



General Assembly

February Session, 2022

Raised Bill No. 5361

LCO No. 2102



Referred to Committee on PLANNING AND DEVELOPMENT

Introduced by:
(PD)

AN ACT CONCERNING PUBLIC ACCESS TO CERTAIN COASTAL RESOURCES.

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

1 Section 1. Subsection (a) of section 22a-92 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July 1,*
3 *2022*):

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

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

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

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

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

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

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

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

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

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

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

58 Sec. 2. Subdivision (1) of subsection (c) of section 22a-92 of the general
59 statutes is repealed and the following is substituted in lieu thereof
60 (*Effective July 1, 2022*):

61 (1) Policies concerning development, facilities and uses within the
62 coastal boundary are: (A) To minimize the risk of spillage of petroleum
63 products and hazardous substances, to provide effective containment
64 and cleanup facilities for accidental spills and to disallow offshore oil
65 receiving systems that have the potential to cause catastrophic oil spills
66 in the Long Island Sound estuary; (B) to disallow any filling of tidal
67 wetlands and nearshore, offshore and intertidal waters for the purpose
68 of creating new land from existing wetlands and coastal waters which
69 would otherwise be undevelopable, unless it is found that the adverse
70 impacts on coastal resources are minimal; (C) to initiate in cooperation
71 with the federal government and the continuing legislative committee
72 on state planning and development a long-range planning program for
73 the continued maintenance and enhancement of federally maintained
74 navigation facilities in order to effectively and efficiently plan and
75 provide for environmentally sound dredging and disposal of dredged
76 materials; to encourage, through the state permitting program for
77 dredging activities, the maintenance and enhancement of existing

78 federally maintained navigation channels, basins and anchorages and to
79 discourage the dredging of new federally maintained navigation
80 channels, basins and anchorages; (D) to reduce the need for future
81 dredging by requiring that new or expanded navigation channels,
82 basins and anchorages take advantage of existing or authorized water
83 depths, circulation and siltation patterns and the best available
84 technologies for reducing controllable sedimentation; (E) to disallow
85 new dredging in tidal wetlands except where no feasible alternative
86 exists and where adverse impacts to coastal resources are minimal; (F)
87 to require that new or improved shoreline rail corridors be designed and
88 constructed so as (i) to prevent tidal and circulation restrictions and,
89 when practicable, to eliminate any such existing restrictions, (ii) to
90 improve or have a negligible adverse effect on coastal access and
91 recreation and (iii) to enhance or not unreasonably impair the visual
92 quality of the shoreline; (G) to require that coastal highways and
93 highway improvements, including bridges, be designed and
94 constructed so as to minimize adverse impacts on coastal resources; to
95 require that coastal highway and highway improvements give full
96 consideration to mass transportation alternatives and to require that
97 coastal highways and highway improvements where possible enhance,
98 but in no case decrease coastal access and recreational opportunities; (H)
99 to disallow the construction of major new airports and to discourage the
100 substantial expansion of existing airports within the coastal boundary;
101 to require that any expansion or improvement of existing airports
102 minimize adverse impacts on coastal resources, recreation or access; (I)
103 to manage the state's fisheries in order to promote the economic benefits
104 of commercial and recreational fishing, enhance recreational fishing
105 opportunities, optimize the yield of all species, prevent the depletion or
106 extinction of indigenous species, maintain and enhance the productivity
107 of natural estuarine resources and preserve healthy fisheries resources
108 for future generations; (J) to promote public access to public beaches and
109 marine and tidal waters and make effective use of [state-owned] coastal
110 recreational facilities in order to expand coastal recreational
111 opportunities including the development or redevelopment of existing
112 [state-owned] facilities where feasible; (K) to require as a condition in

113 permitting new coastal structures, including but not limited to, groins,
114 jetties or breakwaters, that access to, or along, the public beach below
115 mean high water must not be unreasonably impaired by such structures
116 and to encourage the removal of illegal structures below mean high
117 water which unreasonably obstruct passage along the public beach; and
118 (L) to promote the revitalization of inner city urban harbors and
119 waterfronts by encouraging appropriate reuse of historically developed
120 shorefronts, which may include minimized alteration of an existing
121 shorefront in order to achieve a significant net public benefit, provided
122 (i) such shorefront site is permanently devoted to a water dependent use
123 or a water dependent public use such as public access or recreation for
124 the general public and the ownership of any filled lands remain with the
125 state or an instrumentality thereof in order to secure public use and
126 benefit in perpetuity, (ii) landward development of the site is
127 constrained by highways, railroads or other significant infrastructure
128 facilities, (iii) no other feasible, less environmentally damaging
129 alternatives exist, (iv) the adverse impacts to coastal resources of any
130 shorefront alteration are minimized and compensation in the form of
131 resource restoration is provided to mitigate any remaining adverse
132 impacts, and (v) such reuse is consistent with the appropriate municipal
133 coastal program or municipal plan of development.

