopt regulations in accordance with the provisions of chapter
230 54 establishing reporting requirements for inland wetlands agencies,
231 which shall include provisions for reports to the commissioner on
232 permits, orders and other actions of such agencies and development of
233 a form for such reports; [and]

234 (n) The commissioner shall issue a certificate to any member of a
235 municipal inland wetlands agency or its staff who completes the
236 training program offered annually by the commissioner for such

237 officials; and

238 (o) Not later than July 1, 2009, the commissioner shall, in
239 consultation with interested parties and the Commissioner of Public
240 Health, develop a guidance document designed to assist and educate
241 municipal inland wetlands agency members regarding the protection
242 of riverfront areas defined in section 22a-38, as amended by this act.
243 The guidance document shall identify management practices
244 associated with activities proposed within such riverfront areas to
245 ensure compliance with the purposes and provisions of sections 22a-36
246 to 22a-42a, inclusive, as amended by this act. The Commissioner of
247 Environmental Protection shall post the guidance document on the
248 Department of Environmental Protection's Internet web site.

249 Sec. 5. Section 22a-40 of the general statutes is repealed and the
250 following is substituted in lieu thereof (*Effective October 1, 2008*):

251 (a) The following operations and uses shall be permitted in
252 wetlands and watercourses and riverfront areas, as of right:

253 (1) Grazing, farming, nurseries, gardening and harvesting of crops
254 and farm ponds of three acres or less essential to the farming
255 operation, and activities conducted by, or under the authority of, the
256 Department of Environmental Protection for the purposes of wetland
257 or watercourse or riverfront area restoration or enhancement or
258 mosquito control. The provisions of this subdivision shall not be
259 construed to include road construction or the erection of buildings not
260 directly related to the farming operation, relocation of watercourses
261 with continual flow, filling or reclamation of wetlands or watercourses
262 or riverfront areas with continual flow, clear cutting of timber except
263 for the expansion of agricultural crop land, the mining of top soil, peat,
264 sand, gravel or similar material from wetlands or watercourses or
265 riverfront areas for the purposes of sale;

266 (2) (A) For wetlands and watercourses: A residential home (i) for
267 which a building permit has been issued, or (ii) on a subdivision lot,
268 provided the permit has been issued or the subdivision has been

269 approved by a municipal planning, zoning or planning and zoning
270 commission as of the effective date of promulgation of the municipal
271 regulations pursuant to subsection (b) of section 22a-42a, as amended
272 by this act, or as of July 1, 1974, whichever is earlier, and further
273 provided no residential home shall be permitted as of right pursuant
274 to this subdivision unless the permit was obtained on or before July 1,
275 1987; (B) for riverfront areas: A residential home (i) for which a
276 building permit has been issued, or (ii) on a subdivision lot, provided
277 the permit has been issued or the subdivision has been approved by a
278 municipal planning, zoning or planning and zoning commission;

279 (3) Boat anchorage or mooring;

280 (4) Uses incidental to the enjoyment and maintenance of residential
281 property, such property defined as equal to or smaller than the largest
282 minimum residential lot site permitted anywhere in the municipality,
283 provided in any town, where there are no zoning regulations
284 establishing minimum residential lot sites, the largest minimum lot site
285 shall be two acres. Such incidental uses shall include maintenance of
286 existing structures and landscaping but shall not include removal or
287 deposition of significant amounts of material from or onto a wetland
288 or watercourse or riverfront area or diversion or alteration of a
289 watercourse or riverfront area;

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

296 (6) Maintenance relating to any drainage pipe which existed before
297 the effective date of any municipal regulations adopted pursuant to
298 section 22a-42a, as amended by this act, or July 1, 1974, whichever is
299 earlier, provided such pipe is on property which is zoned as residential
300 but which does not contain hydrophytic vegetation. For purposes of

301 this subdivision, "maintenance" means the removal of accumulated
302 leaves, soil, and other debris whether by hand or machine, while the
303 pipe remains in place.

