

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

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Bradley H. Jones, Jr.**

*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 affordable housing.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Viriato Manuel deMacedo	1st Plymouth
Bradley H. Jones, Jr.	20th Middlesex
George N. Peterson, Jr.	9th Worcester
Elizabeth Poirier	14th Bristol

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1263 OF 2007-2008.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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**AN ACT RELATIVE TO AFFORDABLE HOUSING.**

*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 15 of chapter 19 of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by adding to the end thereof the following subsection:-- (k) to  
3 collect and maintain information on the number of group home units in each community and  
4 report such information, including the location of such group home units, to the department of  
5 housing and community development on an annual basis. Such location shall be held by the  
6 department of housing and community development subject to chapter 66A.

7

8 SECTION 2. Subsection (b) of section 15 of chapter 19B of the General Laws, as most recently  
9 amended by chapter 215 of the acts of 2008, is hereby amended by adding to the end thereof  
10 the following sentence:-- The department of mental retardation shall report the number of  
11 group home units in each city or town on an annual basis to the department of housing and

12 community development. The department of mental retardation shall also report the location  
13 of such group homes to the department of housing and community development.

14

15 SECTION 3. Section 3 of chapter 23B of the General Laws, as appearing in the 2006 Official  
16 Edition, is hereby amended, in line 135, after the word "period." by inserting following  
17 paragraph:— (w) count the number of low or moderate income housing units, as defined by  
18 chapter 40B and the accompanying department of housing and community development  
19 regulations, in each city or town in the commonwealth on a biennial basis.

20

21 SECTION 4. Section 20 of chapter 40B of the General Laws, as so appearing, is hereby amended  
22 by striking out section 20, in its entirety, and inserting in place thereof the following sections:--

23

24 Section 20. The following words, wherever used in this section and in sections 20A to  
25 23, inclusive, shall, unless a different meaning clearly appears from the context, have the  
26 following meanings:

27

28 "Affordable Housing Threshold", each city or town shall have a minimum affordable housing  
29 threshold such that at least 10 percent of year round housing units meet the requirements for  
30 inclusion on the subsidized housing inventory in a manner consistent with sections 20 through

31 23 of this chapter.

32

33 “Committee”, the housing appeals committee.

34

35 “Consistent with local needs”, shall have the meaning set forth in section 20A.

36

37 “Department”, the department of housing and community development.

38

39 “Family”, two or more persons who live or will live regularly in a unit as their primary residence  
40 whose income and resources are available to meet the family’s needs and who are either  
41 related by blood, marriage, operation of law or who have otherwise evidenced an inter-  
42 dependent relationship.

43

44 “Group Home Units”, community housing units or beds serving clients of the department of  
45 mental retardation or the department of mental health which are located in a non-institutional  
46 setting. Each such unit shall serve 1 client.

47

48 “Local Board”, any town or city board of survey, board of health, planning board, conservation  
49 commission, building inspector or the officer or board having supervision of the construction of  
50 buildings or the power of enforcing municipal building laws, or city council or board of

51 selectmen or other boards exercising power specified locally.

52

53 “Local Program”, a housing program established and administered by a city or town which has  
54 been authorized and approved by the department.

55

56 “Low or moderate-income households”, individuals or families living in a housing unit with  
57 combined incomes not higher than 80 percent of the median income for the metropolitan  
58 statistical area, primary metropolitan statistical area, or the county in which the housing unit is  
59 located, whichever is lower, as determined by the United States department of housing and  
60 urban development or, in the absence of such a determination, by the department.

61

62 “Low or moderate-income housing”, any year round housing subsidized by the federal or state  
63 government under any program, to produce housing which serves low or moderate-income  
64 households as defined in this chapter.

65

66 “Subsidy”, the provision of direct financial assistance; indirect financial assistance including  
67 insurance, guarantees, or other means; in kind assistance; technical assistance; or of other  
68 supportive services through a federal, state or local housing program to assist the construction  
69 of low or moderate-income housing.

70

71 “Subsidizing Agency”, any agency or entity of state, federal or local government which  
72 subsidizes the construction or substantial rehabilitation of low or moderate-income housing  
73 and any housing authority acting pursuant to section 26(m) of chapter 121B.

