



General Assembly

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Amendment

LCO No. 3986

SB0037603986SD0

Offered by:
SEN. MEYER, 12th Dist.

To: Senate Bill No. 376

File No. 282

Cal. No. 221

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 22a-92 of the general statutes is repealed and the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

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

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

13 (2) To preserve and enhance coastal resources in accordance with

14 the policies established by chapters 439, 440, 446i, 446k, 447, 474 and
15 477;

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

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

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

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

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

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

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

44 disruption of economic development; and

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

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

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

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

112 unless the demand for these facilities no longer exists or adequate
113 space has been provided; to design and locate, where feasible,
114 proposed recreational boating facilities in a manner which does not
115 interfere with the needs of the commercial fishing industry; [and] (J) to
116 require reasonable mitigation measures where development would
117 adversely impact historical, archaeological, or paleontological
118 resources that have been designated by the state historic preservation
119 officer; and (K) to encourage, where practical, the strategic realignment
120 of development, over a period of several decades, for coastal lands that
121 contain structures that are subject to repetitive substantial damage.

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

146 substantially accelerate erosion or lead to significant despoliation of
147 tidal flats; (E) to preserve tidal wetlands and to prevent the
148 despoliation and destruction thereof in order to maintain their vital
149 natural functions; to encourage the rehabilitation and restoration of
150 degraded tidal wetlands and where feasible and environmentally
151 acceptable, to encourage the creation of wetlands for the purposes of
152 shellfish and finfish management, habitat creation and dredge spoil
153 disposal; (F) to manage coastal hazard areas so as to [insure] ensure
154 that development proceeds in such a manner that hazards to life and
155 property are minimized and to promote nonstructural solutions to
156 flood and erosion problems except in those instances where structural
157 alternatives prove unavoidable and necessary to protect [existing]
158 inhabited structures constructed as of January 1, 1995, infrastructural
159 facilities or water dependent uses; (G) to promote, through existing
160 state and local planning, development, promotional and regulatory
161 programs, the use of existing developed shorefront areas for marine-
162 related uses, including but not limited to, commercial and recreational
163 fishing, boating and other water-dependent commercial, industrial and
164 recreational uses; (H) to manage undeveloped islands in order to
165 promote their use as critical habitats for those bird, plant and animal
166 species which are indigenous to such islands or which are increasingly
167 rare on the mainland; to maintain the value of undeveloped islands as
168 a major source of recreational open space; and to disallow uses which
169 will have significant adverse impacts on islands or their resource
170 components; (I) to regulate shoreland use and development in a
171 manner which minimizes adverse impacts upon adjacent coastal
172 systems and resources; and (J) to maintain the natural relationship
173 between eroding and depositional coastal landforms and to minimize
174 the adverse impacts of erosion and sedimentation on coastal land uses
175 through the promotion of nonstructural mitigation measures.
176 Structural solutions are permissible when necessary and unavoidable
177 for the protection of infrastructural facilities, water-dependent uses, or
178 [existing] inhabited structures constructed as of January 1, 1995, and
179 where there is no feasible, less environmentally damaging alternative
180 and where all reasonable mitigation measures and techniques have

181 been provided to minimize adverse environmental impacts.