304 (b) The following additional uses shall be permitted as of right in
305 riverfront areas:

306 (1) Forestry activities supervised by a forest practitioner certified
307 pursuant to section 23-65h, in accordance with a forest management
308 plan, provided no clear cutting occurs within the riverfront area;

309 (2) The continuous use, repair, maintenance or replacement of any
310 existing land use, structure, parking, street facility or flood control
311 structure located in a riverfront area, provided the replacement of the
312 land use, structure, parking, street facility or flood control structure
313 does not exceed the footprint of the existing land use, structure,
314 parking, street facility or flood control structure;

315 (3) Construction, operation or maintenance of a transportation
316 facility or improvement operated by the state of Connecticut, or the
317 construction, expansion, repair, replacement, operation or
318 maintenance of public or private wastewater treatment plants and
319 their related structures, conveyance systems or facilities, including any
320 associated utility lines;

321 (4) Construction or maintenance of utility rights-of-way and
322 facilities, including, but not limited to, electric, gas, water, sewer and
323 communication lines; and

324 (5) The reuse of riverfront areas containing existing structures,
325 including, but not limited to, abandoned mills, industrial or
326 commercial structures, and associated parking and street facilities.

327 [(b)] (c) The following operations and uses shall be permitted, as
328 nonregulated uses in wetlands and watercourses, provided they do not
329 disturb the natural and indigenous character of the wetland or
330 watercourse by removal or deposition of material, alteration or

331 obstruction of water flow or pollution of the wetland or watercourse:

332 (1) Conservation of soil, vegetation, water, fish, shellfish and
333 wildlife; and

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

338 ~~[(c)]~~ (d) Any dredging or any erection, placement, retention or
339 maintenance of any structure, fill, obstruction or encroachment, or any
340 work incidental to such activities, conducted by a state agency, which
341 activity is regulated under sections 22a-28 to 22a-35, inclusive, or
342 sections 22a-359b to 22a-363f, inclusive, shall not require any permit or
343 approval under sections 22a-36 to 22a-45, inclusive, as amended by this
344 act.

345 Sec. 6. Section 22a-41 of the general statutes is repealed and the
346 following is substituted in lieu thereof (*Effective October 1, 2008*):

347 (a) In carrying out the purposes and policies of sections 22a-36 to
348 22a-45a, inclusive, as amended by this act, including matters relating to
349 regulating, licensing and enforcing of the provisions related to
350 wetlands and watercourses thereof, the commissioner shall take into
351 consideration all relevant facts and circumstances, including but not
352 limited to:

353 (1) The environmental impact of the proposed regulated activity on
354 wetlands or watercourses;

355 (2) The applicant's purpose for, and any feasible and prudent
356 alternatives to, the proposed regulated activity which alternatives
357 would cause less or no environmental impact to wetlands or
358 watercourses;

359 (3) The relationship between the short-term and long-term impacts
360 of the proposed regulated activity on wetlands or watercourses and

361 the maintenance and enhancement of long-term productivity of such
362 wetlands or watercourses;

363 (4) Irreversible and irretrievable loss of wetland or watercourse
364 resources which would be caused by the proposed regulated activity,
365 including the extent to which such activity would foreclose a future
366 ability to protect, enhance or restore such resources, and any
367 mitigation measures which may be considered as a condition of
368 issuing a permit for such activity including, but not limited to,
369 measures to (A) prevent or minimize pollution or other environmental
370 damage, (B) maintain or enhance existing environmental quality, or
371 (C) in the following order of priority: Restore, enhance and create
372 productive wetland or watercourse resources;

373 (5) The character and degree of injury to, or interference with,
374 safety, health or the reasonable use of property which is caused or
375 threatened by the proposed regulated activity; and

376 (6) Impacts of the proposed regulated activity on wetlands or
377 watercourses outside the area for which the activity is proposed and
378 future activities associated with, or reasonably related to, the proposed
379 regulated activity which are made inevitable by the proposed
380 regulated activity and which may have an impact on wetlands or
381 watercourses.

382 (b) (1) In the case of an application which received a public hearing
383 pursuant to (A) subsection (k) of section 22a-39, as amended by this
384 act, or (B) a finding by the inland wetlands agency that the proposed
385 activity may have a significant impact on wetlands or watercourses, a
386 permit shall not be issued unless the commissioner finds on the basis
387 of the record that a feasible and prudent alternative does not exist. In
388 making his finding, the commissioner shall consider the facts and
389 circumstances set forth in subsection (a) of this section. The finding
390 and the reasons therefor shall be stated on the record in writing.

391 (2) In the case of an application which is denied on the basis of a
392 finding that there may be feasible and prudent alternatives to the

393 proposed regulated activity which have less adverse impact on
394 wetlands or watercourses, the commissioner or the inland wetlands
395 agency, as the case may be, shall propose on the record in writing the
396 types of alternatives which the applicant may investigate provided this
397 subdivision shall not be construed to shift the burden from the
398 applicant to prove that he is entitled to the permit or to present
399 alternatives to the proposed regulated activity.