74

75 “Uneconomic”, any condition brought about by any single factor or combination of factors to  
76 the extent that such condition makes it impossible for a public agency or nonprofit organization  
77 to proceed in building or operating low or moderate income housing without financial loss, or  
78 for a limited dividend organization to proceed and still realize a reasonable return in building or  
79 operating such housing within the limitations set by the subsidizing agency on the size or  
80 character of the development or on the amount or nature of the subsidy or on the tenants,  
81 rentals and income permissible, and without substantially changing the rent levels and units  
82 sizes proposed by the public, nonprofit or limited dividend organizations.

83

84 Section 20A. Decisions and requirements by the zoning board of appeals shall be  
85 considered consistent with local needs if they are reasonably in view of the regional need for  
86 low or moderate income housing considered with the number of low and moderate income  
87 persons in the city or town affected and the need to protect the health or safety of the  
88 occupants of the proposed housing or of the residents of the city or town, to promote better  
89 site and building design in relation to the surroundings, or to preserve open spaces, and such  
90 decisions and requirements are applied as equally as possible to both subsidized and  
91 unsubsidized housing. Decisions and requirements shall also be deemed consistent with local

92 needs when imposed by a board of zoning appeals after a comprehensive hearing in a city or  
93 town where

94

95 (1) Low or moderate-income housing exists which is at least ten percent of the housing units  
96 reported in the most recent federal decennial census of the city or town;

97

98 (2) The development is large scale for the city or town in which it is proposed. A proposed  
99 development shall be large scale if (A) in a city or town which has a total number of 7,500 or  
100 more housing units as enumerated in the most recent federal decennial census, the application  
101 for a comprehensive permit involves construction of more than 300 housing units or a number  
102 of housing units equal to or greater than 2 percent of all housing units in the city or town,  
103 whichever number is greater; or (B) in a city or town which has between 5,000 and 7,500  
104 housing units exclusive, as so enumerated, the application for a comprehensive permit involves  
105 construction of more than 250 housing units; or (C) in a city or town which has between 2,500  
106 and 5,000 housing units inclusive, as so enumerated, the application for a comprehensive  
107 permit involves construction of more than 200 housing units; or (D) in a city or town which has  
108 less than 2,500 housing units, as so enumerated, the application for a comprehensive permit  
109 involves construction of more than 150 housing units.

110

111 (3) The city or town has made recent progress toward attaining its affordable housing  
112 threshold. Recent progress toward its affordable housing threshold shall mean that the number  
113 of housing units that have been created during the 12 months prior to the date of the  
114 comprehensive permit application and that are eligible to be included on the subsidized  
115 housing inventory equal to or greater than two percent of the city or town's total housing units  
116 as enumerated in the most recent federal decennial census; or

117

118 (4) 12 months has not elapsed between the date of application for a comprehensive permit and  
119 the date of the most recent pendency of a prior application for a variance, special permit,  
120 subdivision or other approval related to construction on the same land if that prior application  
121 included no provision for low or moderate income housing; provided that any such application  
122 shall not be considered a prior application if it concerns only insubstantial changes to an  
123 existing use;

124

125 (5) the city or town has adopted an affordable housing plan approved by the department  
126 pursuant to which there is an increase in its number of low or moderate-income housing units  
127 eligible for inclusion on the subsidized housing inventory by at least one-half of one percent of  
128 total units every calendar year until housing needs are met pursuant to this chapter, subject to  
129 paragraphs (a) and (b) below.

130

131 (a) The affordable housing plan shall be based upon a comprehensive housing needs  
132 assessment, which shall include an analysis of the most recent federal decennial census  
133 data of the city or town's demographics and housing stock, development constraints as  
134 well as of the city or town's ability to mitigate them, and the city or town's  
135 infrastructure.

