



Senate Bill No. 376

Public Act No. 12-101

AN ACT CONCERNING THE COASTAL MANAGEMENT ACT AND SHORELINE FLOOD AND EROSION CONTROL STRUCTURES.

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

Section 1. Section 22a-92 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The following general goals and policies are established by this chapter:

(1) To [insure] ensure that the development, preservation or use of the land and water resources of the coastal area proceeds in a manner consistent with the rights of private property owners and the capability of the land and water resources to support development, preservation or use without significantly disrupting either the natural environment or sound economic growth;

(2) To preserve and enhance coastal resources in accordance with the policies established by chapters 439, 440, 446i, 446k, 447, 474 and 477;

(3) To give high priority and preference to uses and facilities which are dependent upon proximity to the water or the shorelands immediately adjacent to marine and tidal waters;

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(4) To resolve conflicts between competing uses on the shorelands adjacent to marine and tidal waters by giving preference to uses that minimize adverse impacts on natural coastal resources while providing long term and stable economic benefits;

(5) To consider in the planning process the potential impact of a rise in sea level, coastal flooding and erosion patterns on coastal development so as to minimize damage to and destruction of life and property and [reduce] minimize the necessity of public expenditure and shoreline armoring to protect future new development from such hazards;

(6) To encourage public access to the waters of Long Island Sound by expansion, development and effective utilization of state-owned recreational facilities within the coastal area that are consistent with sound resource conservation procedures and constitutionally protected rights of private property owners;

(7) To conduct, sponsor and assist research in coastal matters to improve the data base upon which coastal land and water use decisions are made;

(8) To coordinate the activities of public agencies to [insure] ensure that state expenditures enhance development while affording maximum protection to natural coastal resources and processes in a manner consistent with the state plan for conservation and development adopted pursuant to part I of chapter 297;

(9) To coordinate planning and regulatory activities of public agencies at all levels of government to [insure] ensure maximum protection of coastal resources while minimizing conflicts and disruption of economic development; and

(10) To [insure] ensure that the state and the coastal municipalities provide adequate planning for facilities and resources which are in the

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national interest as defined in section 22a-93, as amended by this act, and to [insure] ensure that any restrictions or exclusions of such facilities or uses are reasonable. Reasonable grounds for the restriction or exclusion of a facility or use in the national interest shall include a finding that such a facility or use: (A) May reasonably be sited outside the coastal boundary; (B) fails to meet any applicable federal and state environmental, health or safety standard or (C) unreasonably restricts physical or visual access to coastal waters. This policy does not exempt any nonfederal facility in use from any applicable state or local regulatory or permit program nor does it exempt any federal facility or use from the federal consistency requirements of Section 307 of the federal Coastal Zone Management Act.

(b) In addition to the policies stated in subsection (a), the following policies are established for federal, state and municipal agencies in carrying out their responsibilities under this chapter:

(1) Policies concerning development, facilities and uses within the coastal boundary are: (A) To manage uses in the coastal boundary through existing municipal planning, zoning and other local regulatory authorities and through existing state structures, dredging, wetlands, and other state siting and regulatory authorities, giving highest priority and preference to water-dependent uses and facilities in shorefront areas; (B) to locate and phase sewer and water lines so as to encourage concentrated development in areas which are suitable for development; and to disapprove extension of sewer and water services into developed and undeveloped beaches, barrier beaches and tidal wetlands except that, when necessary to abate existing sources of pollution, sewers that will accommodate existing uses with limited excess capacity may be used; (C) to promote, through existing state and local planning, development, promotional and regulatory authorities, the development, reuse or redevelopment of existing urban and commercial fishing ports giving highest priority and