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

185 (1) Policies concerning development, facilities and uses within the
186 coastal boundary are: (A) To minimize the risk of spillage of petroleum
187 products and hazardous substances, to provide effective containment
188 and cleanup facilities for accidental spills and to disallow offshore oil
189 receiving systems that have the potential to cause catastrophic oil spills
190 in the Long Island Sound estuary; (B) to disallow any filling of tidal
191 wetlands and nearshore, offshore and intertidal waters for the purpose
192 of creating new land from existing wetlands and coastal waters which
193 would otherwise be undevelopable, unless it is found that the adverse
194 impacts on coastal resources are minimal; (C) to initiate in cooperation
195 with the federal government and the continuing legislative committee
196 on state planning and development a long-range planning program for
197 the continued maintenance and enhancement of federally-maintained
198 navigation facilities in order to effectively and efficiently plan and
199 provide for environmentally sound dredging and disposal of dredged
200 materials; to encourage, through the state permitting program for
201 dredging activities, the maintenance and enhancement of existing
202 federally-maintained navigation channels, basins and anchorages and
203 to discourage the dredging of new federally-maintained navigation
204 channels, basins and anchorages; (D) to reduce the need for future
205 dredging by requiring that new or expanded navigation channels,
206 basins and anchorages take advantage of existing or authorized water
207 depths, circulation and siltation patterns and the best available
208 technologies for reducing controllable sedimentation; (E) to disallow
209 new dredging in tidal wetlands except where no feasible alternative
210 exists and where adverse impacts to coastal resources are minimal; (F)
211 to require that new or improved shoreline rail corridors be designed
212 and constructed so as (i) to prevent tidal and circulation restrictions
213 and, when practicable, to eliminate any such existing restrictions, (ii) to
214 improve or have a negligible adverse effect on coastal access and

215 recreation and (iii) to enhance or not unreasonably impair the visual
216 quality of the shoreline; (G) to require that coastal highways and
217 highway improvements, including bridges, be designed and
218 constructed so as to minimize adverse impacts on coastal resources; to
219 require that coastal highway and highway improvements give full
220 consideration to mass transportation alternatives and to require that
221 coastal highways and highway improvements where possible enhance,
222 but in no case decrease coastal access and recreational opportunities;
223 (H) to disallow the construction of major new airports and to
224 discourage the substantial expansion of existing airports within the
225 coastal boundary; to require that any expansion or improvement of
226 existing airports minimize adverse impacts on coastal resources,
227 recreation or access; (I) to manage the state's fisheries in order to
228 promote the economic benefits of commercial and recreational fishing,
229 enhance recreational fishing opportunities, optimize the yield of all
230 species, prevent the depletion or extinction of indigenous species,
231 maintain and enhance the productivity of natural estuarine resources
232 and preserve healthy fisheries resources for future generations; (J) to
233 make effective use of state-owned coastal recreational facilities in order
234 to expand coastal recreational opportunities including the
235 development or redevelopment of existing state-owned facilities where
236 feasible; (K) to require as a condition in permitting new coastal
237 structures, including but not limited to, groins, jetties or breakwaters,
238 that access to, or along, the public beach below mean high water must
239 not be unreasonably impaired by such structures and to encourage the
240 removal of illegal structures below mean high water which
241 unreasonably obstruct passage along the public beach; and (L) to
242 promote the revitalization of inner city urban harbors and waterfronts
243 by encouraging appropriate reuse of historically developed
244 shorefronts, which may include minimized alteration of an existing
245 shorefront in order to achieve a significant net public benefit, provided
246 (i) such shorefront site is permanently devoted to a water dependent
247 use or a water dependent public use such as public access or recreation
248 for the general public and the ownership of any filled lands remain
249 with the state or an instrumentality thereof in order to secure public

250 use and benefit in perpetuity, (ii) landward development of the site is
251 constrained by highways, railroads or other significant infrastructure
252 facilities, (iii) no other feasible, less environmentally damaging
253 alternatives exist, (iv) the adverse impacts to coastal resources of any
254 shorefront alteration are minimized and compensation in the form of
255 resource restoration is provided to mitigate any remaining adverse
256 impacts, and (v) such reuse is consistent with the appropriate
257 municipal coastal program or municipal plan of development.

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

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

276 (e) For the purposes of this section, "feasible, less environmentally
277 damaging alternative" includes, but is not limited to, relocation of an
278 inhabited structure to a landward location, elevation of an inhabited
279 structure, restoration or creation of a dune or vegetated slope, or living
280 shorelines techniques utilizing a variety of structural and organic
281 materials, such as tidal wetland plants, submerged aquatic vegetation,
282 coir fiber logs, sand fill and stone to provide shoreline protection and

283 maintain or restore costal resources and habitat; and "reasonable
284 mitigation measures and techniques" includes, but is not limited to,
285 provisions for upland migration of on-site tidal wetlands,
286 replenishment of the littoral system and the public beach with suitable
287 sediment at a frequency and rate equivalent to the sediment removed
288 from the site as a result of the proposed structural solution, or on-site
289 or off-site removal of existing shoreline flood and erosion control
290 structures from public or private shoreline property to the same or
291 greater extent as the area of shoreline impacted by the proposed
292 structural solution.