136

137 (b) The affordable housing plan shall address the matters set out in guidelines adopted  
138 by the department, including:

139 (i) a mix of housing, such as rental and homeownership opportunities for  
140 families, individuals, persons with disabilities or special needs, and the elderly  
141 that are consistent with local needs and feasible within the housing market in  
142 which they will be situated;

143 (ii) the strategy by which the city or town will achieve its housing goals based  
144 upon its comprehensive needs assessment;

145 (iii) the characteristics of projects the city or town prefers that are consistent  
146 with the guidelines established by the department for smart growth and  
147 development including, but not limited to, redevelopment and adaptive reuse,  
148 cluster housing, higher-density housing, transit or pedestrian-oriented  
149 development which provides access to jobs and services, resource efficient  
150 buildings, and development in locations with existing infrastructure;

151 (iv) a description of the use restrictions which shall be imposed on low- or  
152 moderate-income housing units to ensure that each unit will remain affordable  
153 to and occupied by low or moderate-income households;

154 (v) the identification of zoning districts or geographic areas which permit  
155 residential uses which the city or town proposes to modify or has created for the  
156 purposes of low or moderate-income housing developments;

157 (vi) the identification of specific sites or characteristics of sites for which the city  
158 or town will encourage the filing of comprehensive permit applications pursuant  
159 to section 21 of this chapter; and

160 (vii) city or town owned parcels, if any, for which the city or town commits to  
161 issue requests for proposals to develop low or moderate-income housing.

162

163 (c) Upon submission to the department, the plan shall also be submitted to the regional  
164 planning district established pursuant to this chapter or the cape cod commission  
165 established pursuant to section 18 of chapter 716 of the laws of 1989 as amended, or  
166 the Martha's Vineyard commission established pursuant to chapter 831 of the laws of  
167 1977, within such district or commission area such project is located or any other  
168 regional planning district hereafter established by the general court, which shall have 30  
169 days to comment to the department on the implications of the plan for housing need,  
170 growth and development concerns, and other relevant matters. Within 90 days after its  
171 submission to the department by a city or town's chief executive officer, the

172 department shall approve the plan if it meets the requirements specified herein,  
173 otherwise, it shall disapprove the plan. The department shall notify the city or town of  
174 its decision to either approve or disapprove a plan in writing. If the department  
175 disapproves a plan, the notification shall include a statement of reasons for the  
176 disapproval. A city or town that originally submitted a plan that had been disapproved  
177 may submit a new or revised plan to the department at any time. A city or town may  
178 amend its plan from time to time if the department approves the amendment. If the  
179 department fails to mail notice of approval or disapproval of a plan or plan amendment  
180 within 90 days after its receipt, the plan or plan amendment shall be deemed to be  
181 approved.

182

183 (d) The department shall certify annually whether a city or town is in compliance with an  
184 approved plan. The department shall determine whether a city or town is in compliance  
185 within 30 days of receipt of a city or town's request for such a certification. A city or  
186 town shall be in compliance if it has reached the benchmarks established in its approved  
187 plan and has made all changes necessary to accommodate future planned development.  
188 If the department determines the city or town is in compliance with its plan, the  
189 certification shall be retroactive to the date the certification was requested. Provided  
190 further, if a city or town fails to achieve the goals established in the approved plan and  
191 as documented on the subsidized housing inventory the city or town shall not be in  
192 compliance with its plan and shall submit a new plan for certification by the

193 department.

194

195 (e) An approved plan shall take effect for the purpose of the definition of consistent  
196 with local needs in this section only when the department certifies that the city or town  
197 has approved permits resulting in an initial annual increase in its low-or moderate-  
198 income housing units of at least one-half of one percent of total housing units in  
199 accordance with its plan. It is the responsibility of the city or town to request such  
200 certification from the department. Once the department has made such a certification  
201 of initial compliance and subsequent annual certifications of compliance:

202 (i) The board may, at its discretion, deny or approve with conditions any  
203 comprehensive permit applications for the period of one year from any  
204 certification, and such denial or approval with conditions shall be deemed  
205 consistent with local needs; or

206 (ii) The board may, at its discretion, deny or approve with conditions any  
207 comprehensive permit applications for the period of two years from any  
208 certification, if, in the year it was certified, the city or town has increased its low  
209 or moderate-income housing stock by at least 1 percent of total housing units in  
210 a manner consistent with the plan; or

211 (iii) The board may, at its discretion, deny, or approve with conditions any  
212 comprehensive permit applications for the period of three years from any  
213 certification, if, in the year it was certified, the city or town has increased its low

214 or moderate-income housing stock by at least one and one-half percent of total  
215 housing units in a manner consistent with the plan.

216  
217 (6) the board has approved three or more comprehensive permits, at least three of which  
218 contain 20 or more housing units each within 12 months preceding the filing of an application  
219 for a comprehensive permit and those permits have become final.