134 Sec. 3. Section 22a-93 of the general statutes is repealed and the
135 following is substituted in lieu thereof (*Effective July 1, 2022*):

136 For the purposes of this chapter:

137 (1) "Commissioner" means the Commissioner of Energy and
138 Environmental Protection;

139 (2) "Municipality" means any town listed in subsection (a) of section
140 22a-94, the city of Groton, the borough of Stonington, the borough of
141 Groton Long Point, the borough of Fenwick and the borough of
142 Woodmont, but shall not include any special district;

143 (3) "Coastal area" means those lands described in subsection (a) of
144 section 22a-94;

145 (4) "Coastal boundary" means the boundary described in subsection
146 (b) of section 22a-94;

147 (5) "Coastal waters" means those waters of Long Island Sound and its
148 harbors, embayments, tidal rivers, streams and creeks, which contain a
149 salinity concentration of at least five hundred parts per million under
150 the low flow stream conditions as established by the commissioner;

151 (6) "Public beach" means that portion of the shoreline held in public
152 fee ownership by the state or that portion of the shoreline below the
153 mean high tide elevation that is held in public trust by the state;

154 (7) "Coastal resources" means the coastal waters of the state, their
155 natural resources, related marine and wildlife habitat and adjacent
156 shorelands, both developed and undeveloped, that together form an
157 integrated terrestrial and estuarine ecosystem; coastal resources include
158 the following: (A) "Coastal bluffs and escarpments" means naturally
159 eroding shorelands marked by dynamic escarpments or sea cliffs which
160 have slope angles that constitute an intricate adjustment between
161 erosion, substrate, drainage and degree of plant cover; (B) "rocky
162 shorefronts" means shorefront composed of bedrock, boulders and
163 cobbles that are highly erosion-resistant and are an insignificant source
164 of sediments for other coastal landforms; (C) "beaches and dunes"
165 means beach systems including barrier beach spits and tombolos,
166 barrier beaches, pocket beaches, land contact beaches and related dunes
167 and sandflats; (D) "intertidal flats" means very gently sloping or flat
168 areas located between high and low tides composed of muddy, silty and
169 fine sandy sediments and generally devoid of vegetation; (E) "tidal
170 wetlands" means "wetland" as defined by section 22a-29; (F) "freshwater
171 wetlands and watercourses" means "wetlands" and "watercourses" as
172 defined by section 22a-38; (G) "estuarine embayments" means a
173 protected coastal body of water with an open connection to the sea in
174 which saline sea water is measurably diluted by fresh water including
175 tidal rivers, bays, lagoons and coves; (H) "coastal hazard areas" means
176 those land areas inundated during coastal storm events or subject to
177 erosion induced by such events, including flood hazard areas as defined

178 and determined by the National Flood Insurance Act, as amended (USC
179 42 Section 4101, P.L. 93-234) and all erosion hazard areas as determined
180 by the commissioner; (I) "developed shorefront" means those harbor
181 areas which have been highly engineered and developed resulting in
182 the functional impairment or substantial alteration of their natural
183 physiographic features or systems; (J) "island" means land surrounded
184 on all sides by water; (K) "nearshore waters" means the area comprised
185 of those waters and their substrates lying between mean high water and
186 a depth approximated by the ten meter contour; (L) "offshore waters"
187 means the area comprised of those waters and their substrates lying
188 seaward of a depth approximated by the ten meter contour; (M)
189 "shorelands" means those land areas within the coastal boundary
190 exclusive of coastal hazard areas, which are not subject to dynamic
191 coastal processes and which are comprised of typical upland features
192 such as bedrock hills, till hills and drumlins; (N) "shellfish concentration
193 areas" means actual, potential or historic areas in coastal waters, in
194 which one or more species of shellfish aggregate;

195 (8) "Zoning commission" means the municipal zoning commission
196 established under section 8-1 or by any special act or the combined
197 planning and zoning commission established under section 8-4a;

198 (9) "Planning commission" means the municipal planning
199 commission established under section 8-19 or by any special act or the
200 combined planning and zoning commission established under section
201 8-4a;

202 (10) "Municipal coastal plans" means the plans listed in subsections
203 (b) and (d) of section 22a-101;

204 (11) "Municipal coastal regulations" means the regulations and
205 ordinances listed in subsection (b) of section 22a-101;

206 (12) "Federal Coastal Zone Management Act" and "federal act" means
207 the U.S. Coastal Zone Management Act of 1972, as amended;

208 (13) "Coastal site plans" means the site plans, applications and project

209 referrals listed in section 22a-105;