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preference to water dependent uses, including but not limited to commercial and recreational fishing and boating uses; to disallow uses which unreasonably congest navigation channels, or unreasonably preclude boating support facilities elsewhere in a port or harbor; and to minimize the risk of oil and chemical spills at port facilities; (D) to require that structures in tidal wetlands and coastal waters be designed, constructed and maintained to minimize adverse impacts on coastal resources, circulation and sedimentation patterns, water quality, and flooding and erosion, to reduce to the maximum extent practicable the use of fill, and to reduce conflicts with the riparian rights of adjacent landowners; (E) to disallow the siting within the coastal boundary of new tank farms and other new fuel and chemical storage facilities which can reasonably be located inland and to require any new storage tanks which must be located within the coastal boundary to abut existing storage tanks or to be located in urban industrial areas and to be adequately protected against floods and spills; (F) to make use of rehabilitation, upgrading and improvement of existing transportation facilities as the primary means of meeting transportation needs in the coastal area; (G) to encourage increased recreational boating use of coastal waters, where feasible, by (i) providing additional berthing space in existing harbors, (ii) limiting non-water-dependent land uses that preclude boating support facilities, (iii) increasing state-owned launching facilities, and (iv) providing for new boating facilities in natural harbors, new protected water areas and in areas dredged from dry land; (H) to protect coastal resources by requiring, where feasible, that such boating uses and facilities (i) minimize disruption or degradation of natural coastal resources, (ii) utilize existing altered, developed or redevelopment areas, (iii) are located to assure optimal distribution of state-owned facilities to the state-wide boating public, and (iv) utilize ramps and dry storage rather than slips in environmentally sensitive areas; (I) to protect and where feasible, upgrade facilities serving the commercial fishing and recreational boating industries; to maintain existing

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authorized commercial fishing and recreational boating harbor space unless the demand for these facilities no longer exists or adequate space has been provided; to design and locate, where feasible, proposed recreational boating facilities in a manner which does not interfere with the needs of the commercial fishing industry; and (J) to require reasonable mitigation measures where development would adversely impact historical, archaeological, or paleontological resources that have been designated by the state historic preservation officer.

(2) Policies concerning coastal land and water resources within the coastal boundary are: (A) To manage coastal bluffs and escarpments so as to preserve their slope and toe; to discourage uses which do not permit continued natural rates of erosion and to disapprove uses that accelerate slope erosion and alter essential patterns and supply of sediments to the littoral transport system; (B) to manage rocky shorefronts so as to [insure] ensure that development proceeds in a manner which does not irreparably reduce the capability of the system to support a healthy intertidal biological community; to provide feeding grounds and refuge for shorebirds and finfish, and to dissipate and absorb storm and wave energies; (C) to preserve the dynamic form and integrity of natural beach systems in order to provide critical wildlife habitats, a reservoir for sand supply, a buffer for coastal flooding and erosion, and valuable recreational opportunities; to [insure] ensure that coastal uses are compatible with the capabilities of the system and do not unreasonably interfere with natural processes of erosion and sedimentation, and to encourage the restoration and enhancement of disturbed or modified beach systems; (D) to manage intertidal flats so as to preserve their value as a nutrient source and reservoir, a healthy shellfish habitat and a valuable feeding area for invertebrates, fish and shorebirds; to encourage the restoration and enhancement of degraded intertidal flats; to allow coastal uses that minimize change in the natural current flows, depth, slope,

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sedimentation, and nutrient storage functions and to disallow uses that substantially accelerate erosion or lead to significant despoliation of tidal flats; (E) to preserve tidal wetlands and to prevent the despoliation and destruction thereof in order to maintain their vital natural functions; to encourage the rehabilitation and restoration of degraded tidal wetlands and where feasible and environmentally acceptable, to encourage the creation of wetlands for the purposes of shellfish and finfish management, habitat creation and dredge spoil disposal; (F) to manage coastal hazard areas so as to [insure] ensure that development proceeds in such a manner that hazards to life and property are minimized and to promote nonstructural solutions to flood and erosion problems except in those instances where structural alternatives prove unavoidable and necessary to protect [existing] inhabited structures constructed as of January 1, 1995, infrastructural facilities or water dependent uses; (G) to promote, through existing state and local planning, development, promotional and regulatory programs, the use of existing developed shorefront areas for marine-related uses, including but not limited to, commercial and recreational fishing, boating and other water-dependent commercial, industrial and recreational uses; (H) to manage undeveloped islands in order to promote their use as critical habitats for those bird, plant and animal species which are indigenous to such islands or which are increasingly rare on the mainland; to maintain the value of undeveloped islands as a major source of recreational open space; and to disallow uses which will have significant adverse impacts on islands or their resource components; (I) to regulate shoreland use and development in a manner which minimizes adverse impacts upon adjacent coastal systems and resources; and (J) to maintain the natural relationship between eroding and depositional coastal landforms and to minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures. Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, water-dependent uses, or

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[existing] inhabited structures constructed as of January 1, 1995, cemetery or burial grounds, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts.

