



August 4, 2021

Andrew Gottlieb  
Executive Director

The Honorable John Cronin, Senate Chair  
The Honorable Lori Ehrlich, House Chair  
Joint Committee on Municipalities and Regional Government  
State House  
Boston, MA 02133

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**RE: Support for An Act Relative to the Preservation of Wetlands and Water Resources in Chapter 40B Applications (H.2198)**

Bob Ciolek  
Treasurer

Dear Chair Cronin and Chair Ehrlich:

Jack Looney  
Clerk

The Association to Preserve Cape Cod (APCC) writes in support of An Act Relative to the Preservation of Wetlands and Water Resources in Chapter 40B Applications (H.2198) and respectfully urges the Joint Committee on Municipalities and Regional Government to report this bill out with a favorable recommendation.

John Cumbler

Margo Fenn

Joshua Goldberg

Founded in 1968, APCC is the Cape Cod region’s leading nonprofit environmental advocacy and education organization, working for the adoption of laws, policies and programs that protect and enhance Cape Cod’s natural resources and quality of life.

DeeDee Holt

Thomas Huettner

Pat Hughes

Ensuring the highest levels of protection for a municipality’s groundwater, surface waters and wetlands is vital to preserving and protecting the public’s interest, whether it be with respect to safeguarding the quality of the natural environment, protecting public health, or even establishing appropriate policies that protect environmental justice communities.

Steven Koppel

Elyse Magnotto-Cleary

H.2198 preserves the public’s fundamental right to protect its water resources by providing a municipality with the ability to prevent harm to water resources from development activities that could adversely impact them. Specifically, H.2198 would establish that denial of Chapter 40B waivers of local bylaws or ordinances administered by municipal conservation commissions, or regulations associated with those bylaws or ordinances, are deemed to be consistent with local needs if the purpose of the bylaws, ordinances or regulations is for the protection and/or promotion of water resources, including wetlands, surface waters and groundwater.

Blue Magruder

Eliza McClennen

Stephen Mealy

Wendy Northcross

Kris Ramsay

Robert Summersgill

Taryn Wilson

Maintaining the right for a municipality to adopt and uniformly implement its own local regulatory standards for protecting that community’s water resources is critically important. This need is recognized in the provisions of the Massachusetts Wetlands Protection Act, which explicitly permit municipalities to adopt bylaws and regulations that are more

protective than the requirements within the Act. This flexibility acknowledges that there are significant regional differences across the Commonwealth in types of wetlands, geology, soils, hydrology, and associated wetland habitats and species that necessitate differing standards to reflect the needs of the public in ensuring the quality of local water resources. For example, the sandy, extremely porous soils of Cape Cod through which the region's drinking water flows may require more stringent, or different, local regulatory protections than what may be required in other areas of the state with less permeable or rocky soils, or which rely on other sources of drinking water.

The need to protect wetlands and water resources against inappropriate Chapter 40B waivers also has a direct relationship to environmental justice communities; specifically, those members of the population who utilize affordable housing developments created under Chapter 40B. Circumventing local wetlands bylaws in order to allow housing to be developed in close proximity to certain wetland resources, such as coastal salt marshes, creates a scenario for likely future flooding from sea level rise or severe coastal storms. It should not be the policy of the Commonwealth to condone locating some of our most vulnerable demographics in locations that pose a high risk of being compromised at some point in the future from potential septic system failure due to groundwater incursion, or impacted even more adversely from catastrophic flooding events. These are the same areas where a municipality, for good reason, would not permit a non-40B development to occur.

H.2198 provides the necessary language to Chapter 40B to ensure that the greater public's needs are recognized by enabling a municipality to uniformly protect its vital water resources from potentially harmful development practices. We urge the Joint Committee on Municipalities and Regional Government to move swiftly in recommending this bill be adopted into law.

Thank you for this opportunity to provide comments.

Sincerely,



Andrew Gottlieb  
Executive Director

cc: Sen. Julian Cyr  
Sen. Susan Moran  
Rep. Sarah Peake  
Rep. Timothy Whelan  
Rep. Kip Diggs  
Rep. David Vieira  
Rep. Dylan Fernandes  
Rep. Steven Xiarhos