400 (c) For purposes of this section, (1) "wetlands or watercourses"
401 includes aquatic, plant or animal life and habitats in wetlands or
402 watercourses, and (2) "habitats" means areas or environments in which
403 an organism or biological population normally lives or occurs.

404 (d) A municipal inland wetlands agency shall not deny or condition
405 an application for a regulated activity in an area outside wetlands or
406 watercourses on the basis of an impact or effect on aquatic, plant, or
407 animal life unless such activity will likely impact or affect the physical
408 characteristics of such wetlands or watercourses.

409 (e) Neither the commissioner nor any inland wetland agency shall
410 approve of any regulated activity located within a riverfront area,
411 unless the applicant has proven by a preponderance of the evidence
412 that such regulated activity is both consistent with the provisions of
413 sections 22a-36 to 22a-42a, inclusive, as amended by this act and will
414 have no adverse impact on the riverfront area's natural functions in
415 providing the following benefits:

416 (1) Reducing the likelihood of flooding and the need for flood
417 controls;

418 (2) Preventing storm damage;

419 (3) Protecting public and private drinking water supplies from
420 harmful contamination;

421 (4) Preventing erosion and providing sedimentation controls;

422 (5) Preventing nonpoint water pollution, including, but not limited

423 to, pollution by pathogens, nutrients, heavy metals, pesticides,
424 herbicides, sediment, hydrocarbons and thermal pollution;

425 (6) Protecting the state's fisheries and shellfish; and

426 (7) Protecting wildlife habitat.

427 (f) Management practices contained in the guidance document
428 prepared by the Commissioner of Environmental Protection pursuant
429 to section 22a-39, as amended by this act, shall establish a rebuttable
430 presumption that such practices will prevent adverse impacts on the
431 riverfront area's natural functions and benefits identified in section
432 22a-36, as amended by this act.

433 (g) In the case of an application for activity within a riverfront area
434 that is denied on the basis of a finding that there are feasible and
435 prudent alternatives to the proposed regulated activity that have less
436 adverse impact on the riverfront area, the inland wetlands agency shall
437 propose on the record and in writing, such feasible and prudent
438 alternatives. The provisions of this subsection shall not be construed to
439 shift the burden from the applicant to prove that such applicant is
440 entitled to the permit or for such applicant to present alternatives to
441 the proposed regulated activity.

442 Sec. 7. Section 22a-42 of the general statutes is repealed and the
443 following is substituted in lieu thereof (*Effective October 1, 2008*):

444 (a) To carry out and effectuate the purposes and policies of sections
445 22a-36 to 22a-45a, inclusive, as amended by this act, it is hereby
446 declared to be the public policy of the state to require municipal
447 regulation of activities affecting the wetlands and watercourses within
448 the territorial limits of the various municipalities or districts and to
449 regulate riverfront areas to preserve and restore such areas and to
450 prevent the despoliation and destruction thereof, in order to protect
451 the private or public drinking water supply, provide flood control,
452 prevent storm damage, prevent water pollution, protect wildlife
453 habitat and to protect fisheries and shell fisheries in the state.

454 (b) Any municipality may acquire wetlands and watercourses and
455 riverfront areas within its territorial limits by gift or purchase, in fee or
456 lesser interest including, but not limited to, lease, easement or
457 covenant, subject to such reservations and exceptions as it deems
458 advisable.

459 (c) On or before July 1, 2009, each municipality shall direct its inland
460 wetlands agency to administer and protect riverfront areas and
461 authorize such inland wetlands agency to carry out the provisions of
462 sections 22a-36 to 22a-42a, inclusive, as amended by this act. On or
463 before July 1, 1988, each municipality shall establish an inland
464 wetlands agency or authorize an existing board or commission to carry
465 out the provisions of sections 22a-36 to 22a-45, inclusive, as amended
466 by this act. Each municipality, acting through its legislative body, may
467 authorize any board or commission, as may be by law authorized to
468 act, or may establish a new board or commission to promulgate such
469 regulations, in conformity with the regulations adopted by the
470 commissioner pursuant to section 22a-39, as amended by this act, as
471 are necessary to protect the wetlands and watercourses within its
472 territorial limits. The ordinance establishing the new board or
473 commission shall determine the number of members and alternate
474 members, the length of their terms, the method of selection and
475 removal and the manner for filling vacancies in the new board or
476 commission. No member or alternate member of such board or
477 commission shall participate in the hearing or decision of such board
478 or commission of which he is a member upon any matter in which he
479 is directly or indirectly interested in a personal or financial sense. In
480 the event of such disqualification, such fact shall be entered on the
481 records of such board or commission and replacement shall be made
482 from alternate members of an alternate to act as a member of such
483 commission in the hearing and determination of the particular matter
484 or matters in which the disqualification arose. For the purposes of this
485 section, the board or commission authorized by the municipality or
486 district, as the case may be, shall serve as the sole agent for the
487 licensing of regulated activities.