(c) In addition to the policies stated in subsections (a) and (b), the following policies are established for federal and state agencies in carrying out their responsibilities under this chapter:

(1) Policies concerning development, facilities and uses within the coastal boundary are: (A) To minimize the risk of spillage of petroleum products and hazardous substances, to provide effective containment and cleanup facilities for accidental spills and to disallow offshore oil receiving systems that have the potential to cause catastrophic oil spills in the Long Island Sound estuary; (B) to disallow any filling of tidal wetlands and nearshore, offshore and intertidal waters for the purpose of creating new land from existing wetlands and coastal waters which would otherwise be undevelopable, unless it is found that the adverse impacts on coastal resources are minimal; (C) to initiate in cooperation with the federal government and the continuing legislative committee on state planning and development a long-range planning program for the continued maintenance and enhancement of federally-maintained navigation facilities in order to effectively and efficiently plan and provide for environmentally sound dredging and disposal of dredged materials; to encourage, through the state permitting program for dredging activities, the maintenance and enhancement of existing federally-maintained navigation channels, basins and anchorages and to discourage the dredging of new federally-maintained navigation channels, basins and anchorages; (D) to reduce the need for future dredging by requiring that new or expanded navigation channels, basins and anchorages take advantage of existing or authorized water depths, circulation and siltation patterns and the best available

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technologies for reducing controllable sedimentation; (E) to disallow new dredging in tidal wetlands except where no feasible alternative exists and where adverse impacts to coastal resources are minimal; (F) to require that new or improved shoreline rail corridors be designed and constructed so as (i) to prevent tidal and circulation restrictions and, when practicable, to eliminate any such existing restrictions, (ii) to improve or have a negligible adverse effect on coastal access and recreation and (iii) to enhance or not unreasonably impair the visual quality of the shoreline; (G) to require that coastal highways and highway improvements, including bridges, be designed and constructed so as to minimize adverse impacts on coastal resources; to require that coastal highway and highway improvements give full consideration to mass transportation alternatives and to require that coastal highways and highway improvements where possible enhance, but in no case decrease coastal access and recreational opportunities; (H) to disallow the construction of major new airports and to discourage the substantial expansion of existing airports within the coastal boundary; to require that any expansion or improvement of existing airports minimize adverse impacts on coastal resources, recreation or access; (I) to manage the state's fisheries in order to promote the economic benefits of commercial and recreational fishing, enhance recreational fishing opportunities, optimize the yield of all species, prevent the depletion or extinction of indigenous species, maintain and enhance the productivity of natural estuarine resources and preserve healthy fisheries resources for future generations; (J) to make effective use of state-owned coastal recreational facilities in order to expand coastal recreational opportunities including the development or redevelopment of existing state-owned facilities where feasible; (K) to require as a condition in permitting new coastal structures, including but not limited to, groins, jetties or breakwaters, that access to, or along, the public beach below mean high water must not be unreasonably impaired by such structures and to encourage the removal of illegal structures below mean high water which

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unreasonably obstruct passage along the public beach; and (L) to promote the revitalization of inner city urban harbors and waterfronts by encouraging appropriate reuse of historically developed shorefronts, which may include minimized alteration of an existing shorefront in order to achieve a significant net public benefit, provided (i) such shorefront site is permanently devoted to a water dependent use or a water dependent public use such as public access or recreation for the general public and the ownership of any filled lands remain with the state or an instrumentality thereof in order to secure public use and benefit in perpetuity, (ii) landward development of the site is constrained by highways, railroads or other significant infrastructure facilities, (iii) no other feasible, less environmentally damaging alternatives exist, (iv) the adverse impacts to coastal resources of any shorefront alteration are minimized and compensation in the form of resource restoration is provided to mitigate any remaining adverse impacts, and (v) such reuse is consistent with the appropriate municipal coastal program or municipal plan of development.