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

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

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

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

314 (a) A coastal site plan shall be filed with the municipal zoning

315 commission to aid in determining the conformity of a proposed
316 building, use, structure or shoreline flood and erosion control
317 structure, as defined in subsection (c) of this section, fully or partially
318 within the coastal boundary, with the specific provisions of the zoning
319 regulations of the municipality and the provisions of sections 22a-105
320 and 22a-106, and in the case of shoreline flood and erosion control
321 structures, the provisions of sections 22a-359 to 22a-363, inclusive, as
322 amended by this act, and any regulations adopted thereunder. A
323 coastal site plan required under this section may be modified or denied
324 if it fails to comply with the requirements already set forth in the
325 zoning regulations of the municipality and, in addition, the coastal site
326 plan may be modified, conditioned or denied in accordance with the
327 procedures and criteria listed in sections 22a-105 and 22a-106. A
328 coastal site plan for a shoreline flood and erosion control structure may
329 be modified, conditioned or denied if it fails to comply with the
330 requirements, standards and criteria of sections 22a-359 to 22a-363,
331 inclusive, as amended by this act, and any regulations adopted
332 thereunder. A coastal site plan for a shoreline flood and erosion
333 structure shall be approved if the commission makes specific written
334 findings that such structure is necessary and unavoidable for the
335 protection of infrastructural facilities, cemetery or burial grounds,
336 water-dependent uses or inhabited structures constructed as of
337 January 1, 1995, that there is no feasible, less environmentally
338 damaging alternative and that all reasonable mitigation measures and
339 techniques are implemented to minimize adverse environmental
340 impacts. Review of a coastal site plan under the requirements of this
341 section shall supersede any review required by the municipality under
342 subsection (g) of section 8-3 and shall be in addition to any applicable
343 zoning regulations of any special district exercising zoning authority
344 under special act. The provisions of this section shall not be construed
345 to limit the authority of the Commissioner of Energy and
346 Environmental Protection under sections 22a-359 to 22a-363, inclusive,
347 as amended by this act.

348 (b) The zoning commission may by regulation exempt any or all of

349 the following uses from the coastal site plan review requirements of
350 this chapter: (1) Minor additions to or modifications of existing
351 buildings or detached accessory buildings, such as garages and utility
352 sheds; (2) construction of new or modification of existing structures
353 incidental to the enjoyment and maintenance of residential property
354 including but not limited to walks, terraces, driveways, swimming
355 pools, tennis courts, docks and detached accessory buildings; (3)
356 construction of new or modification of existing on-premise structures
357 including fences, walls, pedestrian walks and terraces, underground
358 utility connections, essential electric, gas, telephone, water and sewer
359 service lines, signs and such other minor structures as will not
360 substantially alter the natural character of coastal resources or restrict
361 access along the public beach; (4) construction of an individual single-
362 family residential structure except when such structure is located on
363 an island not connected to the mainland by an existing road bridge or
364 causeway or except when such structure is in or within one hundred
365 feet of the following coastal resource areas: Tidal wetlands, coastal
366 bluffs and escarpments and beaches and dunes; (5) activities
367 conducted for the specific purpose of conserving or preserving soil,
368 vegetation, water, fish, shellfish, wildlife and other coastal land and
369 water resources; (6) interior modifications to buildings; and (7) minor
370 changes in use of a building, structure or property except those
371 changes occurring on property adjacent to or abutting coastal waters.
372 Gardening, grazing and the harvesting of crops shall be exempt from
373 the requirements of this chapter. Notwithstanding the provisions of
374 this subsection, shoreline flood and erosion control structures as
375 defined in subsection (c) of this section shall not be exempt from the
376 requirements of this chapter.

