

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Kevin G. Honan**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to land use.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kevin G. Honan	17th Suffolk

# The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand and Nine  
\_\_\_\_\_

## AN ACT RELATIVE TO LAND USE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 1A of chapter 40A of the General Laws, as so appearing, is hereby amended  
2 by inserting after the first paragraph the following 2 paragraphs:-

3           “Declaration of development intent” shall mean a written notice that describes the land on which  
4 proposed development will be located, states whether the proposed development is residential,  
5 commercial/industrial or institutional, and sets forth the total gross square footage of proposed  
6 buildings (or the number of proposed housing units, in the case of residential development).

7           “Development impact fee” shall mean a fee imposed by city zoning ordinance or town zoning by-law for  
8 the purpose of offsetting the impacts of a development, and in accordance with the provisions of section  
9 9D of this chapter.

10          SECTION 2. Section 1A of said chapter 40A, as so appearing, is hereby amended by inserting after the  
11 fourth paragraph the following paragraph:-

12          “Site plan review” shall have the meaning set forth in Section 7A of this chapter.

13

14 SECTION 3. Section 3 of said chapter 40A, as so appearing, is hereby amended in the second paragraph  
15 by inserting after the words “No zoning ordinance or by-law shall regulate or restrict the”, in line 36, as  
16 so appearing, the following word:- minimum.

17 SECTION 4. Section 3 of said chapter 40A, as so appearing, is hereby amended by inserting after the  
18 tenth paragraph the following paragraph:-

19 The text and diagrams in a zoning ordinance or by-law that address the location and extent of land uses,  
20 may also express community intentions regarding urban form and design. These expressions may  
21 differentiate neighborhoods, districts, and corridors, provide for a mixture of land uses and housing  
22 types within each, and provide specific measures for regulating relationships between buildings, and  
23 between buildings and outdoor public areas, including streets.

24 SECTION 5. Section 5 of said chapter 40A, as so appearing, is hereby amended by striking out the fifth  
25 paragraph and inserting in place thereof the following paragraph:-

26 No zoning ordinance or by-law or amendment thereto shall be adopted or changed except by a majority  
27 vote of all the members of the town council, or of the city council where there is a commission form of  
28 government or a single branch, or of each branch where there are two branches, or by a majority vote  
29 of a town meeting; except in each case if a two-thirds vote has been prescribed in an ordinance or by-  
30 law adopted by a two-thirds vote of the local legislative body.

31 SECTION 6. The second paragraph of section 6 of said chapter 40A, as so appearing, is hereby amended  
32 by adding the following 2 sentences:-

33

34 Construction or operations under a special permit or site plan approval shall conform to any  
35 subsequent amendment of the zoning ordinance or by-law or of any other local land use  
36 regulations unless the use or construction is commenced within a period of two years after the  
37 issuance of the permit and in cases involving construction, unless such construction is continued  
38 through to completion as continuously and expeditiously as is reasonable. For the purpose of the  
39 prior sentence, construction involving the redevelopment of previously disturbed land shall be  
40 deemed to have commenced upon substantial investment in site preparation and/or infrastructure  
41 construction, and construction of development intended to proceed in phases shall proceed  
42 expeditiously, but not continuously, among phases.

43 SECTION 7. Section 6 of said chapter 40A, as so appearing, is hereby amended by striking out the fifth  
44 paragraph and inserting in place thereof the following paragraphs:-

45 Subject to the transition rules set forth below, within a municipality that is not a certified plan  
46 community, if a declaration of development intent is submitted to a planning board, and written  
47 notice of such submission has been given to the city or town clerk, the development described in  
48 such declaration shall be governed by the applicable provisions of the zoning ordinance or by-  
49 law, if any, in effect at the time of such declaration, for a vesting period that ends eight years  
50 from the date of such written notice of submission; provided that: (i) the development described  
51 in such declaration shall be subject to subsequent amendment of the zoning ordinance or by-law,  
52 if the first notice thereof was posted prior to such written notice of submission, and (ii) the  
53 development described in such declaration shall be subject to subsequent amendment of the  
54 zoning ordinance or by-law, unless a definitive plan, or a preliminary plan followed within seven  
55 months by a definitive plan, is submitted to a planning board for approval under the subdivision  
56 control law prior to such amendment, and, if such definitive plan or an amendment thereof is

57 thereafter finally approved. The length of such vesting period shall be extended by a period  
58 equal to the time which a city or town imposes or has imposed upon it by a state, a federal  
59 agency or a court, a moratorium on construction, the issuance of permits or utility connections.  
60 The provisions of this paragraph shall not apply to development substantially different in use or  
61 substantially greater in extent from the development described in the declaration of development  
62 intent.

63 The provisions of the foregoing paragraph are subject to the following transition rules:

64 (A) If a definitive plan, or a preliminary plan followed within seven months by a definitive plan,  
65 is submitted to a planning board for approval under the subdivision control law and written  
66 notice of such submission has been given to the city or town clerk on or before December 1,  
67 2008 and before the effective date of the zoning ordinance or by-law, the land shown on such  
68 plan shall be governed by the applicable provisions of the zoning ordinance or by-law, if any, in  
69 effect at the time of the first such submission while such plan or plans are being processed under  
70 the subdivision control law, and, if such definitive plan or an amendment thereof is finally  
71 approved, for eight years from the date of the endorsement of such approval. Such period shall  
72 be extended by a period equal to the time which a city or town imposes or has imposed upon it  
73 by a state, a federal agency or a court, a moratorium on construction, the issuance of permits or  
74 utility connections.

75 (B) If a definitive plan, or preliminary plan followed within seven months by a definitive plan, is  
76 submitted to a planning board for approval under the subdivision control law after December 1, 2008  
77 and on or before the date six months after the effective date of this act, then: (i) a declaration of  
78 development intent must be submitted to a planning board, and written notice of such submission be  
79 given to the city or town clerk, on or before the date six months after the effective date in order to

80 obtain the benefit of the foregoing paragraph; (ii) the vesting period ends eight years from the date of  
81 the submission of the plan first submitted; (iii) the development described in such declaration shall not  
82 be subject to subsequent amendment of the zoning ordinance or by-law for the duration of the vesting  
83 period, so long as such definitive plan or an amendment thereof is thereafter finally approved; and (iv)  
84 the benefits of the foregoing paragraph may be obtained whether or not the declaration of  
85 development intent is consistent with the contents of the plans submitted for approval.