(2) Policies concerning coastal land and other resources within the coastal boundary are: (A) To manage estuarine embayments so as to [insure] ensure that coastal uses proceed in a manner that assures sustained biological productivity, the maintenance of healthy marine populations and the maintenance of essential patterns of circulation, drainage and basin configuration; to protect, enhance and allow natural restoration of eelgrass flats except in special limited cases, notably shellfish management, where the benefits accrued through alteration of the flat may outweigh the long-term benefits to marine biota, waterfowl, and commercial and recreational finfisheries and (B) to maintain, enhance, or, where feasible, restore natural patterns of water circulation and fresh and saltwater exchange in the placement or replacement of culverts, tide gates or other drainage or flood control structures.

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(d) In addition to the policies in this section, the policies of the state plan of conservation and development adopted pursuant to part I of chapter 297 shall be applied to the area within the coastal boundary in accordance with the requirements of section 16a-31.

(e) For the purposes of this section, "feasible, less environmentally damaging alternative" includes, but is not limited to, relocation of an inhabited structure to a landward location, elevation of an inhabited structure, restoration or creation of a dune or vegetated slope, or living shorelines techniques utilizing a variety of structural and organic materials, such as tidal wetland plants, submerged aquatic vegetation, coir fiber logs, sand fill and stone to provide shoreline protection and maintain or restore coastal resources and habitat; and "reasonable mitigation measures and techniques" includes, but is not limited to, provisions for upland migration of on-site tidal wetlands, replenishment of the littoral system and the public beach with suitable sediment at a frequency and rate equivalent to the sediment removed from the site as a result of the proposed structural solution, or on-site or off-site removal of existing shoreline flood and erosion control structures from public or private shoreline property to the same or greater extent as the area of shoreline impacted by the proposed structural solution.

(f) In the case of any application for a shoreline flood and erosion control structure that is denied on the basis of a finding that there may be feasible, less environmentally damaging alternatives to such structure or that reasonable mitigation measures and techniques have not been provided, the commissioner or the municipal commission, as applicable, shall propose on the record, in writing, the types of feasible alternatives or mitigation measures and techniques that the applicant may investigate, provided this subsection shall not be construed to shift the burden from the applicant to prove that such applicant is entitled to approval of the proposed shoreline flood and erosion

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control structure or to present alternatives to such structure.

Sec. 2. Section 22a-93 of the general statutes is amended by adding subdivision (19) as follows (*Effective October 1, 2012*):

(NEW) (19) "Rise in sea level" means the arithmetic mean of the most recent equivalent per decade rise in the surface level of the tidal and coastal waters of the state, as documented for an annual, decadal or centenary period, at any sites specified in the state in National Oceanic and Atmospheric online or printed publications.

Sec. 3. Subsections (a) to (c), inclusive, of section 22a-109 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) A coastal site plan shall be filed with the municipal zoning commission to aid in determining the conformity of a proposed building, use, structure or shoreline flood and erosion control structure, as defined in subsection (c) of this section, fully or partially within the coastal boundary, with the specific provisions of the zoning regulations of the municipality and the provisions of sections 22a-105 and 22a-106, and in the case of shoreline flood and erosion control structures, the provisions of sections 22a-359 to 22a-363, inclusive, as amended by this act, and any regulations adopted thereunder. A coastal site plan required under this section may be modified or denied if it fails to comply with the requirements already set forth in the zoning regulations of the municipality and, in addition, the coastal site plan may be modified, conditioned or denied in accordance with the procedures and criteria listed in sections 22a-105 and 22a-106. A coastal site plan for a shoreline flood and erosion control structure may be modified, conditioned or denied if it fails to comply with the requirements, standards and criteria of sections 22a-359 to 22a-363, inclusive, as amended by this act, and any regulations adopted thereunder. A coastal site plan for a shoreline flood and erosion

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structure shall be approved if the record demonstrates and the commission makes specific written findings that such structure is necessary and unavoidable for the protection of infrastructural facilities, cemetery or burial grounds, water-dependent uses fundamental to habitability or primary use of such property or inhabited structures or structure additions constructed as of January 1, 1995, that there is no feasible, less environmentally-damaging alternative and that all reasonable mitigation measures and techniques are implemented to minimize adverse environmental impacts. Review of a coastal site plan under the requirements of this section shall supersede any review required by the municipality under subsection (g) of section 8-3 and shall be in addition to any applicable zoning regulations of any special district exercising zoning authority under special act. The provisions of this section shall not be construed to limit the authority of the Commissioner of Energy and Environmental Protection under sections 22a-359 to 22a-363, inclusive, as amended by this act.