377 (c) For the purposes of this section, "shoreline flood and erosion
378 control structure" means any structure the purpose or effect of which is
379 to control flooding or erosion from tidal, coastal or navigable waters
380 and includes breakwaters, bulkheads, groins, jetties, revetments,
381 riprap, seawalls and the placement of concrete, rocks or other
382 significant barriers to the flow of flood waters or the movement of

383 sediments along the shoreline. The term shall not include: (1) [any]
384 Any addition, reconstruction, change or adjustment to any walled and
385 roofed building which is necessary for such building to comply with
386 the requirements of the Code of Federal Regulations, Title 44, Part 50,
387 and any municipal regulation adopted thereunder, or (2) any activity,
388 including, but not limited to, living shorelines projects, for which the
389 primary purpose or effect is the restoration or enhancement of tidal
390 wetlands, beaches, dunes or intertidal flats.

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

393 (a) The Commissioner of Energy and Environmental Protection
394 shall regulate dredging and the erection of structures and the
395 placement of fill, and work incidental thereto, in the tidal, coastal or
396 navigable waters of the state waterward of the [high tide] coastal
397 jurisdiction line. Any decisions made by the commissioner pursuant to
398 this section shall be made with due regard for indigenous aquatic life,
399 fish and wildlife, the prevention or alleviation of shore erosion and
400 coastal flooding, the use and development of adjoining uplands, the
401 improvement of coastal and inland navigation for all vessels, including
402 small craft for recreational purposes, the use and development of
403 adjacent lands and properties and the interests of the state, including
404 pollution control, water quality, recreational use of public water and
405 management of coastal resources, with proper regard for the rights
406 and interests of all persons concerned.

407 (b) After consultation with the Commissioner of Transportation, the
408 Commissioner of Energy and Environmental Protection may consider
409 any sunken or grounded vessel, scow, lighter or similar structure lying
410 within the tidal, coastal or navigable waters of the state to be an
411 encroachment subject to the provisions of this section and sections 22a-
412 360 to 22a-363, inclusive.

413 (c) As used in this section and sections 22a-360 to [22a-363] 22a-
414 363b, inclusive, ["high tide line"] "coastal jurisdiction line" means [a

415 line or mark left upon tide flats, beaches, or along shore objects that
416 indicates the intersection of the land with the water's surface at the
417 maximum height reached by a rising tide. The mark may be
418 determined by (1) a line of oil or scum along shore objects, (2) a more
419 or less continuous deposit of fine shell or debris on the foreshore or
420 berm, (3) physical markings or characteristics, vegetation lines, tidal
421 gauge, or (4) by any other suitable means delineating the general
422 height reached by a rising tide. The term includes spring high tides
423 and other high tides that occur with periodic frequency but does not
424 include storm surges in which there is a departure from the normal or
425 predicted reach of the tide due to the piling up of water against a coast
426 by strong winds such as those accompanying a hurricane or other
427 intense storm] the location of the topographical elevation of the highest
428 predicted tide for the period beginning in 1983 and ending in 2001,
429 referenced to the most recent National Tidal Datum Epoch as
430 published by the National Oceanographic and Atmospheric
431 Administration and described in terms of feet of elevation above the
432 North American Vertical Datum of 1988. For the tidal epoch in effect as
433 of October 1, 2012, such elevations, as indicated in feet of elevation,
434 shall be as follows for each municipality adjacent to the tidal, coastal or
435 navigable waters of the state: Ansonia 5.4', Branford 4.4', Bridgeport
436 5.0', Chester 2.9', Clinton 3.8', Cromwell 3.3', Darien 5.2', Deep River
437 2.9', Derby 5.4', East Hartford 3.8', East Haddam 3.0', East Hampton
438 3.0', East Haven 4.5', East Lyme 2.3', East Windsor 3.9', Essex 2.8',
439 Fairfield 5.1', Glastonbury 3.5', Greenwich 5.3', Groton 2.0', Guilford
440 4.1', Haddam 3.0', Hartford 3.8', Ledyard 2.3', Lyme 2.9', Madison 4.0',
441 Middletown 3.1', Milford (Housatonic River) 5.1' and Milford 4.7',
442 Montville 2.3', New Haven 4.6', New London 2.0', Norwalk 5.2',
443 Norwich 2.4', Old Lyme (Connecticut River) 2.9' and Old Lyme 2.5',
444 Old Saybrook (Connecticut River) 2.9' and Old Saybrook 3.2', Orange
445 5.4', Portland 3.3', Preston 2.3', Rocky Hill 3.4', Shelton 5.4', South
446 Windsor 3.9', Stamford 5.3', Stonington 2.0', Stratford (Housatonic
447 River) 5.0' and Stratford 4.8', Waterford 2.1', West Haven 4.6',
448 Westbrook 3.3', Westport 5.2', Wethersfield 3.6', Windsor 3.9', and
449 Windsor Locks 3.9'. The commissioner may adopt regulations