86 (C) If the municipality thereafter becomes a certified plan community, the vesting periods otherwise  
87 provided in the foregoing paragraph and in clause (B) above shall not be eight years, but shall instead be  
88 the latest of: (a) three years; or (b) to the extent the land shown on the plan has been previously been  
89 disturbed, and if there has been substantial investment in site preparation and/or infrastructure  
90 construction within such three years, five years; or (c) until the municipality's effective date, as that  
91 term is defined in Section [2] of Chapter 41, if and only if the latest of such dates is less than eight years.  
92 Whatever the length of such vesting period, it shall be extended by a period equal to the time which a  
93 city or town imposes or has imposed upon it by a state, a federal agency or a court, a moratorium on  
94 construction, the issuance of permits or utility connections.

95 Within a municipality that is a certified plan community, if a declaration of development intent is  
96 submitted to a planning board on or after the municipality's effective date, and written notice of such  
97 submission has been given to the city or town clerk, the development described in such declaration shall  
98 be governed by the applicable provisions of the zoning ordinance or by-law and all other local land use  
99 regulations, if any, in effect at the time of such written notice of submission, for a vesting period that  
100 ends either: (a) three years from the date of such written notice of submission, or (b) to the extent the  
101 land shown on the plan has been previously been disturbed, and if there has been substantial  
102 investment in site preparation and/or infrastructure construction within such three years, five years

103 from the date of such written notice of submission; provided that (i) the development described in such  
104 declaration shall be subject to subsequent amendment of the zoning ordinance or by-law or of any other  
105 local land use regulations, if the first notice thereof was posted prior to the date of such written notice  
106 of submission, and (ii) the development described in such declaration shall be subject to subsequent  
107 amendment of the zoning ordinance or by-law or of any other local land use regulations, unless a  
108 definitive plan, or a preliminary plan followed within seven months by a definitive plan, is submitted to a  
109 planning board for approval under the subdivision control law prior to such amendment, and, if such  
110 definitive plan or an amendment thereof is thereafter finally approved. Whatever the length of such  
111 vesting period, it shall be extended by a period equal to the time which a city or town imposes or has  
112 imposed upon it by a state, a federal agency or a court, a moratorium on construction, the issuance of  
113 permits or utility connections. The provisions of this paragraph shall not apply to development  
114 substantially different in use or substantially greater in extent from the development described in the  
115 declaration of development intent.

116 SECTION 8. Said chapter 40A is hereby amended by inserting after section 7 the following section:-

117 Section 7A. Site Plan Review

118 (a) As used in this section, "site plan review" shall mean review and approval under a municipality's  
119 zoning ordinance or by-law, by an authority other than the zoning administrator, of a proposed use of  
120 land or structures that does not require a special permit or a variance, whether to determine whether a  
121 proposed use of land or structures is in compliance with the ordinance or by-law, to evaluate the  
122 proposed use of land or structures, to consider site design alternatives or otherwise.

123 (b) In addition to the home rule authority of cities and towns to require site plan review, a  
124 municipality may adopt a local ordinance or by-law under this section requiring site plan review and  
125 approval by a designated authority before authorization is granted for the use of land or structures

126 governed by a zoning ordinance or by-law. The approving authority may adopt, and from time to time  
127 amend, rules and regulations to implement the local site plan review ordinance or by-law, including  
128 provisions for the imposition of reasonable fees for the employment of outside consultants in the same  
129 manner as set forth in section 53G of chapter 44.

130 (c) An ordinance or by-law requiring site plan review, whether adopted under this section or under the  
131 municipality's home rule authority, shall comply with the provisions of this and all following subsections  
132 of Section 7A. The ordinance or by-law shall establish the submission, review, and approval process for  
133 applications, which may include the requirement of a public hearing held pursuant to the provisions in  
134 section eleven of this chapter. Approval of a site plan shall require a simple majority vote of the  
135 designated authority and shall be made within the time limits prescribed by ordinance or by-law, not to  
136 exceed 90 days from the date of filing of the application. If no decision is issued within the time limit  
137 prescribed, the site plan shall be deemed constructively approved as provided in section 9, paragraph 11  
138 of this chapter. The submission and review process for a site plan submitted in connection with an  
139 application for a special permit or variance shall be conducted with the review of such application in a  
140 coordinated process.

141 (d) Site plan review may include only those conditions that are necessary: (i) to ensure substantial  
142 compliance of the proposed use of land or structures with the requirements of the zoning ordinance or  
143 by-law; or (ii) to mitigate any extraordinary adverse impacts of the project on adjacent properties or  
144 public infrastructure. Site plan approval may not require the payment or performance of any off-site  
145 mitigation, except that site plan approval may be subject to development impact fees imposed in  
146 accordance with the provisions of Section 9D of this chapter. A site plan application may be denied only  
147 on the grounds that: (i) the proposed use of land or structures project does not meet the conditions and  
148 requirements set forth in the zoning ordinance or by-law; (ii) the applicant failed to submit information  
149 and fees required by the zoning ordinance or by-law and necessary for an adequate and timely review of



150 the design of the proposed land or structures; or (iii) it is not possible to adequately mitigate  
151 extraordinary adverse project impacts on adjacent properties or public infrastructure by means of  
152 suitable site design conditions.

153 (e) Zoning ordinances or by-laws shall provide that a site plan approval granted under this section shall  
154 lapse within a specified period of time, not less than two years from the date of the filing of such approval  
155 with the city or town clerk, if substantial use or construction has not yet begun, except as extended for  
156 good cause by the approving authority. Such extension shall not include time required to pursue or await  
157 the determination of an appeal under subsection (f) or Section 17. The aforesaid minimum period of two  
158 years may, by ordinance or by-law, be increased to a longer period.

159 (f) Except where site plan review is required in connection with the issuance of a special permit or  
160 variance, decisions made under site plan review, whether made pursuant to statutory or home rule  
161 authority, may be appealed by a civil action in the nature of certiorari pursuant to Chapter 249, Section  
162 4 of the General Laws, and not otherwise. Such civil action may be brought in the superior court or in  
163 the land court and shall be commenced within twenty days after the filing of decision of the site plan  
164 review approving authority with the city or town clerk. All issues in any proceeding under this section  
165 shall have precedence over all other civil actions and proceedings. A complaint by a plaintiff challenging  
166 a site plan approval under this section shall allege the specific reasons why the project fails to satisfy the  
167 requirements of this section or the zoning ordinance or by-law or other applicable law and allege  
168 specific facts establishing how the plaintiff is aggrieved by such decision. The approving authority's  
169 decision in such a case shall be affirmed unless the court concludes the approving authority abused its  
170 discretion under subsection (d) in approving the project.

171 (g) In municipalities that adopted a zoning ordinance or by-law requiring some form of site plan  
172 review prior to the effective date of this act, the provisions of this Section 7A shall not be effective with  
173 respect to such zoning ordinance or by-law until the date one year after the effective date of this act.

