

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 Community Planning.

PETITION OF:

NAME:

James B. Eldridge

DISTRICT/ADDRESS:

Middlesex and Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO AFFORDABLE HOUSING COMMUNITY PLANNING.

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
2 Official Edition, is hereby amended by adding the following paragraph:-

3 (k) to collect and maintain information on the number of group home units in each community
4 and report such information, including the location of such group home units, to the department
5 of 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 SECTION 2. Paragraph (b) of section 15 of chapter 19B of the General Laws, as so appearing, is
8 hereby amended by adding the following sentence:—

9 The department of mental retardation shall report the number of group home units in each city or
10 town on an annual basis to the department of housing and community development. The
11 department of mental retardation shall also report the location of such group homes to the

12 department of housing and community development. Such location shall be held by the
13 department of housing and community development subject to chapter 66A.

14 SECTION 3. Section 3 of chapter 23B of the General Laws, as so appearing, is hereby amended
15 by adding the following clause:-

16 (w) count the number of low or moderate income housing units, as defined by chapter 40B and
17 the accompanying department of housing and community development regulations, in each city
18 or town in the commonwealth on a biennial basis.

19 SECTION 4. Section 20 of chapter 40B of the General Laws is hereby amended by striking out
20 section 20, as amended by section 181 of chapter 26 of the acts of 2003, and inserting in place
21 thereof the following section:—

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

25 “Affordable housing threshold”, each city or town shall have a minimum affordable housing
26 threshold such that at least 10 percent of year round housing units, as enumerated in the most
27 recent federal decennial census, meet the requirements for inclusion on the subsidized housing
28 inventory or on sites comprising 1 and one-half per cent or more of total land area zoned for
29 residential, commercial or industrial use in a manner consistent with sections 20 to 23, inclusive.

30 “Committee”, the housing appeals committee.

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

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

33 “Family”, 2 or more persons who live or will live regularly in a unit as their primary residence

34 whose income and resources are available to meet the family's needs and who are either related
35 by blood, marriage, operation of law or who have otherwise evidenced an inter-dependent
36 relationship.

37 "Group home units", community housing units or beds serving clients of the department of
38 mental retardation or the department of mental health which are located in a non-institutional
39 setting. Each such community housing unit or bed shall serve 1 client.

40 "Local board", any town or city board of survey, board of health, planning board, conservation
41 commission, building inspector or the officer or board having supervision of the construction of
42 buildings or the power of enforcing municipal building laws, or city council or board of
43 selectmen or other boards exercising power specified locally.

44 "Local program", a housing program established and administered by a city, town or county
45 which has been authorized and approved by the department.

46 "Low or moderate-income households", individuals or families living in a housing unit with
47 combined incomes no higher than 80 percent of the median income for the county in which the
48 housing unit is located or an area as defined by the United States Office of Management and
49 Budget, whichever is lower, as determined by the United States department of housing and urban
50 development or, in the absence of such a determination, by the department.

51 "Low or moderate-income housing", any year round housing subsidized by the federal or state
52 government under any program, or subsidized by a local government under a local program
53 authorized and approved by the department, to produce housing which serves low or moderate-
54 income households as defined in this chapter.

55 "Subsidy", the provision of: direct financial assistance; indirect financial assistance including
56 insurance, guarantees, or other means; in kind assistance; technical assistance; or of other

57 supportive services through a federal, state or local housing program to assist the construction of
58 low or moderate-income housing.

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

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

70 SECTION 5. Said chapter 40B is hereby further amended by inserting after section 20 the
71 following four sections:—

72 Section 20A. Decisions and requirements by the planning board shall be considered consistent
73 with local needs if they are reasonable in view of the regional need for low or moderate income
74 housing considered with the number of low and moderate income persons in the city or town
75 affected and the need to protect the health or safety of the occupants of the proposed housing or
76 of the residents of the city or town, to promote better site and building design in relation to the
77 surroundings, or to preserve open spaces and the quality of drinking water supply and water
78 resources; and if such decisions and requirements are applied as equally as possible to both
79 subsidized and unsubsidized housing. Decisions and requirements shall also be deemed

80 consistent with local needs when imposed by a planning board after comprehensive hearing in a
81 city or town where:

82 (1) low or moderate-income housing exists which is at least 10 per cent of the year round
83 housing units reported in the most recent federal decennial census of the city or town; or on sites
84 comprising one and one-half per cent or more of total land area zoned for residential, commercial
85 or industrial use; (2) the development is large scale for the city or town in which it is proposed. A
86 proposed development shall be large scale if: (a) in a city or town which has a total number of
87 7,500 or more year round housing units as enumerated in the most recent federal decennial
88 census, the application for a comprehensive permit involves construction of more than 300
89 housing units or a number of housing units equal to or greater than 2 per cent of all housing units
90 in the city or town, whichever number is greater; or (b) in a city or town which has between
91 5,000 and 7,500 year round housing units exclusive, as so enumerated, the application for a
92 comprehensive permit involves construction of more than 250 housing units; or
93 (c) in a city or town which has between 2,500 and 5,000 year round housing units inclusive, as so
94 enumerated, the application for a comprehensive permit involves construction of more than 200
95 housing units; or (d) in a city or town which has less than 2,500 year round housing units, as so
96 enumerated, the application for a comprehensive permit involves construction of more than 150
97 housing units; or (3) the city or town has made recent progress toward attaining its affordable
98 housing threshold. Recent progress toward its affordable housing threshold shall mean that the
99 number of housing units that have been created during the 12 months prior to the date of the
100 comprehensive permit application and that are eligible to be included on the subsidized housing
101 inventory equal to or greater than 2 per cent of the city or town's total year round housing units
102 as enumerated in the most recent federal decennial census; or (4) 12 months has not elapsed

103 between the date of application for a comprehensive permit and the date of the most recent
104 pendency of a prior application for a variance, special permit, subdivision or other approval
105 related to construction on the same land if that prior application included no provision for low or
106 moderate income housing, provided that any such application shall not be considered a prior
107 application if it concerns only insubstantial changes to an existing use; (5) the city or town has
108 adopted an affordable housing plan approved by the department pursuant to which there is an
109 increase in its number of low or moderate-income housing units eligible for inclusion on the
110 subsidized housing inventory by at least one-half of 1 per cent of total year round housing units
111 every calendar year until housing needs are met pursuant to this chapter, subject to paragraphs
112 (a) and (b).

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

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

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

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

124 (iii) the characteristics of projects the city or town prefers that are consistent with the guidelines
125 established by the department for smart growth and development including, but not limited to,

126 redevelopment and adaptive reuse, cluster housing, higher-density housing, transit or pedestrian-
127 oriented development which provides access to jobs and services, resource efficient buildings,
128 and development in locations with existing infrastructure;

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

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

135 (vi) the identification of specific sites or characteristics of sites for which the city or town will
136 encourage the filing of comprehensive permit applications pursuant to section 21; and

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

139 (c) Upon submission to the department, the plan shall also be submitted to the regional planning
140 district established pursuant to this chapter or the Cape Cod commission, established pursuant to
141 section 18 of chapter 716 of the Acts of 1989, or the Martha's Vineyard commission, established
142 pursuant to chapter 831 of the Acts of 1977, within such district or commission area such project
143 is located or any other regional planning district hereafter established by the general court, which
144 shall have 30 days to comment to the department on the implications of the plan for housing
145 need, growth and development concerns, and other relevant matters. Within 90 days after its
146 submission to the department by a city or town's chief executive officer, the department shall
147 approve the plan if it meets the requirements specified herein, otherwise, it shall disapprove the
148 plan. The department shall notify the city or town of its decision to either approve or disapprove

149 a plan in writing. If the department disapproves a plan, the notification shall include a statement
150 of reasons for the disapproval. A city or town that originally submitted a plan that had been
151 disapproved may submit a new or revised plan to the department at any time. A city or town may
152 amend its plan from time to time if the department approves the amendment. If the department
153 fails to mail notice of approval or disapproval of a plan or plan amendment within 90 days after
154 its receipt, the plan or plan amendment shall be deemed to be approved.