450 pursuant to chapter 54 to establish the high tide line for each
451 municipality adjacent to the tidal, coastal or navigable waters of the
452 state for tidal epochs commencing on and after 2020.

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

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

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

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

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

478 (a) (1) No person, firm or corporation, public, municipal or private,
479 shall dredge, erect any structure, place any fill, obstruction or
480 encroachment or carry out any work incidental thereto or retain or

481 maintain any structure, dredging or fill, in the tidal, coastal or
482 navigable waters of the state waterward of the [high tide] coastal
483 jurisdiction line until such person, firm or corporation has submitted
484 an application and has secured from the Commissioner of Energy and
485 Environmental Protection a certificate or permit for such work and has
486 agreed to carry out any conditions necessary to the implementation of
487 such certificate or permit.

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

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

502 (C) Except as provided in subdivision (3) of this subsection, each
503 application for a permit for any structure, filling or dredging which
504 uses or occupies five or more acres in water surface area based on the
505 perimeters of the project shall be accompanied by a fee of nineteen
506 thousand four hundred seventy-five dollars plus five hundred twenty-
507 five dollars per acre for each acre or part thereof in excess of five acres.

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

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

515 (2) The commissioner may waive or reduce any fee payable
516 pursuant to subdivision (1) of this subsection for (A) a tidal wetlands
517 or coastal resource restoration or enhancement activity, (B)
518 experimental activities or demonstration projects, (C) nonprofit
519 academic activities, or (D) public access activities in tidal, coastal or
520 navigable waters, provided no fee shall be waived or reduced for
521 activities required by statute, regulation, permit, order or enforcement
522 action. The application fee for the retention of a structure built in
523 violation of this subsection where such structure is ineligible for a
524 certificate of permission under section 22a-363b, as amended by this
525 act, shall be four times the fee calculated in accordance with
526 subparagraphs (A) to (D), inclusive, of subdivision (1) of this
527 subsection. The commissioner may lower any such fee based upon the
528 commissioner's finding of significant extenuating circumstances,
529 including, but not limited to, whether the applicant acquired such real
530 estate interest in the work site after the date of the unauthorized
531 activity and is not otherwise liable for the unauthorized activity as a
532 result of actions taken prior to the acquisition and did not know and
533 had no reason to know of the unauthorized activity. As used in this
534 section, "resource restoration or enhancement activity" means an action
535 taken to return a wetland or coastal resource to a prior natural
536 condition or to improve the natural functions or habitat value of such
537 resource, but shall not include actions required pursuant to an
538 enforcement action of the commissioner, and "public access activities"
539 means activities whose principal purpose is to provide or increase
540 access for the general public to tidal, coastal or navigable waters,
541 including, but not limited to, boardwalks, boat ramps, observation
542 areas and fishing piers.