174 SECTION 9. Section 9 of said chapter 40A, as so appearing, is hereby amended by striking out the fourth  
175 paragraph and inserting in place thereof the following paragraph:-

176 Zoning ordinances or by-laws may authorize the transfer of development rights of land within a city or  
177 town, or within two or more cities and towns that have adopted complementary ordinances or by-laws.  
178 Such authorization may be by special permit or by other methods, including, but not limited to, the  
179 applicable provisions of sections 81K to 81GG, inclusive, of chapter 41, and in accordance with a  
180 planning board's rules and regulations governing subdivision control. Zoning ordinances or by-laws may  
181 include incentives such as increases in density of population, intensity of use, amount of floor space or  
182 percentage of lot coverage, that encourage the transfer of development rights in a manner that protect  
183 open space, preserve farmland, promote housing for persons of low and moderate income or further  
184 other community interests.

185 SECTION 10. Section 9 of said chapter 40A, as so appearing, is hereby amended by striking out the  
186 seventh paragraph and inserting in place thereof the following paragraph:-

187 "Cluster development" means residential development in which reduced dimensional requirements  
188 allow the developed areas to be concentrated in order to preserve open land elsewhere on the plot.  
189 Zoning ordinances or by-laws may authorize cluster development for development proceeding as-of-  
190 right or otherwise. Unless such open land is subject to a conservation restriction or agricultural  
191 preservation restriction, such open land shall be required to either be conveyed to the city or town and  
192 accepted by it for park or open space use, or be conveyed to a non-profit organization the principal  
193 purpose of which is the conservation of open space, agricultural land, historic resources, or watersheds,

194 or to be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential  
195 units within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with  
196 conveyances of the lots or residential units. In any case where such land is not conveyed to the city or  
197 town or a non-profit organization as described above, a restriction shall be recorded providing that such  
198 land shall be preserved accordingly and not be built for residential use or developed for accessory uses  
199 such as parking or roadway.

200 SECTION 11. Section 9 of said chapter 40A, as so appearing, is hereby amended by striking out the  
201 fourteenth paragraph and inserting in place thereof the following paragraph:-

202 Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse  
203 within a specified period of time, not less than two years from the date of the filing of such approval with  
204 the city or town clerk, or construction has not yet begun by such date, except as extended for good  
205 cause by the permit granting authority. Such extension shall not include such time required to pursue or  
206 await the determination of an appeal referred to in section seventeen. The aforesaid minimum period of  
207 two years may, by ordinance or by-law, be increased to a longer period.

208 SECTION 12. Said chapter 40A of the General Laws is hereby amended by inserting after section 9C the  
209 following section:-

210 Section 9D. Development Impact Fee

211 (a) Authority

212 (1) In addition to its home rule authority to impose a development impact fee, a city or town may  
213 adopt a local ordinance or by-law under this section that requires the payment of a development impact  
214 fee as a condition of any permit or approval otherwise required for any proposed development within  
215 the scope of this section, and having development impacts as defined in the ordinance or by-law. The

216 development impact fee may be imposed only on construction, enlargement, expansion, substantial  
217 rehabilitation, or change of use of a development. The development impact fee shall be used solely for  
218 the purposes of defraying the costs of capital infrastructure facilities to be provided or paid for by the  
219 city or town and which are caused by and necessary to support or compensate for the proposed  
220 development. Such capital infrastructure facilities may include the costs related to the provision of  
221 equipment, facilities, or studies associated with the following: water supply; sewers; storm water  
222 management and treatment; pollution abatement; solid waste processing and disposal; traffic  
223 mitigation; roadways, transit, bicycle and pedestrian facilities, and other public transportation facilities;  
224 and affordable housing; costs related to facilities such as schools, public safety facilities, and municipal  
225 offices shall be excluded.

226 (2) Nothing in this section shall prohibit a city or town from imposing other fees or requirements for  
227 mitigation of development impacts which it may otherwise impose under state or local law and that are  
228 consistent with the constitution and laws of the Commonwealth; except that the imposition of a  
229 development impact fee as provided in this Section 9D shall be the exclusive means by which a  
230 municipality may require the payment or performance of off-site mitigation for development impacts of  
231 the proposed use of land or structures permitted or allowed as of right under its zoning ordinance.

232 (b) Limitations

233 (1) No development impact fee under this section shall be imposed upon any dwelling unit,  
234 regardless of how created or permitted, which is subject to a restriction on sale price or rent under the  
235 provisions of G.L. c. 184 as amended ensuring that the unit will remain affordable for a period of at least  
236 30 years to households at or below the area median income as most recently defined by the United  
237 States Department of Housing and Urban Development or successor agency, or any other dwelling unit  
238 permitted under G.L. c. 40B.

239 (2) The fee shall not be expended for personnel costs, normal operation and maintenance costs, or to  
240 remedy deficiencies in existing facilities, except where such deficiencies are exacerbated by the new  
241 development, in which case the fee may be assessed only in proportion to the deficiency so  
242 exacerbated.

243 (c) Requirements

244 (1) Prior to the imposition of development impact fees under this section, a city or town shall  
245 complete a study that: (i) analyzes existing capital improvement plans, or the facilities element of a plan  
246 adopted under section 81D of chapter 41, or the infrastructure improvements element of a community  
247 land use plan adopted under Section [4] of Chapter 41; (ii) estimates future development based on the  
248 then current zoning ordinance or by-law; (iii) assesses the impacts related to such development; (iv)  
249 determines the need for capital infrastructure facilities required to address the impacts of the  
250 estimated development including excess facility capacity, if any, currently planned to accommodate  
251 future development; (v) develops cost projections for the needed capital infrastructure facilities and  
252 documents costs of existing facilities with planned excess capacity; and (vi) establishes the amount of  
253 any development impact fee authorized under this section in accordance with a methodology  
254 determined pursuant to the study. The study shall be updated periodically to reflect actual  
255 development activity, actual costs of infrastructure improvements completed or underway, plan  
256 changes, or amendments to the zoning ordinance or by-law.

257 (2) A development impact fee shall have a rational nexus to, and shall be roughly proportionate to,  
258 the impacts created by the development as determined by the study described in (c)(1) above  
259 evaluating said impacts, and it shall be applied to affected development projects in a consistent manner.

260

261 (3) The purposes for which the fee is expended shall reasonably benefit the proposed development.

262 (4) The fee may not be assessed more than once for the same impact, nor may the fee be assessed  
263 for impacts, or portions thereof, offset by other dedicated means, including state or federal grants or  
264 contributions or other mitigation commitments made by the applicant undertaking the development.

265 (d) Administration

266 (1) The ordinance or by-law may provide for a waiver or reduction of the development impact fee for  
267 any development that furthers an overriding public purpose as set forth in a plan adopted by the city or  
268 town under section 81D of chapter 41.

269 (2) If the proposed development is located in more than one municipality, the impact fee shall be  
270 apportioned among the municipalities in accordance with the land area or other equitable measure of  
271 the impacts of the proposed development in each city or town.