220  
221 Section 20B. Comprehensive permit requirements shall include the following provisions:

222  
223 (1) To submit an application for a comprehensive permit or to file or maintain an appeal before  
224 the committee, the applicant and the project shall fulfill the following jurisdictional  
225 requirements; provided however, notwithstanding the requirements outlined in paragraphs (a)  
226 through (d), inclusive, the inclusion of commercial, recreational or other land uses which are in  
227 conjunction with the housing development shall not preclude eligibility.

228  
229 (a) The applicant shall be a public agency, a non-profit organization, or a limited  
230 dividend organization. An applicant shall satisfy the limited dividend organization  
231 requirement if the comprehensive permit contains a condition that the owner of the  
232 project shall execute a regulatory agreement with a subsidizing agency which limits the  
233 owner's return on building or operating the project to the amounts set by the

234 subsidizing agency or program. Such regulatory agreement shall be recorded or filed  
235 prior to the beginning of construction of the land records with the registry of deeds or  
236 land court in the registry district or district office of the land court in which the project is  
237 located.

238

239 (b) The project shall be fundable by a subsidizing agency under a low and moderate-  
240 income housing subsidy program.

241

242 (c) The applicant shall control the site.

243

244 (d) The proposed development shall contain no less than 25 percent of its total housing  
245 units as units affordable to low or moderate income households, or in the alternative a  
246 proposed development may contain no less than 20 percent of its total housing units as  
247 affordable to households whose income does not exceed 50 percent of the area median  
248 income.

249

250 (2) Fundability shall be established by submission of a written determination of project  
251 eligibility by a subsidizing agency as follows:

252 (a) a determination of project eligibility shall include:

253 (i) the name and address of the applicant;

- 254 (ii) the address of the site and site description;
- 255 (iii) the number and type (homeownership or rental) of housing units  
256 proposed;
- 257 (iv) the name of the housing program or programs under which project  
258 eligibility is sought; and
- 259 (v) relevant details of the particular project if not mandated by the housing  
260 program, including the percentage of units for low or moderate income  
261 households, income eligibility standards, the duration of use restrictions  
262 requiring occupancy by low or moderate income households, and the  
263 limited dividend status of the developer;

264 (b) a determination of project eligibility shall make the following findings:

- 265 (i) that the proposed project appears generally eligible under the requirements  
266 of the housing program or programs, subject to final review of eligibility and to  
267 final approval;
- 268 (ii) that the subsidizing agency has performed an on-site inspection of the site  
269 and has reviewed pertinent information submitted by the applicant;
- 270 (iii) that the proposed housing design and density are generally appropriate for  
271 the site on which it is located, taking into account surrounding land uses,  
272 proximity to transportation, services and public utilities, and design to minimize  
273 land use impacts;
- 274 (iv) that the proposed project appears financially feasible within the housing  
275 market in which it will be situated, based on comparable rentals or sales figures;

276 (v) that an initial pro forma has been reviewed and the project appears  
277 financially feasible on the basis of estimated development costs; and  
278 (vi) that the developer of the proposed project meets the general eligibility  
279 standards of the housing program or programs.

280

281 (c) In addition to the foregoing, a subsidizing agency shall consider the following in  
282 making a determination of project eligibility: overall density and size; environmental  
283 impact, including watersheds and existing land uses; consistency with principles of  
284 smart growth; impact on historical resources; the impact of other pending applications  
285 for housing development; and other local concerns of the city or town where the project  
286 is located.

287

288 (d) Within 10 days of filing of its application for a determination of project eligibility with  
289 a subsidizing agency for preliminary approval of a project, the applicant shall serve  
290 written notice upon the director of the department.

291

292 (e) Within 10 days of filing the application for a determination of project eligibility the  
293 applicant shall provide written notice and a copy of such application to the chief  
294 executive officer of the involved city or town and to the members of the general court  
295 representing such city or town. The applicant shall also provide written notice of the  
296 application to the planning board, board of health, conservation commission, water and

