

File No. 602

(Reprint of File No. 276)

Substitute House Bill No. 5528
As Amended by House Amendment
Schedules "A", "B" and "C"

Approved by the Legislative Commissioner
April 24, 1998

AN ACT CONCERNING A MODEL RIVER PROTECTION
ORDINANCE AND PROTECTION OF RIDGELINES.

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

1 Section 1. (NEW) The Commissioner of
2 Environmental Protection, in consultation with the
3 Rivers Advisory Committee, shall prepare a model
4 river protection ordinance which may be used by
5 any municipality in this state in adopting
6 ordinances or regulations for the protection of
7 rivers. Such model ordinance may include, but need
8 not be limited to, recommendations for the
9 modification of municipal plans of development and
10 zoning, subdivision, site plan and wetlands
11 regulations as necessary to allow implementation
12 of a river protection ordinance or regulation.
13 Such recommendations may concern tourism,
14 navigation, utility and transportation
15 rights-of-way and water-dependent recreational,
16 industrial, commercial, agricultural and other
17 uses, as well as proposals for specific setbacks
18 from the river, dimensions of new lots and
19 buildings, restrictions on cutting of vegetation,
20 restrictions on earth-moving for mining or other
21 purposes, prohibited activities and regulation of

22 paving and other forms of impervious ground cover.
23 Such plan may also include recommendations for
24 incentives for property owners to protect lands
25 within the river corridor and to develop such
26 lands in a manner that is compatible with resource
27 protection. Such incentives may include tax
28 credits for donation to appropriate parties of
29 open space easements or land development rights
30 and incentives for cluster development.

31 Sec. 2. Section 8-1aa of the general statutes
32 is repealed and the following is substituted in
33 lieu thereof:

34 As used in section [8-2i] 8-2:

35 (1) "Traprock ridge" means Beacon Hill,
36 Saltonstall Mountain, Totoket Mountain, Pistapaug
37 Mountain, Fowler Mountain, Beseck Mountain, Higby
38 Mountain, Chauncey Peak, Lamentation Mountain,
39 Cathole Mountain, South Mountain, East Peak, West
40 Peak, Short Mountain, Ragged Mountain, Bradley
41 Mountain, Pinnacle Rock, Rattlesnake Mountain,
42 Talcott Mountain, Hatchett Hill, Peak Mountain,
43 West Suffield Mountain, Cedar Mountain, East Rock,
44 Mount Sanford, Prospect Ridge, Peck Mountain, West
45 Rock, Sleeping Giant, Pond Ledge Hill, Onion
46 Mountain, The Sugarloaf, The Hedgehog, West
47 Mountains, The Knolls, Barndoor Hills, Stony Hill,
48 Manitook Mountain, Rattlesnake Hill, Durkee Hill,
49 East Hill, Rag Land, Bear Hill, Orenaug Hills;

50 (2) ["Traprock ridgeline"] "RIDGELINE" means
51 the line on a traprock OR AMPHIBOLITE ridge
52 created by all points at the top of a fifty per
53 cent slope, which is maintained for a distance of
54 fifty horizontal feet perpendicular to the slope
55 and which consists of surficial basalt geology,
56 identified on the map prepared by Stone et al.,
57 United States Geological Survey, entitled
58 "Surficial Materials Map of Connecticut";

59 (3) "Ridgeline setback area" means the area
60 bounded by (A) a line that parallels the ridgeline
61 at a distance of one hundred fifty feet on the
62 more wooded side of the ridge, and (B) the contour
63 line where a ridge of less than fifty per cent is
64 maintained for fifty feet or more on the rockier
65 side of the slope, mapped pursuant to section 8-2;

66 (4) "Development" means the construction,
67 reconstruction, alteration, or expansion of a
68 building; and

69 (5) "Building" means any structure other than
70 (A) a facility as defined in section 16-50i or (B)
71 structures of a relatively slender nature compared
72 to the buildings to which they are associated,
73 including but not limited to chimneys, flagpoles,
74 antennas, utility poles and steeples.