272 (3) Any development impact fee assessed under this section shall be deposited to a separate, interest  
273 bearing account in the city or town in which the proposed development is located. Unless subject to  
274 section (d)(4) below, no development impact fee shall be paid to the general treasury or used as general  
275 revenues of the city or town subject to the provisions of section 53 of chapter 44 of the General Laws.

276

277 (4) Any funds not expended or encumbered by the end of the calendar quarter immediately following  
278 5 years from the date the development impact fee was paid shall, upon request of the applicant or its  
279 assigns, be returned with interest provided that an application for a refund prescribed in the ordinance  
280 or by-law has been submitted within one 180 calendar days prior to the expiration of the 5 year period.  
281 If no application for refund is received by the city or town within said period, any funds not expended or  
282 encumbered by the end of the calendar quarter shall then revert to and become part of the general

283 fund under section 53 of chapter 44. In the event of any disagreement relative to who shall receive the  
284 refund, the city or town may retain said development impact fee pending instructions given in writing by  
285 the parties involved or by a court of competent jurisdiction.

286

287 SECTION 13. Section 81L of chapter 41 of the General Laws, as so appearing, is hereby amended by  
288 inserting after the second paragraph the following paragraph:-

289

290 “Certified plan community” shall have the meaning set forth in Section [2] of Chapter 41.

291

292 SECTION 14. Section 81L of said chapter 41, as so appearing, is hereby amended by inserting after the  
293 fourth paragraph the following paragraph:-

294

295 “Minor subdivision review ” shall mean an alternative method of approval under the subdivision control  
296 law, applicable to any proposed division of a tract of land into four or fewer lots, under which: (a) no  
297 preliminary plan is required; (b) approval is granted by a simple majority of the planning board; (c)  
298 decisions are made within 60 days, or else deemed constructively approved, as defined in Section [2] of  
299 Chapter 41; (c) approval shall be based solely on the compliance of the lots shown with reasonable rules  
300 and regulations regarding the adequacy of access, utilities and stormwater drainage controls and on the  
301 compliance of the lots shown with the zoning ordinance or by-law; and (d) such rules and regulations  
302 may include a requirement that two or more of the lots have shared access to an existing public way,  
303 but may not impose design or construction requirements on such shared access other than those  
304 minimally necessary to provide for public safety. Lots approved under minor subdivision review may not

305 be re-subdivided so as to create additional lots under minor subdivision review for a period of ten years  
306 after initial approval.

307

308 SECTION 15. Section 81L of said chapter 41, as so appearing, is hereby amended by striking out the  
309 twelfth paragraph and inserting in place thereof the following paragraph:-

310 “Subdivision” shall mean the division of a tract of land into two or more lots and shall include  
311 resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or  
312 the land or territory subdivided; provided, however, unless a municipality is a certified plan  
313 community and has in effect minor subdivision review procedures, that the division of a tract of  
314 land into two or more lots shall not be deemed to constitute a subdivision within the meaning of  
315 the subdivision control law if, at the time when it is made, every lot within the tract so divided  
316 has frontage on (a) a public way or a way which the clerk of the city or town certifies is  
317 maintained and used as a public way, or (b) a way shown on a plan theretofore approved and  
318 endorsed in accordance with the subdivision control law, or (c) a way in existence when the  
319 subdivision control law became effective in the city or town in which the land lies, having, in the  
320 opinion of the planning board, sufficient width, suitable grades and adequate construction to  
321 provide for the needs of vehicular traffic in relation to the proposed use of the land abutting  
322 thereon or served thereby, and for the installation of municipal services to serve such land and  
323 the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as  
324 is then required by zoning or other ordinance or by-law, if any, of said city or town for erection  
325 of a building on such lot, and if no distance is so required, such frontage shall be of at least  
326 twenty feet. If a municipality is a certified plan community and has in effect minor subdivision



327 review procedures, then any division of a tract of land into two or more lots, including  
328 resubdivision, shall be deemed to constitute a subdivision within the meaning of the subdivision  
329 control law, except as provided in the following sentence. Conveyances or other instruments  
330 adding to, taking away from, or changing the size and shape of, lots in such a manner as not to  
331 leave any lot so affected without the frontage above set forth, or the division of a tract of land on  
332 which two or more buildings were standing when the subdivision control law went into effect in  
333 the city or town in which the land lies into separate lots on each of which one of such buildings  
334 remains standing, shall not constitute a subdivision. Within a certified plan community that has  
335 adopted minor subdivision review procedures as of the municipality's effective date, a tract of  
336 land that was divided into two or more lots pursuant to Chapter 41, Section 81P of the General  
337 Laws prior to the municipality's effective date, but after December 1, 2008, shall be deemed a  
338 subdivision within the meaning of the subdivision control law with respect to the lots so created  
339 for which a building permit has not been issued by the municipality prior to the municipality's  
340 effective date.

341 SECTION 16. Chapter 41 of the General Laws is hereby amended by striking out section 81Q, as so  
342 appearing, and inserting in place thereof the following section:-

343  
344 Section 81Q. After a public hearing, notice of the time and place of which, and of the subject matter,  
345 sufficient for identification, shall be published in a newspaper of general circulation in the city or town  
346 once in each of two successive weeks, the first publication to be not less than fourteen days before the  
347 day of the hearing or if there is no such newspaper in such city or town then by posting such notice in a  
348 conspicuous place in the city or town hall for a period of not less than fourteen days before the day of

349 such hearing, a planning board shall adopt, and, in the same manner, may, from time to time, amend,  
350 reasonable rules and regulations relative to subdivision control not inconsistent with the subdivision  
351 control law or with any other provisions of a statute or of any valid ordinance or by-law of the city or  
352 town. Such rules and regulations may prescribe the size, form, contents, style and number of copies of  
353 plans and the procedure for the submission and approval thereof, and shall be such as to enable the  
354 person submitting the plan to comply with the requirements of the register of deeds for the recording of  
355 the same, and to assure the board of a copy for its files; and shall set forth the requirements of the  
356 board with respect to the location, construction, width and grades of the proposed ways shown on a  
357 plan and the installation of municipal services therein, which requirements shall be established in such  
358 manner as to carry out the purposes of the subdivision control law as set forth in section eighty-one M.  
359 Such rules and regulations shall not require referral of a subdivision plan to any other board or person  
360 prior to its submission to the planning board. In establishing such requirements regarding ways, due  
361 regard shall be paid to the prospective character of different subdivisions, whether open residence,  
362 dense residence, business or industrial, and the prospective amount of travel upon the various ways  
363 therein, and to adjustment of the requirements accordingly; provided, however, that in no case shall a  
364 city or town establish rules or regulations regarding the laying out, construction, alteration, or  
365 maintenance of ways within a particular subdivision which exceed the standards and criteria commonly  
366 applied by that city or town to the laying out, construction, alteration, or maintenance of its publicly  
367 financed ways located in similarly zoned districts within such city or town. Without limiting the  
368 foregoing, there shall be a rebuttable presumption that such requirements are unlawfully excessive, to  
369 the extent that the requirements for subdivisions within zoning districts having a minimum lot size of  
370 40,000 square feet exceed the standards and criteria previously applied by that city or town to the  
371 laying out, construction, alteration, or maintenance of ways within previously approved subdivisions  
372 within zoning districts having a minimum lot size of 20,000 square feet or less. Such rules and