(b) The zoning commission may by regulation exempt any or all of the following uses from the coastal site plan review requirements of this chapter: (1) Minor additions to or modifications of existing buildings or detached accessory buildings, such as garages and utility sheds; (2) construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property including but not limited to walks, terraces, driveways, swimming pools, tennis courts, docks and detached accessory buildings; (3) construction of new or modification of existing on-premise structures including fences, walls, pedestrian walks and terraces, underground utility connections, essential electric, gas, telephone, water and sewer service lines, signs and such other minor structures as will not substantially alter the natural character of coastal resources or restrict access along the public beach; (4) construction of an individual single-family residential structure except when such structure is located on

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an island not connected to the mainland by an existing road bridge or causeway or except when such structure is in or within one hundred feet of the following coastal resource areas: Tidal wetlands, coastal bluffs and escarpments and beaches and dunes; (5) activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources; (6) interior modifications to buildings; and (7) minor changes in use of a building, structure or property except those changes occurring on property adjacent to or abutting coastal waters. Gardening, grazing and the harvesting of crops shall be exempt from the requirements of this chapter. Notwithstanding the provisions of this subsection, shoreline flood and erosion control structures as defined in subsection (c) of this section shall not be exempt from the requirements of this chapter.

(c) For the purposes of this section, "shoreline flood and erosion control structure" means any structure the purpose or effect of which is to control flooding or erosion from tidal, coastal or navigable waters and includes breakwaters, bulkheads, groins, jetties, revetments, riprap, seawalls and the placement of concrete, rocks or other significant barriers to the flow of flood waters or the movement of sediments along the shoreline. The term shall not include: [any] (1) Any addition, reconstruction, change or adjustment to any walled and roofed building which is necessary for such building to comply with the requirements of the Code of Federal Regulations, Title 44, Part 50, and any municipal regulation adopted thereunder, or (2) any activity, including, but not limited to, living shorelines projects, for which the primary purpose or effect is the restoration or enhancement of tidal wetlands, beaches, dunes or intertidal flats.

Sec. 4. Section 22a-359 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The Commissioner of Energy and Environmental Protection

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shall regulate dredging and the erection of structures and the placement of fill, and work incidental thereto, in the tidal, coastal or navigable waters of the state waterward of the [high tide] coastal jurisdiction line. Any decisions made by the commissioner pursuant to this section shall be made with due regard for indigenous aquatic life, fish and wildlife, the prevention or alleviation of shore erosion and coastal flooding, the use and development of adjoining uplands, the improvement of coastal and inland navigation for all vessels, including small craft for recreational purposes, the use and development of adjacent lands and properties and the interests of the state, including pollution control, water quality, recreational use of public water and management of coastal resources, with proper regard for the rights and interests of all persons concerned.

(b) After consultation with the Commissioner of Transportation, the Commissioner of Energy and Environmental Protection may consider any sunken or grounded vessel, scow, lighter or similar structure lying within the tidal, coastal or navigable waters of the state to be an encroachment subject to the provisions of this section and sections 22a-360 to 22a-363, inclusive.

(c) As used in this section and sections 22a-360 to [22a-363] 22a-363b, inclusive, ["high tide line"] "coastal jurisdiction line" means [a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. The mark may be determined by (1) a line of oil or scum along shore objects, (2) a more or less continuous deposit of fine shell or debris on the foreshore or berm, (3) physical markings or characteristics, vegetation lines, tidal gauge, or (4) by any other suitable means delineating the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or

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predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm] the location of the topographical elevation of the highest predicted tide for the period beginning in 1983 and ending in 2001, referenced to the most recent National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration and described in terms of feet of elevation above the North American Vertical Datum of 1988.

(d) For any tidal, coastal or navigable waters of the state located upstream of a tide gate, weir, or other device that modifies the flow of tidal waters, the coastal jurisdiction line for such tidal, coastal or navigable waters shall be the elevation of mean high water as found at the downstream location of such device.