543 (3) The commissioner may adopt regulations in accordance with the
544 provisions of chapter 54 to vary the permit fees described in
545 subdivision (1) of this subsection and the cost of public notice required
546 pursuant to section 22a-6h, provided such regulations shall contain a

547 simplified schedule that promotes expedited approval of applications
548 that are consistent with all applicable standards and criteria. In the
549 event the commissioner adopts such regulations, such permit fees shall
550 be the amount established in such regulations.

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

553 For the purposes of this section and sections 22a-361, as amended by
554 this act, 22a-361a, 22a-362, 22a-363b, as amended by this act, and 22a-
555 363d to 22a-363f, inclusive: "Substantial maintenance" means
556 rebuilding, reconstructing, or reestablishing to a preexisting condition
557 and dimension any structure, fill, obstruction or encroachment;
558 "routine maintenance" means replacement and repair of out-of-water
559 structures including the surfaces of docks, piers, wharves and bridges,
560 replacement or repair in any year of up to twenty-five per cent of all
561 pilings approved in accordance with section 22a-361, as amended by
562 this act, and seasonal installation, reinstallation or repair of floating
563 docks, provided that all locations, dimensions, elevations and
564 materials shall remain the same as or equivalent to that approved in
565 accordance with said section; "perimeter permit" means a permit
566 issued in accordance with said section, establishing boundaries
567 waterward of the [high tide] coastal jurisdiction line within which
568 recreational marinas layout of in-water slips, docks and moorings may
569 be reconfigured; "work" means any activity, construction, or site
570 preparation, erection of structures or placement of fill, including but
571 not limited to grading, excavating, dredging or disposing of dredged
572 material, depositing of soil, stones, sand, gravel, mud, aggregate or
573 construction materials, filling, removing vegetation or other material,
574 or other modification of a site within the tidal, coastal or navigable
575 waters of the state waterward of the [high tide] coastal jurisdiction
576 line.

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

580 (a) Routine maintenance of permitted structures, fill, obstructions or
581 encroachments or routine maintenance of structures, fill, obstructions
582 or encroachments in place prior to June 24, 1939, and continuously
583 maintained and serviceable since that date shall be exempt from the
584 requirements of obtaining certificates of permission or permits
585 pursuant to section 22a-363a, as amended by this act, this section or
586 section 22a-361, as amended by this act. The following activities may
587 be eligible for a certificate of permission, in accordance with the
588 provisions of subsections (c) and (d) of this section: (1) Substantial
589 maintenance or repair of existing structures, fill, obstructions or
590 encroachments authorized pursuant to section 22a-33 or 22a-361, as
591 amended by this act; (2) substantial maintenance of any structures, fill,
592 obstructions or encroachments in place prior to June 24, 1939, and
593 continuously maintained and serviceable since such time; (3)
594 maintenance dredging of areas which have been dredged and
595 continuously maintained and serviceable as authorized pursuant to
596 section 22a-33 or 22a-361, as amended by this act; (4) activities allowed
597 pursuant to a perimeter permit and requiring authorization by the
598 commissioner; (5) the removal of derelict structures or vessels; (6)
599 minor alterations or amendments to permitted activities consistent
600 with the original permit; (7) minor alterations or amendments to
601 activities completed prior to June 24, 1939; (8) placement of temporary
602 structures for water-dependent uses, as defined in section 22a-93, as
603 amended by this act; (9) open water marsh management, tidal wetland
604 restoration, resource restoration or enhancement activity, as defined in
605 subsection (a) of section 22a-361, as amended by this act, and
606 conservation activities undertaken by or under the supervision of the
607 Department of Energy and Environmental Protection; (10) the
608 placement or reconfiguration of piers, floats, docks or moorings within
609 existing waterward boundaries of recreational marinas or yacht clubs
610 which have been authorized pursuant to section 22a-33 or 22a-361, as
611 amended by this act; and (11) substantial maintenance or repair of
612 structures, fill, obstructions or encroachments placed landward of the
613 mean high waterline and waterward of the [high tide] coastal
614 jurisdiction line completed prior to October 1, 1987, and continuously

615 maintained and serviceable since said date. Notwithstanding the
616 provisions of sections 22a-29 to 22a-35, inclusive, the commissioner
617 may issue a certificate of permission for activities enumerated in this
618 subsection which are to be conducted in tidal wetlands. Upon
619 issuance, such certificate shall be in lieu of the permit required
620 pursuant to section 22a-32.