373 regulations may set forth a requirement that a turnaround be provided at the end of the approved  
374 portion of a way which does not connect with another way. Any easement in any turnaround shown on  
375 a plan approved under the subdivision control law which arises after January first, nineteen hundred and  
376 sixty, other than an easement appurtenant to a lot abutting the turnaround, shall terminate upon the  
377 approval and recording of a plan showing extension of said way, except in such portion of said  
378 turnaround as is included in said extension, and the recording of a certificate by the planning board of  
379 the construction of such extension. Such rules and regulations may set forth a requirement that  
380 underground distribution systems be provided for any and all utility services, including electrical and  
381 telephone services, as may be specified in such rules and regulations, and may set forth a requirement  
382 that poles and any associated overhead structures, of a design approved by the planning board, be  
383 provided for use for police and fire alarm boxes and any similar municipal equipment and for use for  
384 street lighting. The rules and regulations may encourage the use of solar energy systems and protect to  
385 the extent feasible the access to direct sunlight of solar energy systems. Such rules and regulations may  
386 include standards for the orientation of new streets, lots and buildings; building set back requirements  
387 from property lines; limitations on the type, height and placement, of vegetation; and restrictive  
388 covenants protecting solar access not inconsistent with existing local ordinances or by-laws. Except in so  
389 far as it may require compliance with the requirements of existing ordinances or by-laws, no rule or  
390 regulation shall relate to the size, shape, width, frontage or use of lots within a subdivision, or to the  
391 buildings which may be constructed thereon, or other subject matters addressed thereby, or shall be  
392 inconsistent with the regulations and requirements of any other municipal board acting within its  
393 jurisdiction. No rule or regulation shall require, and no planning board shall impose, as a condition for  
394 the approval of a plan of a subdivision, that any of the land within said subdivision be dedicated to the  
395 public use, or conveyed or released to the commonwealth or to the county, city or town in which the  
396 subdivision is located, for use as a public way, public park or playground, or for any other public

397 purpose, without just compensation to the owner thereof. The rules and regulations may, however,  
398 provide that not more than one building designed or available for use for dwelling purposes shall be  
399 erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the city or  
400 town, without the consent of the planning board, and that such consent may be conditional upon the  
401 providing of adequate ways furnishing access to each site for such building, in the same manner as  
402 otherwise required for lots within a subdivision. No rule or regulation shall require, and no planning  
403 board shall impose, as a condition for the approval of a plan of a subdivision, the payment or  
404 performance of off-site mitigation, except for the imposition of a development impact fee under  
405 Chapter 40A, Section 9D. A true copy of the rules and regulations, with their most recent amendments,  
406 shall be kept on file available for inspection in the office of the planning board of the city or town by  
407 which they were adopted, and in the office of the clerk of such city or town. A copy certified by such  
408 clerk of any such rules and regulations, or any amendment thereof, adopted after the first day of  
409 January, nineteen hundred and fifty-four shall be transmitted forthwith by such planning board to the  
410 register of deeds and recorder of the land court. Once a definitive plan has been submitted to a planning  
411 board, and written notice has been given to the city or town clerk pursuant to section eighty-one T and  
412 until final action has been taken thereon by the planning board or the time for such action prescribed by  
413 section eighty-one U has elapsed, the rules and regulations governing such plan shall be those in effect  
414 relative to subdivision control at the time of the submission of such plan. When a preliminary plan  
415 referred to in section eighty-one S has been submitted to a planning board, and written notice of the  
416 submission of such plan has been given to the city or town clerk, such preliminary plan and the definitive  
417 plan evolved therefrom shall be governed by the rules and regulations relative to subdivision control in  
418 effect at the time of the submission of the preliminary plan, provided that the definitive plan is duly  
419 submitted within seven months from the date on which the preliminary plan was submitted.

420

421 SECTION 17. Said chapter 41 is hereby amended by striking out the first paragraph of section 81BB, as  
422 so appearing, and inserting in place thereof the following paragraph:-

423

424 Section 81BB. Any person, whether or not previously a party to the proceedings, or any municipal officer  
425 or board, aggrieved by a decision of a board of appeals under section eighty-one Y, or by any decision of  
426 a planning board concerning a plan of a subdivision of land, or by the failure of such a board to take final  
427 action concerning such a plan within the required time, may appeal to the superior court for the county  
428 in which said land is situated or to the land court; provided, that such appeal is entered within twenty  
429 days after such decision has been recorded in the office of the city or town clerk or within twenty days  
430 after the expiration of the required time as aforesaid, as the case may be, and notice of such appeal is  
431 given to such city or town clerk so as to be received within such twenty days. A complaint by a plaintiff  
432 challenging a subdivision approval under this section shall allege the specific reasons why the  
433 subdivision fails to satisfy the requirements of the board's rules and regulations or other applicable law  
434 and allege specific facts establishing how the plaintiff is aggrieved by such decision. The board's decision  
435 in such a case shall be affirmed unless the court concludes the board abused its discretion in approving  
436 the subdivision.

437

438 SECTION 18. The General Laws are hereby amended by inserting after Chapter 40S the following  
439 chapter: -- CHAPTER 40T LAND USE PARTNERSHIP ACT

440 Section 1. Preamble; statement of the Commonwealth's land use objectives

441

442 The sections herein this chapter shall be known and may be cited as the “Land Use Partnership Act”.

443 The purposes of the act shall be to advance the following land use objectives:

- 444 a) Support the revitalization of city and town centers and neighborhoods by promoting  
445 development that is compact, conserves land and integrates uses;
- 446 b) Support the construction and rehabilitation of homes near jobs, infrastructure and  
447 transportation options to meet the needs of people of all abilities, income levels, and household  
448 types;
- 449 c) Attract businesses and jobs to locations near housing, infrastructure, and transportation  
450 options;
- 451 d) Protect environmentally sensitive lands, natural resources, agricultural lands, critical habitats,  
452 wetlands and water resources, and cultural and historic landscapes;
- 453 e) Construct and promote developments, buildings, and infrastructure that conserve natural  
454 resources by reducing waste and pollution through efficient use of land, energy and water;
- 455 f) Support transportation options that maximize mobility, reduce congestion, conserve fuel and  
456 improve air quality;
- 457 g) Maximize energy efficiency and renewable energy opportunities to reduce greenhouse gas  
458 emissions and consumption of fossil fuels;
- 459 h) Promote equitable sharing of the benefits and burdens of development;
- 460 i) Make regulatory and permitting processes for development clear, predictable, coordinated, and  
461 timely in accordance with smart growth and environmental stewardship; and

462 j) Support the development and implementation of local and regional plans that have broad public  
463 support and are consistent with these purposes.