488 (d) At least one member of the inland wetlands agency or staff of
489 the agency shall be a person who has completed the comprehensive
490 training program developed by the commissioner pursuant to section
491 22a-39, as amended by this act. Failure to have a member of the agency
492 or staff with training shall not affect the validity of any action of the
493 agency. The commissioner shall annually make such program
494 available to one person from each town without cost to that person or
495 the town. Each inland wetlands agency shall hold a meeting at least
496 once annually at which information is presented to the members of the
497 agency which summarizes the provisions of the training program. The
498 commissioner shall develop such information in consultation with
499 interested persons affected by the regulation of inland wetlands and
500 shall provide for distribution of video presentations and related
501 written materials which convey such information to inland wetlands
502 agencies. In addition to such materials, the commissioner, in
503 consultation with such persons, shall prepare materials which provide
504 guidance to municipalities in carrying out the provisions of subsection
505 (f) of section 22a-42a, as amended by this act.

506 (e) Any municipality, pursuant to ordinance, may act through the
507 board or commission authorized in subsection (c) of this section to join
508 with any other municipalities in the formation of a district for the
509 regulation of activities affecting the wetlands and watercourses within
510 such district. Any city or borough may delegate its authority to
511 regulate inland wetlands under this section to the town in which it is
512 located.

513 (f) Municipal or district ordinances or regulations may embody any
514 regulations promulgated hereunder, in whole or in part, or may
515 consist of other ordinances or regulations in conformity with
516 regulations promulgated hereunder. Any ordinances or regulations
517 shall be for the purpose of effectuating the purposes of sections 22a-36
518 to 22a-45, inclusive, as amended by this act, and, a municipality or
519 district, in acting upon ordinances and regulations shall incorporate
520 the factors set forth in section 22a-41, as amended by this act.

521 (g) Nothing contained in this section shall be construed to limit the
522 existing authority of a municipality or any boards or commissions of
523 the municipality, provided the commissioner shall retain authority to
524 act on any application filed with said commissioner prior to the
525 establishment or designation of an inland wetlands agency by a
526 municipality.

527 Sec. 8. Section 22a-42a of the general statutes is repealed and the
528 following is substituted in lieu thereof (*Effective October 1, 2008*):

529 (a) The inland wetlands agencies authorized in section 22a-42, as
530 amended by this act, shall through regulation provide for (1) the
531 manner in which the boundaries of inland wetland and watercourse
532 areas and riverfront areas in their respective municipalities shall be
533 established and amended or changed, (2) the form for an application to
534 conduct regulated activities, (3) notice and publication requirements,
535 (4) criteria and procedures for the review of applications, and (5)
536 administration and enforcement.

537 (b) No regulations of an inland wetlands agency including
538 boundaries of inland wetland and watercourse areas and riverfront
539 areas shall become effective or be established until after a public
540 hearing in relation thereto is held by the inland wetlands agency. Any
541 such hearing shall be held in accordance with the provisions of section
542 8-7d of the 2008 supplement to the general statutes. A copy of such
543 proposed regulation or boundary shall be filed in the office of the
544 town, city or borough clerk as the case may be, in such municipality,
545 for public inspection at least ten days before such hearing, and may be
546 published in full in such paper. A copy of the notice and the proposed
547 regulations or amendments thereto, except determinations of
548 boundaries, shall be provided to the commissioner at least thirty-five
549 days before such hearing. Such regulations and inland wetland and
550 watercourse and riverfront area boundaries may be from time to time
551 amended, changed or repealed, by majority vote of the inland
552 wetlands agency, after a public hearing in relation thereto is held by
553 the inland wetlands agency, in accordance with the provisions of