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

624 (a) The secretary, after consultation with all appropriate state,
625 regional and local agencies and other appropriate persons, shall, prior
626 to March 1, 2012, complete a revision of the existing plan and enlarge it
627 to include, but not be limited to, policies relating to transportation,
628 energy and air. Any revision made after May 15, 1991, shall identify
629 the major transportation proposals, including proposals for mass
630 transit, contained in the master transportation plan prepared pursuant
631 to section 13b-15. Any revision made after July 1, 1995, shall take into
632 consideration the conservation and development of greenways that
633 have been designated by municipalities and shall recommend that
634 state agencies coordinate their efforts to support the development of a
635 state-wide greenways system. The Commissioner of Energy and
636 Environmental Protection shall identify state-owned land for inclusion
637 in the plan as potential components of a state greenways system.

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

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

647 property development to minimize the use of areas prone to natural
648 hazards, including, but not limited to, flooding, high winds and
649 wildfires.

650 (d) Any revision made after July 1, 2005, shall describe the progress
651 towards achievement of the goals and objectives established in the
652 previously adopted state plan of conservation and development and
653 shall identify (1) areas where it is prudent and feasible (A) to have
654 compact, transit accessible, pedestrian-oriented mixed-use
655 development patterns and land reuse, and (B) to promote such
656 development patterns and land reuse, (2) priority funding areas
657 designated under section 16a-35c, and (3) corridor management areas
658 on either side of a limited access highway or a rail line. In designating
659 corridor management areas, the secretary shall make
660 recommendations that (A) promote land use and transportation
661 options to reduce the growth of traffic congestion; (B) connect
662 infrastructure and other development decisions; (C) promote
663 development that minimizes the cost of new infrastructure facilities
664 and maximizes the use of existing infrastructure facilities; and (D)
665 increase intermunicipal and regional cooperation.

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

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

677 (g) Any revision made after December 1, 2011, shall take into
678 consideration (1) the state water supply and resource policies

679 established in sections 22a-380 and 25-33c, and (2) the list prepared by
680 the Commissioner of Public Health pursuant to section 25-33q.

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

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

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

709 (b) The Commissioner of Energy and Environmental Protection,
710 within available appropriations, may, in conjunction with academic

711 institutions, nongovernmental organizations or federal agencies, seek
 712 funds for and prepare a shoreline management study for the purpose
 713 of enhancing the resilience of coastal communities to coastal hazards
 714 and a rise in sea level.

715 (c) The University of Connecticut and the Connecticut State
 716 University System may, within available appropriations, in
 717 conjunction with other academic institutions and state and federal
 718 agencies, seek funds for and establish a program to develop and
 719 maintain science and engineering capacity within the state to support
 720 shoreline planning and management to enhance the resilience of
 721 coastal communities to coastal hazards and a rise in sea level."

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|---|------------------------|-------------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2012</i> | 22a-92 |
| Sec. 2 | <i>October 1, 2012</i> | 22a-93 |
| Sec. 3 | <i>from passage</i> | 22a-109(a) to (c) |
| Sec. 4 | <i>October 1, 2012</i> | 22a-359 |
| Sec. 5 | <i>October 1, 2012</i> | 22a-360 |
| Sec. 6 | <i>October 1, 2012</i> | 22a-361(a) |
| Sec. 7 | <i>October 1, 2012</i> | 22a-363a |
| Sec. 8 | <i>October 1, 2012</i> | 22a-363b(a) |
| Sec. 9 | <i>October 1, 2012</i> | 16a-27 |
| Sec. 10 | <i>October 1, 2012</i> | New section |