297 sewer district, fire and police. Within 30 days after such notice, the chief executive  
298 officer or designee of the chief executive officer may schedule and hold a meeting at a  
299 location within the involved city or town. The meeting shall be chaired by the city or  
300 town's chief executive officer or designee and shall be attended by the applicant or its  
301 representative. Representatives from local boards are encouraged to attend the  
302 meeting and provide written comment. The purpose of the meeting is to allow the  
303 applicant and the city or town representatives to informally discuss the preliminary  
304 proposal so that the parties involved can develop an understanding of the proposal and  
305 to respond to concerns raised in an effort to achieve an outcome that meets the needs  
306 of the involved city or town as well as the applicant. In addition, a representative from a  
307 public or quasi-public housing agency, or a regional planning agency within the regional  
308 planning district or its designee knowledgeable with respect to chapter 40B may provide  
309 technical assistance on topics including, but not limited to, site design and density, open  
310 space, marketing, use restrictions, allowable costs and profit limitations. Following the  
311 close of the meeting, the chief executive officer of the city or town, local boards, and  
312 the regional planning district may issue written comments within 14 days to the  
313 subsidizing agency.

314

315 (f) Within 10 days of receipt of a written determination of project eligibility from the  
316 subsidizing agency, the applicant shall serve a copy of that determination upon the  
317 director of the department.

318

319 (g) An applicant which has obtained a determination of project eligibility shall be  
320 presumed to be eligible to submit an application for comprehensive permit or to file or  
321 maintain an appeal before the committee. Nothing set forth in this section shall be  
322 deemed to confer upon any city or town, or any of its boards, committees, commissions  
323 or officials, or upon any other person the right to appeal or judicial review in any form  
324 the determination of project eligibility by the subsidizing agency, it being intended that  
325 the rights of appeal conferred by sections 21 and 22 of this chapter shall be the  
326 exclusive remedy for any party aggrieved by the issuance or denial of any  
327 comprehensive permit hereunder.

328

329 (h) If project funding is provided through a non-governmental entity, a public or quasi-  
330 public entity authorized by the department shall make the determination of project  
331 eligibility. The designated entity that issued the project eligibility determination shall  
332 administer the project thereafter as specified in program guidelines issued by the  
333 department.

334

335 (3) A showing that the applicant, or any entity 50 percent or more of which is owned by the  
336 applicant, owns a 50 percent or greater interest, legal or equitable, in the proposed site, or  
337 holds any option or contract to purchase the proposed site, shall be considered by the board or  
338 the housing appeals committee to be conclusive evidence of the applicant's interest in the site.

339

340 (4) No determination of project eligibility shall be issued for a project sooner than 45 days after  
341 the filing of its application with the subsidizing agency for preliminary approval of the project. A  
342 determination of project eligibility shall be for a particular financing program or programs. An  
343 applicant may proceed under alternative financing programs if the application to the board or  
344 appeal to the committee so indicates and if full information concerning the project under the  
345 alternative financing arrangements is provided.

346

347 (5) Failure of the applicant to fulfill any of the requirements in this section may be raised by the  
348 housing appeals committee, the board, or a party at any time, and shall be cause for dismissal  
349 of the application or appeal. No application or appeal shall be dismissed, however, unless the  
350 applicant has had at least 60 days to remedy the failure.

351

352 (6) In order to appeal to the committee, an applicant shall have applied to the board for a  
353 comprehensive permit in accordance with section 21 of this chapter and shall have been denied  
354 such permit or shall have been granted such permit with conditions which it alleges make the  
355 building or operation of such housing uneconomic.

356

357 (7) A city or town may record progress towards its affordable housing threshold as documented  
358 in the subsidized housing inventory in the following manner:

359

360 (a) If at least 25 percent of housing units within a development are restricted to serve  
361 low or moderate-income households, 100 percent of housing units within the  
362 development shall be eligible to be included toward the city or town's affordable  
363 housing threshold. If fewer than 25 percent of housing units within a development are  
364 restricted to serve low or moderate-income households, only those units which serve  
365 low or moderate-income households shall be eligible to be included toward the city or  
366 town's affordable housing threshold; or

367

368 (b) if at least 20 percent of housing units within a development are restricted to serve  
369 households with household income at or below 50 percent of area median income, 100  
370 percent of housing units within the development shall be eligible to be included toward  
371 the city or town's affordable housing threshold. If fewer than 25 percent of housing  
372 units within a development are restricted to serve low or moderate-income households,  
373 only such restricted units shall be eligible to be included toward the city or town's  
374 affordable housing threshold.