(e) As used in this section and sections 22a-360 to 22a-363a, inclusive, "navigable waters" means Long Island Sound, any cove, bay or inlet of Long Island Sound, and that portion of any tributary, river or stream that empties into Long Island Sound upstream to the first permanent obstruction to navigation for watercraft from Long Island Sound.

Sec. 5. Section 22a-360 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

In order to carry out the purposes of sections 22a-359 to 22a-363, inclusive, as amended by this act, the commissioner is authorized to establish boundaries waterward of the [high tide] coastal jurisdiction line along tidal, coastal and navigable waters for equitable regulation of use, dredging, obstruction and encroachment thereof, and to establish areas for development of small boat basins or other facilities, provided such establishments shall be made in accordance with a general plan prepared for the orderly development of the area or region.

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Sec. 6. Subsection (a) of section 22a-361 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) (1) No person, firm or corporation, public, municipal or private, shall dredge, erect any structure, place any fill, obstruction or encroachment or carry out any work incidental thereto or retain or maintain any structure, dredging or fill, in the tidal, coastal or navigable waters of the state waterward of the [high tide] coastal jurisdiction line until such person, firm or corporation has submitted an application and has secured from the Commissioner of Energy and Environmental Protection a certificate or permit for such work and has agreed to carry out any conditions necessary to the implementation of such certificate or permit.

(A) Except as provided in subdivision (3) of this subsection, each application for a permit, except for an emergency authorization, for any structure, filling or dredging which uses or occupies less than five thousand five hundred square feet in water surface area based on the perimeters of the project shall be accompanied by a fee equal to eighty cents per square foot provided such fee shall not be less than six hundred sixty dollars.

(B) Except as provided in subdivision (3) of this subsection, each application for a permit for any structure, filling or dredging which uses or occupies five thousand five hundred square feet or more but less than five acres in water surface area based on the perimeters of the project shall be accompanied by a fee of three thousand five hundred fifty dollars plus ten cents per square foot for each square foot in excess of five thousand five hundred square feet.

(C) Except as provided in subdivision (3) of this subsection, each application for a permit for any structure, filling or dredging which uses or occupies five or more acres in water surface area based on the

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perimeters of the project shall be accompanied by a fee of nineteen thousand four hundred seventy-five dollars plus five hundred twenty-five dollars per acre for each acre or part thereof in excess of five acres.

(D) Except as provided in subdivision (3) of this subsection, each application for a mooring area or multiple mooring facility, regardless of the area to be occupied by moorings, shall be accompanied by a fee of six hundred sixty dollars provided that such mooring areas or facilities shall not include fixed or floating docks, slips or berths.

(E) Application fees for aquaculture activities shall not be based on areal extent.

(2) The commissioner may waive or reduce any fee payable pursuant to subdivision (1) of this subsection for (A) a tidal wetlands or coastal resource restoration or enhancement activity, (B) experimental activities or demonstration projects, (C) nonprofit academic activities, or (D) public access activities in tidal, coastal or navigable waters, provided no fee shall be waived or reduced for activities required by statute, regulation, permit, order or enforcement action. The application fee for the retention of a structure built in violation of this subsection where such structure is ineligible for a certificate of permission under section 22a-363b, as amended by this act, shall be four times the fee calculated in accordance with subparagraphs (A) to (D), inclusive, of subdivision (1) of this subsection. The commissioner may lower any such fee based upon the commissioner's finding of significant extenuating circumstances, including, but not limited to, whether the applicant acquired such real estate interest in the work site after the date of the unauthorized activity and is not otherwise liable for the unauthorized activity as a result of actions taken prior to the acquisition and did not know and had no reason to know of the unauthorized activity. As used in this section, "resource restoration or enhancement activity" means an action taken to return a wetland or coastal resource to a prior natural

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condition or to improve the natural functions or habitat value of such resource, but shall not include actions required pursuant to an enforcement action of the commissioner, and "public access activities" means activities whose principal purpose is to provide or increase access for the general public to tidal, coastal or navigable waters, including, but not limited to, boardwalks, boat ramps, observation areas and fishing piers.

(3) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to vary the permit fees described in subdivision (1) of this subsection and the cost of public notice required pursuant to section 22a-6h, provided such regulations shall contain a simplified schedule that promotes expedited approval of applications that are consistent with all applicable standards and criteria. In the event the commissioner adopts such regulations, such permit fees shall be the amount established in such regulations.