554 section 8-7d of the 2008 supplement to the general statutes.
555 Regulations or boundaries or changes therein shall become effective at
556 such time as is fixed by the inland wetlands agency, provided a copy
557 of such regulation, boundary or change shall be filed in the office of
558 the town, city or borough clerk, as the case may be. Whenever an
559 inland wetlands agency makes a change in regulations or boundaries it
560 shall state upon its records the reason why the change was made and
561 shall provide a copy of such regulation, boundary or change to the
562 Commissioner of Environmental Protection no later than ten days after
563 its adoption provided failure to submit such regulation, boundary or
564 change shall not impair the validity of such regulation, boundary or
565 change. All petitions submitted in writing and in a form prescribed by
566 the inland wetlands agency, requesting a change in the regulations or
567 the boundaries of an inland wetland and watercourse area and
568 riverfront area shall be considered at a public hearing held in
569 accordance with the provisions of section 8-7d of the 2008 supplement
570 to the general statutes. The failure of the inland wetlands agency to act
571 within any time period specified in this subsection, or any extension
572 thereof, shall not be deemed to constitute approval of the petition.

573 (c) (1) On and after the effective date of the municipal regulations
574 promulgated pursuant to subsection (b) of this section, no regulated
575 activity shall be conducted upon any inland wetland or watercourse or
576 riverfront area without a permit. Any person proposing to conduct or
577 cause to be conducted a regulated activity upon an inland wetland or
578 watercourse or riverfront area shall file an application with the inland
579 wetlands agency of the town or towns wherein the wetland or
580 watercourse or riverfront area in question is located. The application
581 shall be in such form and contain such information as the inland
582 wetlands agency may prescribe. The date of receipt of an application
583 shall be determined in accordance with the provisions of subsection (c)
584 of section 8-7d of the 2008 supplement to the general statutes. The
585 inland wetlands agency shall not hold a public hearing on such
586 application unless the inland wetlands agency determines that the
587 proposed activity may have a significant impact on wetlands or

588 watercourses or riverfront area, a petition signed by at least
589 twenty-five persons who are eighteen years of age or older and who
590 reside in the municipality in which the regulated activity is proposed,
591 requesting a hearing is filed with the agency not later than fourteen
592 days after the date of receipt of such application, or the agency finds
593 that a public hearing regarding such application would be in the
594 public interest. An inland wetlands agency may issue a permit without
595 a public hearing provided no petition provided for in this subsection is
596 filed with the agency on or before the fourteenth day after the date of
597 receipt of the application. Such hearing shall be held in accordance
598 with the provisions of section 8-7d of the 2008 supplement to the
599 general statutes. If the inland wetlands agency, or its agent, fails to act
600 on any application within thirty-five days after the completion of a
601 public hearing or in the absence of a public hearing within sixty-five
602 days from the date of receipt of the application, or within any
603 extension of any such period as provided in section 8-7d of the 2008
604 supplement to the general statutes, the applicant may file such
605 application with the Commissioner of Environmental Protection who
606 shall review and act on such application in accordance with this
607 section. Any costs incurred by the commissioner in reviewing such
608 application for such inland wetlands agency shall be paid by the
609 municipality that established or authorized the agency. Any fees that
610 would have been paid to such municipality if such application had not
611 been filed with the commissioner shall be paid to the state. The failure
612 of the inland wetlands agency or the commissioner to act within any
613 time period specified in this subsection, or any extension thereof, shall
614 not be deemed to constitute approval of the application.

615 (2) An inland wetlands agency may delegate to its duly authorized
616 agent the authority to approve or extend an activity that is not located
617 in a wetland or watercourse or riverfront area when such agent finds
618 that the conduct of such activity would result in no greater than a
619 minimal impact on any wetland or watercourse or riverfront area,
620 provided such agent has completed the comprehensive training
621 program developed by the commissioner pursuant to section 22a-39, as

622 amended by this act. Notwithstanding the provisions for receipt and
623 processing applications prescribed in subdivision (1) of this subsection,
624 such agent may approve or extend such an activity at any time. Any
625 person receiving such approval from such agent shall, within ten days
626 of the date of such approval, publish, at the applicant's expense, notice
627 of the approval in a newspaper having a general circulation in the
628 town wherein the activity is located or will have an effect. Any person
629 may appeal such decision of such agent to the inland wetlands agency
630 within fifteen days after the publication date of the notice and the
631 inland wetlands agency shall consider such appeal at its next regularly
632 scheduled meeting provided such meeting is no earlier than three
633 business days after receipt by such agency or its agent of such appeal.
634 The inland wetlands agency shall, at its discretion, sustain, alter or
635 reject the decision of its agent or require an application for a permit in
636 accordance with subdivision (1) of subsection (c) of this section.