375

376 (8) A city or town may record progress towards its homeownership threshold as documented in  
377 the subsidized housing inventory in the following manner:

378

379 (a) if at least 25 percent of housing units within a development are restricted to serve  
380 low or moderate-income households, 2 times the actual number of such restricted units,  
381 not to exceed the total number of homeownership units authorized by the permit, shall  
382 be eligible to be included toward the city or town's affordable housing threshold; or

383

384 (b) if at least 20 percent of housing units within a development serve households  
385 earning at or below 50 percent of area median income, 2 times the actual number of  
386 units serving such households, not to exceed the total number of homeownership units  
387 authorized by the permit shall be included toward the city or town's affordable housing  
388 threshold. If fewer than 25 percent of housing units within a development are restricted  
389 to serve low or moderate-income households, only such units which are restricted to  
390 serve low or moderate-income households shall be eligible to be included toward the  
391 city or town's affordable housing threshold;

392

393 (9) Community preservation act housing units shall mean any community housing, as defined in  
394 chapter 44B which is restricted to occupancy by persons of low or moderate income  
395 households; provided further, that such housing payment exclusive of utilities shall not exceed  
396 30 percent of monthly income of a household at or below 80 percent of area median income,  
397 adjusted for household size, shall be eligible to be included toward the city or town's affordable  
398 housing threshold.

399

400 (10) Accessory apartment units shall mean any accessory apartment which is approved  
401 pursuant to a city or town's ordinance or bylaw and is occupied by persons of low or moderate  
402 income, shall be eligible to be included toward the city or town's affordable housing threshold;  
403 provided further, that such rental payment exclusive of utilities shall not exceed 30 percent of  
404 monthly income of a household earning at or below 80 percent of area median income,  
405 adjusted for household size. Each such accessory apartment unit shall be subject to a use  
406 restriction, which may be revocable upon the sale of the principal residence. Each city or town  
407 shall certify annually the number of such accessory apartments within its borders.

408

409 (11) Group home units shall mean all group home units in each city or town as reported  
410 annually by the department of mental health and the department of mental retardation to the  
411 department shall be eligible to be included toward the city or town's affordable housing  
412 threshold.

413

414 (12) Local housing units shall mean housing units created under a local program or subsidy or  
415 which qualify as local initiative units pursuant to regulations promulgated by the department  
416 and restricted to serve low or moderate income households as defined in this chapter shall be  
417 eligible to be included toward the city or town's affordable housing threshold as documented  
418 on the subsidized housing inventory.

419

420 (13) Urban center housing tax increment financing units shall mean low or moderate income  
421 housing created pursuant to section 60 of chapter 40; provided further, that such housing  
422 payment exclusive of utilities shall not exceed 30 percent of monthly household income of a  
423 household earning at or below 80 percent of area median income shall be eligible to be  
424 included toward the city or town's affordable housing threshold.

425

426 (14) In instances where housing units were developed to serve low or moderate income  
427 households and the use restriction has expired as a result of refinancing or operation of law or  
428 otherwise, the department shall have the discretion to count such units pursuant to guidelines  
429 promulgated by the department toward a city or town's affordable housing threshold as  
430 recorded in the subsidized housing inventory.

431

432 (15) One hundred percent of year round units of manufactured housing, as defined by section  
433 32Q of chapter 140, shall be eligible to be included toward a city's or town's affordable housing  
434 threshold.

435

436 (16) Any accessory apartment which is approved pursuant to a city or town's ordinance or by  
437 law which is occupied by a family member pursuant to department of housing and community  
438 development regulations shall be eligible to be included toward the city or town's affordable  
439 housing threshold. Each in-law apartment unit shall be subject to a use restriction, which may

440 be revocable upon sale of the principal residence. Each city or town shall certify annually the  
441 number of such accessory apartments within its borders.

442

443 (17) The department shall maintain an inventory of low or moderate income housing units.  
444 Such inventory shall be published biennially; provided that such inventory shall be updated for  
445 a specific city or town upon request by such city or town. Housing units authorized by a  
446 comprehensive permit or special permit shall be eligible to be included toward a city or town's  
447 affordable housing threshold as recorded on the subsidized housing inventory when the  
448 comprehensive permit or special permit becomes final; provided that housing units for which  
449 building permits have not been issued within 1 year of the date when the comprehensive  
450 permit or special permit became final shall no longer be eligible to be counted toward the city  
451 or town's affordable housing threshold until the building permits have been issued. The  
452 department may for good cause waive such time requirement. Low or moderate income  
453 housing units not authorized pursuant to a comprehensive permit or special permit shall be  
454 eligible to be counted toward the city or town's affordable housing threshold when a building  
455 or occupancy permit is issued.