155 (d) The department shall certify annually whether a city or town is in compliance with an
156 approved plan. The department shall determine whether a city or town is in compliance within 30
157 days of receipt of a city or town's request for such a certification. A city or town shall be in
158 compliance if it has reached the benchmarks established in its approved plan and has made all
159 changes necessary to accommodate future planned development. If the department determines
160 the city or town is in compliance with its plan, the certification shall be retroactive to the date the
161 certification was requested. Provided further, if a city or town fails to achieve the goals
162 established in the approved plan and as documented on the subsidized housing inventory the city
163 or town shall not be in compliance with its plan and shall submit a new plan for certification by
164 the department.

165 (e) Units which were created and which became eligible to be counted toward a city or town's
166 affordable housing threshold between August 1, 2002 and December 31, 2002 shall be credited
167 toward the city or town's affordable housing threshold for the first year of planned production
168 under an approved affordable housing plan, regardless of the date the plan is submitted to or
169 certified by the department. An approved plan shall take effect for the purpose of the definition
170 of consistent with local needs in this section only when the department certifies that the city or
171 town has approved permits resulting in an initial annual increase in its low-or moderate-income

172 housing units of at least one-half of 1 per cent of total year round housing units in accordance
173 with its plan. It is the responsibility of the city or town to request such certification from the
174 department. Once the department has made such a certification of initial compliance and
175 subsequent annual certifications of compliance:—

176 (1) The board may, in its discretion, deny, or approve with conditions, any comprehensive permit
177 applications for the period of 1 year from any certification, and such denial or approval with
178 conditions shall be deemed consistent with local needs; or, alternatively,

179 (2) The board may, in its discretion, deny or approve with conditions any comprehensive permit
180 applications for the period of 2 years from any certification, if, in the year it was certified, the
181 city or town has increased its low or moderate-income housing stock by at least .5 per cent of
182 total year round housing units in a manner consistent with the plan, or alternatively,

183 (3) The board may, in its discretion, deny, or approve with conditions, any comprehensive permit
184 applications for the period of 3 years from any certification, if, in the year it was certified, the
185 city or town has increased its low or moderate-income housing stock by at least .5 per cent of
186 total year round housing units in a manner consistent with the plan; or

187 (6) the board has approved 3 or more comprehensive permits, at least 3 of which contain 20 or
188 more housing units each within 12 months preceding the filing of an application for a
189 comprehensive permit and those permits have become final. The board shall have the authority
190 to choose among multiple applicants which comprehensive permits will be accepted.

191 A developer that has requested a zoning change and that request has been accepted by the town
192 meeting or the city council may not seek a 40B approval for one year following the zoning
193 change.

194

195 Section 20B. (a)(1) To be eligible to submit an application for a comprehensive permit or to file
196 or maintain an appeal before the committee, the applicant and the project shall fulfill the
197 following jurisdictional requirements:–

198 (i) The applicant shall be a public agency, a nonprofit organization, or be, or agree to become,
199 limited dividend organization. An applicant shall satisfy the limited dividend organization
200 requirement if the owner of the project stipulates in writing to execute a regulatory agreement
201 with a subsidizing agency which limits the owner's return on building or operating the project to
202 the amounts set by the subsidizing agency or program if a comprehensive permit is issued. Such
203 regulatory agreement shall be recorded or filed prior to the beginning of construction of the land
204 records with the registry of deeds or land court in the registry district or district office of the land
205 court in which the project is located;

206 (ii) the project shall be fundable by a subsidizing agency under a low and moderate-income
207 housing subsidy program;

208 (iii) the applicant shall control the site; and

209 (iv) The proposed development shall contain no less than 25 per cent of its total housing units as
210 units affordable to low or moderate-income households, or in the alternative a proposed
211 development may contain no less than 20 per cent of its total housing units as affordable to
212 households whose income does not exceed 50 per cent of the area median income; provided,
213 further, that the inclusion of commercial, recreational or other land uses which are in conjunction
214 with the housing development shall not preclude eligibility.