637 (d) (1) In granting, denying or limiting any permit for a regulated
638 activity the inland wetlands agency, or its agent, shall consider the
639 factors set forth in section 22a-41, as amended by this act, and such
640 agency, or its agent, shall state upon the record the reason for its
641 decision. In granting a permit the inland wetlands agency, or its agent,
642 may grant the application as filed or grant it upon other terms,
643 conditions, limitations or modifications of the regulated activity which
644 are designed to carry out the policy of sections 22a-36 to 22a-45,
645 inclusive, as amended by this act. Such terms may include any
646 reasonable measures which would mitigate the impacts of the
647 regulated activity and which would (A) prevent or minimize pollution
648 or other environmental damage, (B) maintain or enhance existing
649 environmental quality, or (C) in the following order of priority:
650 Restore, enhance and create productive wetland or watercourse or
651 riverfront area resources. No person shall conduct any regulated
652 activity within an inland wetland or watercourse or riverfront area
653 which requires zoning or subdivision approval without first having
654 obtained a valid certificate of zoning or subdivision approval, special
655 permit, special exception or variance or other documentation

656 establishing that the proposal complies with the zoning or subdivision
657 requirements adopted by the municipality pursuant to chapters 124 to
658 126, inclusive, or any special act. The agency may suspend or revoke a
659 permit if it finds after giving notice to the permittee of the facts or
660 conduct which warrant the intended action and after a hearing at
661 which the permittee is given an opportunity to show compliance with
662 the requirements for retention of the permit, that the applicant has not
663 complied with the conditions or limitations set forth in the permit or
664 has exceeded the scope of the work as set forth in the application. The
665 applicant shall be notified of the agency's decision by certified mail
666 within fifteen days of the date of the decision and the agency shall
667 cause notice of their order in issuance, denial, revocation or suspension
668 of a permit to be published in a newspaper having a general
669 circulation in the town wherein the wetland or watercourse lies. In any
670 case in which such notice is not published within such fifteen-day
671 period, the applicant may provide for the publication of such notice
672 within ten days thereafter.

673 (2) Any permit issued under this section for the development of
674 property for which an approval is required under section 8-3 of the
675 2008 supplement to the general statutes, 8-25 of the 2008 supplement to
676 the general statutes or 8-26 of the 2008 supplement to the general
677 statutes shall be valid for five years provided the agency may establish
678 a specific time period within which any regulated activity shall be
679 conducted. Any permit issued under this section for any other activity
680 shall be valid for not less than two years and not more than five years.
681 Any such permit shall be renewed upon request of the permit holder
682 unless the agency finds that there has been a substantial change in
683 circumstances which requires a new permit application or an
684 enforcement action has been undertaken with regard to the regulated
685 activity for which the permit was issued provided no permit may be
686 valid for more than ten years.

687 (e) The inland wetlands agency may require a filing fee to be
688 deposited with the agency. The amount of such fee shall be sufficient
689 to cover the reasonable cost of reviewing and acting on applications

690 and petitions, including, but not limited to, the costs of certified
 691 mailings, publications of notices and decisions and monitoring
 692 compliance with permit conditions or agency orders.

693 (f) If a municipal inland wetlands agency regulates activities within
 694 areas around wetlands or watercourses or riverfront areas, such
 695 regulation shall (1) be in accordance with the provisions of the inland
 696 wetlands regulations adopted by such agency related to application
 697 for, and approval of, activities to be conducted in wetlands or
 698 watercourses or riverfront areas, and (2) apply only to those activities
 699 which are likely to impact or affect wetlands or watercourses or
 700 riverfront areas. Nothing in sections 1 to 8, inclusive, of this act
 701 regarding riverfront areas shall be construed to expand or diminish the
 702 jurisdiction of municipal inland wetlands agencies regarding activities
 703 located within wetlands or watercourses, as defined in section 22a-38,
 704 as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	22a-36
Sec. 2	<i>October 1, 2008</i>	22a-37
Sec. 3	<i>October 1, 2008</i>	22a-38
Sec. 4	<i>October 1, 2008</i>	22a-39
Sec. 5	<i>October 1, 2008</i>	22a-40
Sec. 6	<i>October 1, 2008</i>	22a-41
Sec. 7	<i>October 1, 2008</i>	22a-42
Sec. 8	<i>October 1, 2008</i>	22a-42a

ENV *Joint Favorable Subst.*

APP *Joint Favorable*