456

457 Section 20C. The Massachusetts housing partnership fund board, as established by  
458 section 35 of chapter 405 of the acts of 1985, or its designee, shall make technical assistance  
459 available to local zoning boards of appeal to assist in their review of applications for  
460 comprehensive permits. No subsidizing agency shall issue a determination of project eligibility

461 or site approval unless a fee to defray the costs of such technical assistance program has been  
462 collected from the applicant and remitted to the Massachusetts housing partnership fund  
463 board in accordance with a fee schedule adopted by the department.

464

465 Section 20D. The department shall promulgate regulations and establish programs,  
466 policies, guidelines and necessary fee schedules to implement sections 20 to 23, inclusive, of  
467 this chapter. The department shall make available planning and housing development  
468 information and technical assistance to assist cities and towns in reaching their affordable  
469 housing threshold as defined in this chapter.

470

471 Section 20E. A city or town, pursuant to sections 20 through 23 inclusive of chapter  
472 40B, with a pending comprehensive permit for an application of development of housing, that  
473 shares a contiguous border to an adjacent city or town may propose to enter into an agreement  
474 with such city or town to share infrastructure and service costs associated with such  
475 development. Pursuant to such agreement, if such infrastructure and service costs are shared  
476 by a city or town, both cities and towns may share in counting such units towards their  
477 affordable housing threshold pursuant to sections 20 through 23 inclusive of chapter 40B;  
478 provided further, that no such unit shall be counted more than once. Any such proposed  
479 agreement shall be subject to approval by the department of housing and community  
480 development, which shall set forth guidelines for such agreements. Provided further, such cities  
481 and towns may provide for a joint application to each city or town for a comprehensive permit

482 application and provide for a joint hearing process for consideration of such joint application by  
483 such local zoning boards.

484

485 SECTION 5. Section 23 of said chapter 40B, as so appearing, is hereby amended, in line 8, by  
486 inserting after the word “needs.” the following sentence:— “The committee shall receive  
487 evidence of and shall consider the following matters: (1) a city or town’s master plan,  
488 comprehensive plan or community development plan, and (2) the results of the city or town’s  
489 efforts to implement such plans.”

490

491 SECTION 6. Notwithstanding any general or special law to the contrary, the department of  
492 housing and community development in consultation with the commonwealth development  
493 coordinating council shall create a pilot program under which 3 housing regions may be  
494 established to address regional housing needs of cities and towns within a region. Such cities or  
495 towns in a region may agree to meet affordable housing thresholds established under sections  
496 20 through 23 inclusive of chapter 40B in one region. The department and the commonwealth  
497 development coordinating council shall establish criteria for such housing region to include but  
498 not be limited to the following:

499

500 (1) only contiguous communities that have not exceeded 10 percent toward their  
501 affordable housing thresholds on the subsidized housing inventory maintained by the

502 department pursuant to sections 20 through 23 inclusive of chapter 40B shall be eligible  
503 to participate in such region;

504

505 (2) contiguous communities shall enter into an inter-municipal agreement and develop a  
506 joint housing plan for the region consistent with development goals established by the  
507 department. Such plan shall:

508

509 (a) address how the communities will share the infrastructure or service costs  
510 and benefits of low- and moderate-income housing development, and how  
511 credit for such affordable housing development will be reflected on the  
512 subsidized housing inventory for each city or town within the region.

513

514 (b) address how contiguous cities or towns will achieve their housing goals. The  
515 total housing goals in the region shall be at a minimum, the sum of the goals  
516 established by section 20 of chapter 40B of each city or town participating in the  
517 plan.

518

519 The authority granted by this section shall cease on June 30, 2007, and the department shall  
520 report the results of said pilot program to the joint committee on housing and the clerks of the  
521 house of representatives and senate.

522

523 SECTION 7. Notwithstanding any general or special law to the contrary, no application for a  
524 comprehensive permit filed pursuant to sections 20 through 23 of chapter 40B before the  
525 effective date of this act shall be denied as a result of changes to the General Laws pursuant to  
526 this act.

527