464

## 465 Section 2. Definitions

466 As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the  
467 following meanings:-

468

469 “As of right” shall mean that development may proceed under zoning and other local land use  
470 regulations without the need for a special permit, variance, amendment, waiver or other discretionary  
471 approval. As of right development may be subject to site plan review, as defined in Section 7A of  
472 Chapter 40A. If a municipality has issued, at the time of the municipality’s effective date, a special  
473 permit that in itself allows new housing units equal to one-half or more of the municipality’s housing  
474 target number, and if such special permit remains in effect for at least two years after the municipality’s  
475 effective date, then residential development under such special permit which otherwise qualifies  
476 hereunder shall also be deemed as of right.

477

478 “Certified plan community” shall mean a community for which a community land use plan and  
479 implementing regulations have been certified by the applicable regional planning agency, adopted by  
480 the municipality, and remain in effect.

481

482 “Constructively approved” means deemed approved by the failure of the approving agency to issue a  
483 decision or determination within the time prescribed, as it may be extended by written agreement  
484 between the applicant and the approving agency; provided that an applicant who seeks approval by  
485 reason of the failure of the approving agency to act within such time prescribed, shall so notify the city  
486 or town clerk, and parties in interest, in writing within 14 days from the expiration of the time  
487 prescribed or extended time, if applicable, of such approval.

488

489 “Economic development district” shall mean a zoning district that: (i) permits or allows commercial  
490 and/or industrial use, or permits or allows mixed use including commercial and/or industrial use, and (ii)  
491 is an eligible location.

492

493 “Eligible location” shall mean an area that by virtue of its physical and regulatory suitability for  
494 development, the adequacy of transportation and other infrastructure and the compatibility of  
495 proximate land uses is, in the determination of the regional planning agency, a suitable location for  
496 development of the type contemplated by a community land use plan. Any area that would qualify as an  
497 “eligible location” under Chapter 40R of the General Laws shall automatically qualify as an “eligible  
498 location” for a residential development district.

499

500 “Housing target number” shall mean a number equal to five percent (5%) of the total number of year-  
501 round housing units enumerated for the municipality in the latest available United States census as of  
502 the date on which the plan was submitted to the regional planning agency.

503



504 “Implementing regulations” shall mean the local zoning ordinances or by-laws, subdivision rules and  
505 regulations, and other local land use regulations, or amendments thereof, necessary to effectuate the  
506 minimum standards for consistency with the Commonwealth’s land use objectives established or  
507 required by a certified plan.

508

509 “Interagency Planning Board” shall mean a board comprised of the secretary of housing and economic  
510 development, the secretary of energy and environmental affairs, and the state permit ombudsman, or  
511 their designees, together with a representative designated by the Massachusetts Association of Regional  
512 Planning Agencies (the “regional representative”) and a representative designated by the Massachusetts  
513 Association of Planning Directors (the “municipal representative”). The state permit ombudsman shall  
514 serve as the chair of the board. The board, acting without the participation of the regional  
515 representative and the municipal representative, shall have the power to promulgate regulations to  
516 effect the purposes of this act.

517

518 “Low impact development techniques” shall mean stormwater management techniques that limit off-  
519 site stormwater runoff (both peak and non-peak flows) to levels substantially similar to natural  
520 hydrology (or, in the case of a redevelopment site, that reduce such flows from pre-existing conditions),  
521 by emphasizing decentralized management practices and the protection of on-site natural features.

522

523 “Municipality’s effective date” shall mean the date upon which a municipality has adopted certified  
524 implementing regulations pursuant to a certified community land use plan.

525

526 “Open space residential design” shall mean a process for the cluster development of land, as that term  
527 is defined in Section 9 of Chapter 40A, that in addition: (a) requires identification of the significant  
528 natural features of the land and concentrates development, by use of reduced dimensional  
529 requirements, in order to preserve those natural features; (b) preserves at least fifty percent of the  
530 land’s developable area in a natural, scenic or open condition or in agricultural, farming or forest use;  
531 and (c) permits the development of a number of new housing units at least equal to the quotient of the  
532 land’s developable area divided by the minimum lot area per housing unit required by the zoning  
533 ordinance or by-law. For the purposes of this definition, the land’s developable area shall be  
534 determined pursuant to: (i) state land use laws and regulations, and (ii) the zoning ordinance or by-law,  
535 without regard in either case to the suitability of soils or groundwater for on-site wastewater disposal.

536

537 “Other local land use regulations” shall mean all local legislative, regulatory, or other actions which are  
538 more restrictive than state requirements, if any, including subdivision and board of health rules, local  
539 wetlands ordinances or by-laws, and other local ordinances, by-laws, codes, and regulations.

540

541 “Plan” shall mean a community land use plan prepared by the planning board in accordance with  
542 Section 3.

543

544 “Planning board” shall mean a municipal planning board established or authorized pursuant to Chapter  
545 41, Section 81A of the General Laws.

546

547 “Prompt and predictable permitting” shall mean that zoning and other local land use regulations allow  
548 development to proceed as of right by means of permitting processes that are designed to result in final  
549 decisions on all local permits and approvals in less than 180 days. For commercial and industrial  
550 development, local permitting pursuant to Chapter 43D of the General Laws shall also be deemed  
551 “prompt and predictable permitting”.

552

553 “Regional planning agency” shall mean the regional or district planning commission established  
554 pursuant to Chapter 40B of the General Laws for the region within which a municipality is located. The  
555 term shall also mean the Martha’s Vineyard Commission, as described in Chapter 831 of the Acts of  
556 1977, and the Cape Cod Commission, as described in Chapter 716 of the Acts of 1989, the Franklin  
557 Council of Governments, as described in Chapter 151 of the Acts of 1996, and the Northern Middlesex  
558 Council of Governments, as described in Chapter 420 of the Acts of 1989.

559

560 “Residential development district” shall mean a zoning district that: (i) permits or allows residential use  
561 at a density of not less than four (4) units per acre of developable land for single-family residential use  
562 and not less than twelve (12) units per acre of developable land for multi-family residential use, or  
563 permits or allows mixed use including residential use at such density, (ii) is in an eligible location, and (iii)  
564 does not impose other requirements that add unreasonable costs or otherwise unreasonably impair the  
565 economic feasibility of residential development at such density. A zoning district that permits or allows  
566 mixed use may qualify as both an economic development district and a residential development district,  
567 if the standards for both districts are met. The implementing regulations for any residential  
568 development district that permits or allows mixed use shall contain adequate provisions to ensure that

569 any contemplated contribution towards the housing target number to be provided by such district will  
570 be achieved.