215 (2) Fundability shall be established by submission of a written determination of project eligibility
216 by a subsidizing agency as follows: (i) A determination of project eligibility shall include: (A)
217 the name and address of the applicant; (B) the address of the site and site description; (C) the

218 number and type, either homeownership or rental, of housing units proposed; (D) the name of the
219 housing program or programs under which project eligibility is sought; and (E) relevant details
220 of the particular project if not mandated by the housing program, including the percentage of
221 units for low or moderate-income households, income eligibility standards, the duration of use
222 restrictions requiring occupancy by low or moderate-income households, and the limited
223 dividend status of the developer;

224 (ii) a determination of project eligibility shall make the following findings: (A) that the proposed
225 project appears generally eligible under the requirements of the housing programs, subject to
226 final review of eligibility and to final approval; (B) that the subsidizing agency has performed an
227 on-site inspection of the site and has reviewed pertinent information submitted by the applicant;
228 (C) that the proposed housing design and density are generally appropriate for the site on which
229 it is located, taking into account surrounding land uses, proximity to transportation, services and
230 public utilities, and design to minimize land use impacts; (D) that the proposed project appears
231 financially feasible within the housing market in which it will be situated, based on comparable
232 rentals or sales figures; (E) that an initial pro forma has been reviewed and the project appears
233 financially feasible on the basis of estimated development costs; and
234 (F) that the developer of the proposed project meets the general eligibility standards of the
235 housing program or programs.

236 (iii) In addition to the foregoing, a subsidizing agency shall consider the following in making a
237 determination of project eligibility; overall density and size; environmental impact, including
238 impacts on watersheds, rivers, and water bodies, wildlife habitat and existing land uses;
239 consistency with principles of smart growth, including without limitation land use protections set
240 forth in the open space and recreation plans adopted by the planning board of the municipalities,

241 or by the town meeting or city council and approved by the executive office of energy and
242 environmental affairs; impact on historical resources; the impact of other pending applications
243 for housing development; and other local concerns of the city or town where the project is
244 located.

245 (iv) Within 10 days of filing of its application for a determination of project eligibility with a
246 subsidizing agency for preliminary approval of a project, the applicant shall serve written notice
247 upon the director of the department.

248 (v) Within 10 days of filing the application for a determination of project eligibility the applicant
249 shall provide written notice and a copy of such application to the chief executive officer of the
250 involved city or town and to the members of the general court representing such city or town.

251 The applicant shall also provide written notice of the application to the board of zoning appeals,
252 board of health, conservation commission, water and sewer district, fire and police. Within 30
253 days after such notice, the chief executive officer or designee of the chief executive officer may
254 schedule and hold a meeting at a location within the involved city or town. The meeting shall be
255 chaired by the city or town's chief executive officer or designee and shall be attended by the
256 applicant or its representative. Representatives from local boards are encouraged to attend the
257 meeting and provide written comment. The purpose of the meeting is to allow the applicant and
258 the city or town representatives to informally discuss the preliminary proposal so that the parties
259 involved can develop an understanding of the proposal and to respond to concerns raised in an
260 effort to achieve an outcome that meets the needs of the involved city or town as well as the
261 applicant. In addition, a representative from a public or quasi-public housing agency, or a
262 regional planning agency within the regional planning district or its designee knowledgeable
263 with respect to chapter 40B may provide technical assistance on topics including, but not limited

264 to, site design and density, open space, marketing, use restrictions, allowable costs and profit
265 limitations. Following the close of the meeting, the chief executive officer of the city or town,
266 local boards, and the regional planning district may issue written comments within 14 days to the
267 subsidizing agency.

268 (vi) Within 10 days of receipt of a written determination of project eligibility from the
269 subsidizing agency, the applicant shall serve a copy of that determination upon the director of the
270 department.

271 (vii) An applicant which has obtained a determination of project eligibility shall be presumed to
272 be eligible to submit an application for comprehensive permit or to file or maintain an appeal
273 before the committee. Nothing set forth in this section shall be deemed to confer upon any city or
274 town, or any of its boards, committees, commissions or officials, or upon any other person the
275 right to appeal or judicial review in any form the determination of project eligibility by the
276 subsidizing agency, it being intended that the rights of appeal conferred by sections 21 and 22
277 shall be the exclusive remedy for any party aggrieved by the issuance or denial of any
278 comprehensive permit hereunder.

279 (viii) If project funding is provided through a non-governmental entity, a public or quasi-public
280 entity authorized by the department shall make the determination of project eligibility. The
281 designated entity that issued the project eligibility determination shall administer the project
282 thereafter as specified in program guidelines issued by the department.