75 Sec. 3. Subsection (c) of section 8-2 of the
76 general statutes is repealed and the following is
77 substituted in lieu thereof:

78 (c) In any municipality where a traprock
79 ridge, as defined in section 8-1aa, OR ANY
80 AMPHIBOLITE RIDGE DESIGNATED BY A MUNICIPALITY, is
81 located the regulations may provide for
82 development restrictions in ridgeline setback
83 areas, as defined in said section. The regulations
84 may restrict quarrying and clear cutting, except
85 that the following operations and uses shall be
86 permitted in ridgeline setback areas, as of right:
87 (1) Emergency work necessary to protect life and
88 property; (2) any nonconforming uses that were in
89 existence and that were approved on or before the
90 effective date of regulations adopted under this
91 section; and (3) selective timbering, grazing of
92 domesticated animals and passive recreation.

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5528

STATE IMPACT	Minimal Cost, Within Budgetary Resources, see explanation below
MUNICIPAL IMPACT	Potential Minimal Cost, see explanation below
STATE AGENCY(S)	Department of Environmental Protection

EXPLANATION OF ESTIMATES:

STATE IMPACT: It is anticipated that due to both the consultation with the Rivers Advisory Committee and the lack of time constraints, the Department of Environmental Protection can prepare a model river protection ordinance within budgetary resources. However, to prepare the ordinance in a year, it is anticipated that the diversion of 1/4 man year would be required or an additional \$15,000.

MUNICIPAL IMPACT: To the degree that municipalities choose to regulate development near ridgelines, they could incur additional costs. Since this legislation is discretionary, it is anticipated that any potential cost would be within a municipality's resources.

House "A" and "C" are technical and have no fiscal impact. House "B" adds agricultural uses to the topics that can be incorporated into the model river protection ordinance, potentially minimally increasing the workload associated with the preparation of the ordinance.

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OLR BILL ANALYSIS

sHB 5528 (as amended by House "A," "B," and "C")*

AN ACT CONCERNING A MODEL RIVER PROTECTION ORDINANCE AND PROTECTION OF RIDGELINES

SUMMARY: This bill requires the Department of Environmental Protection (DEP) commissioner to prepare a model river protection ordinance, which towns may adopt, in consultation with the Rivers Advisory Committee.

By law, towns with one of 44 named traprock ridges can regulate development near their crests in setback areas. The bill allows towns to designate amphibolite ridges and regulate their development. It defines an amphibolite ridge in the same manner as current law defines a traprock ridge as a 50-foot or longer segment of a crest where the surface is composed of basalt as identified on a U.S. Geological Survey map and where the crest has a 50% or steeper slope. Amphibolite is a metamorphic rock consisting essentially of amphibole which is a group of rock-forming minerals such as magnesium-iron silicates with traces of other elements.

*House Amendment "A" specifies that towns may adopt either a river protection ordinance or regulations.

*House Amendment "B" adds water-dependent agricultural uses to the items the state's model ordinance may address.

*House Amendment "C" deletes the bill's provision that allowed towns to designate any traprock ridge for regulation and instead allows towns to designate amphibolite ridges.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION**Model River Ordinance**

Towns may use the model river ordinance when adopting river protection ordinances or regulations. The model ordinance may include recommendations:

1. for modifying a town's plan of development and zoning, subdivision, site plan, and wetlands regulations to implement a river protection ordinance;
2. concerning tourism, navigation, utility and transportation rights-of-way, and water-dependent recreational, industrial, agricultural, and commercial uses;
3. setting specific setback requirements from the river and new lot and building dimensions;
4. restricting the cutting of vegetation and earth-moving for mining or other purposes;
5. regulating paving and other impervious ground covers; and
6. prohibiting other activities.

The model ordinance may also include recommendations for incentives for property owners to protect land within the river corridor and to develop the land in a compatible manner with resource protection. These may include tax credits for donating open space easements or land development rights to appropriate parties and incentives for cluster development.

BACKGROUND

River Advisory Committee

The law requires the DEP commissioner to establish a River Protection Advisory Committee if he establishes a river management program. The committee must consist of state department heads and members of groups affected by river development.

Legislative History

On April 8 the House referred the bill (File 276) to the Planning and Development Committee which reported it unchanged on April 14.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute
Yea 23 Nay 0

Planning and Development Committee

Joint Favorable Report
Yea 15 Nay 0