571

572 Section 3. Elements of community land use plan

573

574 A planning board may prepare, and from time to time amend or renew, a community land use plan for a  
575 municipality, to be submitted to the regional planning agency for certification. The plan shall address at  
576 least the following five areas: economic development, housing, open space protection, water  
577 management, and energy management.

578

579 The plan shall contain:

580 (a) an overall statement of the land use goals and objectives of the municipality for its future  
581 growth and development, including specific reference to each of the five areas;

582 (b) a description of the zoning and other land use regulation policies that will be used to implement  
583 those goals and objectives, including with respect to each of the five areas;

584 (c) an assessment of the infrastructure improvements needed to support the implementation  
585 policies and strategies identified in (b);

586 (d) an assessment of the plan's consistency with any applicable existing regional plan or planning  
587 guidance;

- 588 (e) an overall assessment of the plan’s consistency with the Commonwealth’s land use objectives  
589 set forth in Section 1;
- 590 (f) an assessment of the plan’s specific compliance with the minimum standards for consistency set  
591 forth in Section 5 below; and
- 592 (g) a description of the manner and degree of public participation and involvement in the  
593 preparation of the plan.

594

595 The plan may include materials prepared within the past five years as part of a local planning document,  
596 including a master plan prepared pursuant to Chapter 41, Section 81D of the General Laws.

597

598 The planning board shall hold at least one public hearing, with two weeks prior notice, for public review  
599 of and comment upon the plan, before the plan is submitted to the regional planning agency for  
600 certification. After the public hearing, the planning board may recommend to the chief executive officer  
601 of the municipality that the plan be submitted to the regional planning agency for certification.

602

603

604 Section 4. Regional planning agency certification and municipal adoption of plan

605

606 The chief executive officer of the municipality may, if such action is recommended by the planning  
607 board, submit the plan to the regional planning agency for certification. Within 90 days after receiving a

608 submission, the regional planning agency shall determine whether the plan is (a) complete and (b)  
609 consistent with the Commonwealth's land use objectives. A plan shall be determined to be complete if  
610 it contains all the elements required in Section 3. A plan shall be determined to be consistent with the  
611 Commonwealth's land use objectives if it satisfies the minimum standards for consistency in accordance  
612 with Section 5. If the regional planning agency determines that the plan is complete and consistent with  
613 the Commonwealth's land use objectives, then the agency shall issue a written certification to that  
614 effect. If the regional planning agency determines that it is unable to issue such a certification, then the  
615 agency shall provide the municipality with a written statement of the reasons for its determination. A  
616 municipality may re-submit for certification at any time a modified plan that addresses the issues set  
617 forth in the agency's statement of reasons. If the regional planning agency does not issue a certification  
618 or provide a statement of reasons within 90 days after receiving a plan (including a re-submitted plan),  
619 then the plan shall be deemed certified.

620

621 Following certification by the regional planning agency, the plan may be adopted by the municipality by  
622 a simple majority vote of its legislative body.

623

624 Section 5. Minimum standards for consistency of plan with the Commonwealth's land use objectives

625

626 A regional planning agency shall determine that a plan is consistent with the Commonwealth's land use  
627 objectives if the plan meets certain minimum standards in the following five areas: economic  
628 development, housing, open space protection, water management, and energy management. The  
629 minimum standards for consistency shall be set forth in regulations duly promulgated by the

630 Interagency Planning Board. Notwithstanding the foregoing, for plans submitted for certification within  
631 the first five years of the effective date of passage of this act, a determination of consistency with the  
632 Commonwealth's land use objectives shall be mandatory if the following minimum standards have been  
633 satisfied:

634

635 A. The plan establishes prompt and predictable permitting of commercial and/or industrial  
636 development within one or more economic development districts. This standard may be waived  
637 or modified upon a determination by the regional planning agency that adequate alternatives  
638 for economic development exist elsewhere in the region and are more appropriately located  
639 there.

640

641 B. The plan establishes prompt and predictable permitting of residential development within one  
642 or more residential development districts that can collectively accommodate, in the  
643 determination of the regional planning agency, a number of new housing units (excluding new  
644 housing units which are restricted, through zoning or other legal means, as to the number of  
645 bedrooms or as to the age of their residents) equal to the housing target number. For the initial  
646 certification of a plan, a municipality's housing target number shall be reduced by the number of  
647 new housing units for which building permits were issued within two years prior to the  
648 municipality's effective date, to the extent such building permits were issued within residential  
649 development districts for which there was prompt and predictable permitting at the time of  
650 building permit issuance. This standard may be waived or modified upon a determination by  
651 the regional planning agency that the lack of adequate water supply and/or wastewater  
652 infrastructure within the municipality prevents full compliance with this standard, provided that

653 the municipality may be required to instead participate in any regional housing plan established  
654 by the regional planning agency.

655

656 C. The plan requires that, for any zoning district that requires a minimum lot area of forty thousand  
657 square feet or more for single-family residential development, development of five or more new  
658 housing units utilize open space residential design, except upon a determination that open  
659 space residential design is not feasible.

660

661 D. The plan requires (through zoning ordinances or by-laws) all development that disturbs more  
662 than one acre of land, including as of right development, utilize low impact development  
663 techniques.

664

665 E. The plan establishes prompt and predictable permitting of (i) renewable or alternative energy  
666 generating facilities, (ii) renewable or alternative energy research and development facilities, or  
667 (iii) renewable or alternative energy manufacturing facilities, within one or more zoning districts  
668 that are eligible locations.

669

670 Section 6. Certification and adoption of implementing regulations

671



672 (a) Prior to or following municipal adoption of a certified plan, the municipality may prepare  
673 implementing regulations. To assist municipalities in this effort, the regulations to be promulgated by  
674 the Interagency Planning Board hereunder shall include at least one model provision for implementing  
675 regulations for open space residential design, low impact development, and clean energy  
676 generation/cogeneration facilities that would satisfy the standards hereof.