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

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

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

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

301 (c) (1) A city or town may record progress towards its affordable housing threshold as
302 documented in the subsidized housing inventory in the following manner:

303 (i) (a) if at least 25 per cent of housing units within a development are restricted to serve low or
304 moderate-income households, 100 per cent of housing units within the development shall be
305 eligible to be included toward the city or town's affordable housing threshold, but if fewer than
306 25 per cent of housing units within a development are restricted to serve low or moderate-income
307 households, only those units which serve low or moderate-income households shall be eligible to
308 be included toward the city or town's affordable housing threshold or (b) if at least 20 per cent of
309 housing units within a development are restricted to serve households with household income at

310 or below 50 per cent of area median income, 100 per cent of housing units within the
311 development shall be eligible to be included toward the city or town's affordable housing
312 threshold but, if fewer than 25 per cent of housing units within a development are restricted to
313 serve low or moderate-income households, only such restricted units shall be eligible to be
314 included toward the city or town's affordable housing threshold;

315 (ii) (a) if at least 25 per cent of housing units within a development are restricted to serve low or
316 moderate-income households, 2 times the actual number of such restricted units, not to exceed
317 the total number of homeownership units authorized by the permit shall be included toward the
318 city or town's affordable housing threshold or (b) if at least 20 per cent of housing units within a
319 development serve households earning at or below 50 per cent of area median income, 2 times
320 the actual number of units serving such households, not to exceed the total number of
321 homeownership units authorized by the permit shall be included toward the city or town's
322 affordable housing threshold, but if fewer than 25 per cent of housing units within a development
323 are restricted to serve low or moderate-income households, only such units which are restricted
324 to serve low or moderate-income households shall be eligible to be included toward the city or
325 town's affordable housing threshold;

326 (iii) any community housing, as defined in chapter 44B which is subject to a use restriction
327 requiring occupancy by low or moderate income households, provided further, that such housing
328 payment exclusive of utilities shall not exceed 30 per cent of monthly income of a household at
329 or below 80 per cent of area median income, adjusted for household size, shall be eligible to be
330 included toward the city or town's affordable housing threshold;

331 (iv) any accessory apartment which is approved pursuant to a city or town's ordinance or bylaw
332 and is occupied by persons of low or moderate income; provided further, that such rental

333 payment exclusive of utilities shall not exceed 30 percent of monthly income of a household
334 earning at or below 80 percent of area median income, adjusted for household size, shall be
335 eligible to be included toward the city or town's affordable housing threshold. Each such
336 accessory apartment unit shall be subject to a use restriction, which may be revocable upon the
337 sale of the principal residence. Each city or town shall certify annually the number of such
338 accessory apartments within its borders;

339 (v) all group home units in each city or town as reported annually by the department of mental
340 health and the department of mental retardation to the department shall be eligible to be included
341 toward the city or town's affordable housing threshold;

342 (vi) housing units created under a local program or subsidy or which qualify as local initiative
343 units pursuant to regulations promulgated by the department and restricted to serve low or
344 moderate income households as defined in this chapter shall be eligible to be included toward the
345 city or town's affordable housing threshold as documented on the subsidized housing inventory;

346 (vii) low or moderate income housing created pursuant to section 60 of chapter 40 and subject to
347 a use restriction provided; further, that such housing payment exclusive of utilities shall not
348 exceed 30 per cent of monthly household income of a household earning at or below 80 per cent
349 of area median income shall be eligible to be included toward the city or town's affordable
350 housing threshold;

351 (viii) in instances where housing units were developed to serve low or moderate income
352 households and the use restriction has expired as a result of refinancing or operation of law or
353 otherwise, only those housing units that continue to serve low or moderate-income households;
354 provided further, that if such units were constructed pursuant to a comprehensive permit under
355 chapter 40B they shall be eligible to be included toward the city or town's affordable housing

356 threshold; and

357 (ix) 50% of the homes in a community, as defined by section 32Q of chapter 140, shall be
358 eligible to be included toward the city or town's affordable housing threshold as documented on
359 the subsidized housing inventory.

360 (d) The department shall maintain an inventory of low or moderate income housing units. Such
361 inventory shall be published biennially; provided further, that such inventory shall be updated for
362 a specific city or town upon request by such city or town supported by the evidence thereof.