Sec. 7. Section 22a-363a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

For the purposes of this section and sections 22a-361, as amended by this act, 22a-361a, 22a-362, 22a-363b, as amended by this act, and 22a-363d to 22a-363f, inclusive: "Substantial maintenance" means rebuilding, reconstructing, or reestablishing to a preexisting condition and dimension any structure, fill, obstruction or encroachment; "routine maintenance" means replacement and repair of out-of-water structures including the surfaces of docks, piers, wharves and bridges, replacement or repair in any year of up to twenty-five per cent of all pilings approved in accordance with section 22a-361, as amended by this act, and seasonal installation, reinstallation or repair of floating docks, provided that all locations, dimensions, elevations and materials shall remain the same as or equivalent to that approved in accordance with said section; "perimeter permit" means a permit issued in accordance with said section, establishing boundaries

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waterward of the [high tide] coastal jurisdiction line within which recreational marinas layout of in-water slips, docks and moorings may be reconfigured; "work" means any activity, construction, or site preparation, erection of structures or placement of fill, including but not limited to grading, excavating, dredging or disposing of dredged material, depositing of soil, stones, sand, gravel, mud, aggregate or construction materials, filling, removing vegetation or other material, or other modification of a site within the tidal, coastal or navigable waters of the state waterward of the [high tide] coastal jurisdiction line.

Sec. 8. Subsection (a) of section 22a-363b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) Routine maintenance of permitted structures, fill, obstructions or encroachments or routine maintenance of structures, fill, obstructions or encroachments in place prior to June 24, 1939, and continuously maintained and serviceable since that date shall be exempt from the requirements of obtaining certificates of permission or permits pursuant to section 22a-363a, as amended by this act, this section or section 22a-361, as amended by this act. The following activities may be eligible for a certificate of permission, in accordance with the provisions of subsections (c) and (d) of this section: (1) Substantial maintenance or repair of existing structures, fill, obstructions or encroachments authorized pursuant to section 22a-33 or 22a-361, as amended by this act; (2) substantial maintenance of any structures, fill, obstructions or encroachments in place prior to June 24, 1939, and continuously maintained and serviceable since such time; (3) maintenance dredging of areas which have been dredged and continuously maintained and serviceable as authorized pursuant to section 22a-33 or 22a-361, as amended by this act; (4) activities allowed pursuant to a perimeter permit and requiring authorization by the

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commissioner; (5) the removal of derelict structures or vessels; (6) minor alterations or amendments to permitted activities consistent with the original permit; (7) minor alterations or amendments to activities completed prior to June 24, 1939; (8) placement of temporary structures for water-dependent uses, as defined in section 22a-93, as amended by this act; (9) open water marsh management, tidal wetland restoration, resource restoration or enhancement activity, as defined in subsection (a) of section 22a-361, as amended by this act, and conservation activities undertaken by or under the supervision of the Department of Energy and Environmental Protection; (10) the placement or reconfiguration of piers, floats, docks or moorings within existing waterward boundaries of recreational marinas or yacht clubs which have been authorized pursuant to section 22a-33 or 22a-361, as amended by this act; and (11) substantial maintenance or repair of structures, fill, obstructions or encroachments placed landward of the mean high waterline and waterward of the [high tide] coastal jurisdiction line completed prior to October 1, 1987, and continuously maintained and serviceable since said date. Notwithstanding the provisions of sections 22a-29 to 22a-35, inclusive, the commissioner may issue a certificate of permission for activities enumerated in this subsection which are to be conducted in tidal wetlands. Upon issuance, such certificate shall be in lieu of the permit required pursuant to section 22a-32.

Sec. 9. Section 16a-27 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) The secretary, after consultation with all appropriate state, regional and local agencies and other appropriate persons, shall, prior to March 1, 2012, complete a revision of the existing plan and enlarge it to include, but not be limited to, policies relating to transportation, energy and air. Any revision made after May 15, 1991, shall identify

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the major transportation proposals, including proposals for mass transit, contained in the master transportation plan prepared pursuant to section 13b-15. Any revision made after July 1, 1995, shall take into consideration the conservation and development of greenways that have been designated by municipalities and shall recommend that state agencies coordinate their efforts to support the development of a state-wide greenways system. The Commissioner of Energy and Environmental Protection shall identify state-owned land for inclusion in the plan as potential components of a state greenways system.