677

678 (b) The chief executive officer of the municipality may submit the implementing regulations to the  
679 regional planning agency for certification. Within 90 days of receiving a submission, the regional  
680 planning agency shall determine whether the implementing regulations are consistent with the certified  
681 plan. The implementing regulations shall be deemed consistent with the certified plan if they effectuate  
682 the minimum standards for consistency with the Commonwealth's land use objectives established or  
683 required by the certified plan. If the regional planning agency determines that the implementing  
684 regulations are consistent with the certified plan, then the agency shall issue a written certification to  
685 that effect. If the regional planning agency determines that it is unable to issue such a certification, then  
686 the agency shall provide the municipality with a written statement of the reasons for its determination.  
687 A municipality may re-submit for certification at any time modified implementing regulations that  
688 address the issues set forth in the agency's statement of reasons. If the regional planning agency does  
689 not issue a certification or provide a statement of reasons within 90 days after receiving implementing  
690 regulations (including re-submitted implementing regulations), then the implementing regulations shall  
691 be deemed certified. The municipality shall have the option of submitting its implementing regulations  
692 together with its submission of its community land use plan pursuant to Section 4, in which case the  
693 regional planning agency shall review both the plan and the implementing regulations within the same  
694 90 day period.

695

696 (c) Following certification by the regional planning agency, the implementing regulations may be  
697 adopted by the municipality by a simple majority vote of its legislative body. On the date of receipt by  
698 the regional planning agency of proof of adoption of the certified implementing regulations pursuant to  
699 a certified plan, a municipality shall be deemed a “certified plan community”. Such date shall be deemed  
700 the “municipality’s effective date”.

701

702

703 Section 7. Effect of certified plan status on zoning and land use regulation

704

705 (a) Following the municipality’s effective date, local zoning ordinances or by-laws, subdivision rules  
706 and regulations, and other local land use regulations (other than certified implementing regulations)  
707 which are determined to be inconsistent with the certified plan or the certified implementing  
708 regulations shall be deemed invalid. Such a determination may be sought and obtained through any  
709 means otherwise available by statute for the determination of the validity of such land use regulations.  
710 Any material amendment to a certified plan or certified implementing regulations that has not been  
711 prepared, certified and adopted in accordance with the provisions hereof shall be presumed to be  
712 inconsistent with the certified plan.

713

714 (b) Following the municipality’s effective date, a zoning ordinance or by-law that limits the number of  
715 new housing units within residential development districts for which building permits may be issued in

716 any twelve month period to an amount equal to or greater than one-fifth of the housing target number  
717 (but in no event less than ten new housing units) shall not be declared exclusionary or otherwise against  
718 public policy.

719

720 (c) Following the municipality's effective date, a zoning ordinance or by-law that requires a minimum  
721 lot area of two acres or more for single-family residential development upon farmland, forest land or  
722 other land of environmental resource value shall not be declared exclusionary or otherwise against  
723 public policy.

724

725 (d) If at any time more than two years after the municipality's effective date the total number of  
726 housing units for which building permits have been applied for within the residential development  
727 districts since the municipality's effective date is greater than the housing target number (adjusted pro  
728 rata for the number of years since the municipality's effective date), but the total number of housing  
729 units for which building permits have been issued within the residential development districts is less  
730 than the pro rata housing target number, then the provisions of this subsection shall be in effect. During  
731 such time period, any applications for building permits or other local land use permits for residential  
732 development within such residential development districts shall deemed constructively approved if not  
733 acted upon within 180 days after receipt of permit applications. In addition, an application received  
734 under this section shall be subject only to those conditions that are necessary to ensure substantial  
735 compliance of the proposed development project with applicable laws and regulations; and it may be  
736 denied only on the grounds that: (i) the proposed development project does not substantially comply  
737 with applicable laws and regulations, or (ii) the applicant failed to submit information and fees required  
738 by applicable laws and regulations and necessary for an adequate and timely review of the development

739 project. The foregoing provisions shall no longer be in effect once the total number of housing units for  
740 which building permits have been issued within such residential development districts equals or exceed  
741 the pro rata housing target number.

742

743 Section 8. Review of certification by regional planning agency

744

745 Any certification or determination of non-certification by a regional planning agency with respect to a  
746 plan or implementing regulations or a material amendment of either is subject to review by the  
747 Interagency Planning Board. The Interagency Planning Board may, upon the request of the subject  
748 municipality or upon its own motion, review any such decision in an informal, non-adjudicatory  
749 proceeding, may request information from any third party and may modify or reverse such decision if  
750 the same does not comply with the provisions hereof.

751

752 If a municipality provides written notice to the Interagency Planning Board of the certification by a  
753 regional planning agency of a plan or implementing regulations or a material amendment of either  
754 (including a deemed certification resulting from a regional planning agency's failure to act), then the  
755 board may only review such certification if it commences such review with 60 days of such certification.

756

757 The Interagency Planning Board may through regulation establish a procedure for reviewing and  
758 approving guidelines prepared by regional planning agencies to be used in the certification of plans,  
759 implementing regulations and material amendments. If a certification or determination of non-

760 certification under review by the Interagency Planning Board has been issued by the regional planning  
761 agency based upon an approved guideline, then the board may only modify or reverse such decision for  
762 inconsistency with the approved guideline.

763

764 Section 9. Expiration and renewal of certified plan community status; amendments.

765

766 (a) A municipality's status as a certified plan community shall expire ten years after the  
767 municipality's effective date, unless a renewal plan, together with any necessary implementing  
768 regulations, is prepared, certified, and adopted in accordance with the provisions hereof prior to such  
769 date. Each such renewal plan shall also expire in ten years.

770

771 (b) From and after a municipality's effective date, any material amendment to a certified plan or to  
772 any certified implementing regulations shall be prepared, certified and adopted in accordance with the  
773 provisions hereof. The Interagency Planning Board may by regulation define categories of amendments  
774 that shall be deemed non-material.

775

776 Section 10. Priority for Infrastructure Funding

777 The executive office of housing and economic development, the executive office of energy and  
778 environmental affairs, the executive office of transportation, and the executive office of administration  
779 and finance shall, when awarding discretionary funds for local infrastructure improvements, give priority

780 consideration to infrastructure improvements identified in the certified plans of certified plan  
781 communities.

782

783 Section 11. Consideration under State Programs

784 State agencies responsible for regulatory and/or capital spending programs that have a material effect  
785 on land use and development within certified plan communities shall take into account the land use  
786 goals, objectives and policies of such communities, as set forth in their certified community land use  
787 plans, in administering such programs.

788 SECTION 19. Item 7002-0013 in chapter 182 of the Acts of 2008, as so appearing, is hereby amended by  
789 adding the following:- “provided, that not more than \$1,000,000 shall be expended for technical  
790 assistance grants to municipalities for the preparation of plans and implementing regulations, and  
791 grants are to be administered by the Interagency Planning Board; provided further, that not more than  
792 \$500,000 shall be expended for technical assistance grants to regional planning agencies for the  
793 certification of plans and implementing regulations and the preparation of guidelines, and such grants  
794 are to be administered by the Interagency Planning Board; and provided further, priority for the  
795 municipal grants administered by the Interagency Planning Board shall be given to those municipalities  
796 identified by the applicable regional planning agencies as being most likely to prepare and adopt  
797 certified plans and implementing regulations, if provided with financial assistance”

798