363 Housing units authorized by a comprehensive permit or special permit which authorizes the
364 creation of low or moderate income housing subject to a use restriction shall be eligible to be
365 included toward a city or town's affordable housing threshold as recorded on the subsidized
366 housing inventory when such comprehensive permit or special permit becomes final, provided
367 that housing units for which building permits have not been issued within 1 year of the date
368 when such comprehensive permit or special permit became final shall no longer be eligible to be
369 counted toward the city or town's affordable housing threshold until the building permits have
370 been issued. The department may for good cause waive such time requirement. Low or moderate
371 income housing units not authorized pursuant to such comprehensive permit or special permit
372 shall be eligible to be counted toward the city or town's affordable housing threshold when a
373 building or occupancy permit is issued.

374

375 Section 20C. The Massachusetts Housing Partnership Fund board, as established by section 35 of
376 chapter 405 of the acts of 1985, or its designee, shall make technical assistance available to local
377 zoning boards of appeal to assist in their review of applications for comprehensive permits. No
378 subsidizing agency shall issue a determination of project eligibility or site approval unless a fee

379 to defray the costs of such technical assistance program has been collected from the applicant
380 and remitted to the Massachusetts Housing Partnership Fund board in accordance with a fee
381 schedule adopted by the department. Such fee shall be payable upon the filing of a
382 comprehensive permit application.

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

388 SECTION 6. Section 21 of said chapter 40B, as so appearing, is hereby amended by striking out,
389 in lines 3 and 4, the following words: “board of appeals, established under section twelve of
390 chapter forty A” and inserting in place thereof the following words: planning board, established
391 under section 70 of chapter 41.

392 SECTION 7. Said section 21 of said chapter 40B, is hereby further amended by striking out, in
393 lines 5, 9, 17, 20 and 24 the following words: “board of appeals” and inserting in place thereof,
394 in each instance, the following words: planning board.

395 SECTION 8. Section 22 of said chapter 40B, as so appearing, is hereby amended by striking out,
396 in lines 7 and 10, the following words: “board of appeals” and inserting in place thereof, in each
397 instance, the following words: planning board.

398 SECTION 9. Section 23 of said chapter 40B, as so appearing, is hereby amended by striking out,
399 in lines 4, 9, 23 and 30, the following words: “board of appeals” and inserting in place thereof, in
400 each instance, the following words: planning board.

401 SECTION 10. The first paragraph of section 23 of said chapter 40B, as so appearing, is hereby
402 amended by inserting after the first sentence the following sentence:—

403 The committee shall receive evidence of and shall consider the following matters: (1) a city or
404 town’s master plan, comprehensive plan or community development plan, and (2) the results of
405 the city or town’s efforts to implement such plans.

406 SECTION 11. Notwithstanding any general or special law to the contrary, no application for a
407 comprehensive permit filed pursuant to sections 20 through 23 of chapter 40B before the
408 effective date of this act shall be denied as a result of changes pursuant to this act.

409 SECTION 12. There is hereby established a special commission to study the opportunity to
410 increase the availability of housing for extremely low to moderate-income families and
411 individuals in the commonwealth by prioritizing the redevelopment of brownfield sites, so-
412 called, and commercial areas for residential purposes. Said commission shall consist of 3
413 members of the senate, 3 members of the house of representatives, 1 from each branch shall
414 serve as co-chairmen, the director of housing and community development or his designee, the
415 director of Massachusetts Development Finance Agency or his designee, and 5 persons to be
416 appointed by the governor, 1 of whom shall be a representative from Citizen’s Housing and
417 Planning Association, Inc., 1 of whom shall be a representative of the Greater Boston Chamber
418 of Commerce, 1 of whom shall be a representative from the Massachusetts Homebuilders
419 Association, and 1 of whom shall be a representative from the Massachusetts Municipal

420 Association. Said commission shall file its recommendations together with the recommendations
421 for legislation, if any, with the house and senate clerks who shall forward the same to the house
422 and senate committees on housing on or before November 15th, 2009.

423 SECTION 13. Seventy-five per cent of assisted living units as defined under the General Laws,
424 requiring an entrance deposit and a monthly fee shall be considered as rental housing units.

425 SECTION 14. This act shall take effect on December 1, 2010.