210 (14) "Facilities and resources which are in the national interest"
211 means: (A) Adequate protection of tidal wetlands and related estuarine
212 resources; (B) restoration and enhancement of Connecticut's shellfish
213 industry; (C) restoration, preservation and enhancement of the state's
214 recreational and commercial fisheries, including anadromous species;
215 (D) water pollution control measures and facilities consistent with the
216 requirements of the federal Clean Water Act, as amended; (E) air
217 pollution control measures and facilities consistent with the
218 requirements of the federal Clean Air Act, as amended; (F) continued
219 operations of existing federally-funded dredged and maintained
220 navigation channels and basins; (G) energy facilities serving state-wide
221 and interstate markets, including electric generating facilities and
222 facilities for storage, receiving or processing petroleum products and
223 other fuels; (H) improvements to the existing interstate rail, highway
224 and water-borne transportation system; (I) provision of adequate state
225 or federally-owned marine-related recreational facilities, including
226 natural areas and wildlife sanctuaries; and (J) essential maintenance and
227 improvement of existing water-dependent military, navigational,
228 resource management and research facilities;

229 (15) "Adverse impacts on coastal resources" include but are not
230 limited to: (A) Degrading water quality through the significant
231 introduction into either coastal waters or groundwater supplies of
232 suspended solids, nutrients, toxics, heavy metals or pathogens, or
233 through the significant alteration of temperature, pH, dissolved oxygen
234 or salinity; (B) degrading existing circulation patterns of coastal waters
235 through the significant alteration of patterns of tidal exchange or
236 flushing rates, freshwater input, or existing basin characteristics and
237 channel contours; (C) degrading natural erosion patterns through the
238 significant alteration of littoral transport of sediments in terms of
239 deposition or source reduction; (D) degrading natural or existing
240 drainage patterns through the significant alteration of groundwater
241 flow and recharge and volume of runoff; (E) increasing the hazard of
242 coastal flooding through significant alteration of shoreline

243 configurations or bathymetry, particularly within high velocity flood
244 zones; (F) degrading visual quality through significant alteration of the
245 natural features of vistas and view points; (G) degrading or destroying
246 essential wildlife, finfish or shellfish habitat through significant
247 alteration of the composition, migration patterns, distribution, breeding
248 or other population characteristics of the natural species or significant
249 alteration of the natural components of the habitat; and (H) degrading
250 tidal wetlands, beaches and dunes, rocky shorefronts, and bluffs and
251 escarpments through significant alteration of their natural
252 characteristics or function;

253 (16) "Water-dependent uses" means those uses and facilities which
254 require direct access to, or location in, marine or tidal waters and which
255 therefore cannot be located inland, including but not limited to:
256 Marinas, recreational and commercial fishing and boating facilities,
257 finfish and shellfish processing plants, waterfront dock and port
258 facilities, shipyards and boat building facilities, water-based
259 recreational uses, navigation aides, basins and channels, industrial uses
260 dependent upon water-borne transportation or requiring large volumes
261 of cooling or process water which cannot reasonably be located or
262 operated at an inland site and uses which provide general public access
263 to marine or tidal waters;

264 (17) "Adverse impacts on future water-dependent development
265 opportunities" and "adverse impacts on future water-dependent
266 development activities" include but are not limited to (A) locating a non-
267 water-dependent use at a site that (i) is physically suited for a water-
268 dependent use for which there is a reasonable demand or (ii) has been
269 identified for a water-dependent use in the plan of development of the
270 municipality or the zoning regulations; (B) replacement of a water-
271 dependent use with a non-water-dependent use; [.] and (C) siting of a
272 non-water-dependent use which would substantially reduce or inhibit
273 existing or potential public access to public beaches or marine or tidal
274 waters;

275 (18) "Zoning board of appeals" means the municipal zoning board of

276 appeals established pursuant to section 8-5 or any special act; and

277 (19) "Rise in sea level" means the most recent sea level change
278 scenario updated pursuant to subsection (b) of section 25-68o.

279 Sec. 4. (NEW) (*Effective July 1, 2022*) (a) For purposes of this section,
280 "municipality" has the same meaning as provided in section 22a-93 of
281 the general statutes, as amended by this act.

282 (b) Notwithstanding any provision of the general statutes or any
283 special act, municipal charter or home rule ordinance, no municipality
284 shall (1) prohibit nonresidents of such municipality from entering or
285 using a municipal park or municipal beach adjacent to marine or tidal
286 waters, or a municipal facility associated with such park or beach, unless
287 such prohibition applies to residents of such municipality; or (2) impose
288 on nonresidents a fee for such entrance or use, or parking associated
289 with such entrance or use, that is greater than fifty per cent of a fee
290 charged to residents for the same purpose.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2022</i>	22a-92(a)
Sec. 2	<i>July 1, 2022</i>	22a-92(c)(1)
Sec. 3	<i>July 1, 2022</i>	22a-93
Sec. 4	<i>July 1, 2022</i>	New section

Statement of Purpose:

To (1) clarify that certain goals and policies concerning coastal management shall apply to all public coastal resources, and (2) prohibit municipalities from restricting nonresident access to municipal parks and beaches that are accessible to residents or imposing fees for such access that are greater than fifty per cent of any fees charged to residents.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]