(b) Any revision made after August 20, 2003, shall take into account (1) economic and community development needs and patterns of commerce, and (2) linkages of affordable housing objectives and land use objectives with transportation systems.

(c) Any revision made after March 1, 2006, shall (1) take into consideration risks associated with natural hazards, including, but not limited to, flooding, high winds and wildfires; (2) identify the potential impacts of natural hazards on infrastructure and property; and (3) make recommendations for the siting of future infrastructure and property development to minimize the use of areas prone to natural hazards, including, but not limited to, flooding, high winds and wildfires.

(d) Any revision made after July 1, 2005, shall describe the progress towards achievement of the goals and objectives established in the previously adopted state plan of conservation and development and shall identify (1) areas where it is prudent and feasible (A) to have compact, transit accessible, pedestrian-oriented mixed-use development patterns and land reuse, and (B) to promote such development patterns and land reuse, (2) priority funding areas designated under section 16a-35c, and (3) corridor management areas on either side of a limited access highway or a rail line. In designating corridor management areas, the secretary shall make

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recommendations that (A) promote land use and transportation options to reduce the growth of traffic congestion; (B) connect infrastructure and other development decisions; (C) promote development that minimizes the cost of new infrastructure facilities and maximizes the use of existing infrastructure facilities; and (D) increase intermunicipal and regional cooperation.

(e) Any revision made after October 1, 2008, shall (1) for each policy recommended (A) assign a priority; (B) estimate funding for implementation and identify potential funding sources; (C) identify each entity responsible for implementation; and (D) establish a schedule for implementation; and (2) for each growth management principle, determine three benchmarks to measure progress in implementation of the principles, one of which shall be a financial benchmark.

(f) Any revision made after October 1, 2009, shall take into consideration the protection and preservation of Connecticut Heritage Areas.

(g) Any revision made after December 1, 2011, shall take into consideration (1) the state water supply and resource policies established in sections 22a-380 and 25-33c, and (2) the list prepared by the Commissioner of Public Health pursuant to section 25-33q.

(h) Any revision made after October 1, 2012, shall (1) take into consideration risks associated with increased coastal erosion, depending on site topography, caused by a rise in sea level, as defined in section 22a-93, as amended by this act, (2) identify the impacts of such increased erosion on infrastructure and natural resources, and (3) make recommendations for the siting of future infrastructure and property development to minimize the use of areas prone to such erosion.

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[(h)] (i) Thereafter on or before March first in each revision year the secretary shall complete a revision of the plan of conservation and development.

Sec. 10. (NEW) (*Effective October 1, 2012*) (a) The Commissioner of Energy and Environmental Protection may, within available appropriations, establish a pilot program to encourage innovative and low-impact approaches to shoreline protection and adaptation to a rise in sea level. Such approaches may include living shorelines techniques utilizing a variety of structural and organic materials, including, but not limited to, tidal wetland plants, submerged aquatic vegetation, coir fiber logs, sand fill and stone to provide shoreline protection and maintain or restore coastal resources and habitat. The commissioner may solicit proposals for site-specific pilot projects utilizing such approaches and may offer technical assistance for such projects. Whenever such projects are proposed within the Department of Energy and Environmental Protection's regulatory jurisdiction under section 22a-32 or 22a-361 of the general statutes, as amended by this act, the commissioner may select not more than three projects per year to receive expedited regulatory approval pursuant to section 22a-363b of the general statutes, as amended by this act.

(b) The Commissioner of Energy and Environmental Protection, within available appropriations, may, in conjunction with academic institutions, nongovernmental organizations or federal agencies, seek funds for and prepare a shoreline management study for the purpose of enhancing the resilience of coastal communities to coastal hazards and a rise in sea level, with special consideration for areas significantly impacted by coastal storms.

(c) The University of Connecticut and the Connecticut State University System may, within available appropriations, in conjunction with other academic institutions and state and federal agencies, seek funds for and establish a program to develop and

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maintain science and engineering capacity within the state to support shoreline planning and management to enhance the resilience of coastal communities to coastal hazards and a rise in sea level.