

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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:

Harriette L. Chandler

DISTRICT/ADDRESS:

First Worcester

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

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

8

9 “Development impact fee” shall mean a fee imposed by city zoning ordinance or town zoning by-law for
10 the purpose of offsetting the impacts of a development, and in accordance with the provisions of section
11 9D of this chapter.

12

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

15

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

17

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

21

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

24

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

30

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

33

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

39

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

42

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

52

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

55
56 Subject to the transition rules set forth below, within a municipality that is not a certified plan
57 community, if a declaration of development intent is submitted to a planning board, and written
58 notice of such submission has been given to the city or town clerk, the development described in
59 such declaration shall be governed by the applicable provisions of the zoning ordinance or by-
60 law, if any, in effect at the time of such declaration, for a vesting period that ends eight years
61 from the date of such written notice of submission; provided that: (i) the development described
62 in such declaration shall be subject to subsequent amendment of the zoning ordinance or by-law,
63 if the first notice thereof was posted prior to such written notice of submission, and (ii) the
64 development described in such declaration shall be subject to subsequent amendment of the
65 zoning ordinance or by-law, unless a definitive plan, or a preliminary plan followed within seven
66 months by a definitive plan, is submitted to a planning board for approval under the subdivision
67 control law prior to such amendment, and, if such definitive plan or an amendment thereof is
68 thereafter finally approved. The length of such vesting period shall be extended by a period
69 equal to the time which a city or town imposes or has imposed upon it by a state, a federal
70 agency or a court, a moratorium on construction, the issuance of permits or utility connections.
71 The provisions of this paragraph shall not apply to development substantially different in use or
72 substantially greater in extent from the development described in the declaration of development
73 intent.

74
75 The provisions of the foregoing paragraph are subject to the following transition rules:

76
77 (A) If a definitive plan, or a preliminary plan followed within seven months by a definitive plan,
78 is submitted to a planning board for approval under the subdivision control law and written
79 notice of such submission has been given to the city or town clerk on or before December 1,
80 2008 and before the effective date of the zoning ordinance or by-law, the land shown on such
81 plan shall be governed by the applicable provisions of the zoning ordinance or by-law, if any, in
82 effect at the time of the first such submission while such plan or plans are being processed under
83 the subdivision control law, and, if such definitive plan or an amendment thereof is finally
84 approved, for eight years from the date of the endorsement of such approval. Such period shall
85 be extended by a period equal to the time which a city or town imposes or has imposed upon it
86 by a state, a federal agency or a court, a moratorium on construction, the issuance of permits or
87 utility connections.

88
89 (B) If a definitive plan, or preliminary plan followed within seven months by a definitive plan, is
90 submitted to a planning board for approval under the subdivision control law after December 1, 2008
91 and on or before the date six months after the effective date of this act, then: (i) a declaration of
92 development intent must be submitted to a planning board, and written notice of such submission be
93 given to the city or town clerk, on or before the date six months after the effective date in order to
94 obtain the benefit of the foregoing paragraph; (ii) the vesting period ends eight years from the date of
95 the submission of the plan first submitted; (iii) the development described in such declaration shall not

96 be subject to subsequent amendment of the zoning ordinance or by-law for the duration of the vesting
97 period, so long as such definitive plan or an amendment thereof is thereafter finally approved; and (iv)
98 the benefits of the foregoing paragraph may be obtained whether or not the declaration of
99 development intent is consistent with the contents of the plans submitted for approval.

100

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

110

111 Within a municipality that is a certified plan community, if a declaration of development intent is
112 submitted to a planning board on or after the municipality's effective date, and written notice of such
113 submission has been given to the city or town clerk, the development described in such declaration shall
114 be governed by the applicable provisions of the zoning ordinance or by-law and all other local land use
115 regulations, if any, in effect at the time of such written notice of submission, for a vesting period that
116 ends either: (a) three years from the date of such written notice of submission, or (b) to the extent the
117 land shown on the plan has been previously been disturbed, and if there has been substantial
118 investment in site preparation and/or infrastructure construction within such three years, five years
119 from the date of such written notice of submission; provided that (i) the development described in such
120 declaration shall be subject to subsequent amendment of the zoning ordinance or by-law or of any other
121 local land use regulations, if the first notice thereof was posted prior to the date of such written notice
122 of submission, and (ii) the development described in such declaration shall be subject to subsequent
123 amendment of the zoning ordinance or by-law or of any other local land use regulations, unless a
124 definitive plan, or a preliminary plan followed within seven months by a definitive plan, is submitted to a
125 planning board for approval under the subdivision control law prior to such amendment, and, if such
126 definitive plan or an amendment thereof is thereafter finally approved. Whatever the length of such
127 vesting period, it shall be extended by a period equal to the time which a city or town imposes or has
128 imposed upon it by a state, a federal agency or a court, a moratorium on construction, the issuance of
129 permits or utility connections. The provisions of this paragraph shall not apply to development
130 substantially different in use or substantially greater in extent from the development described in the
131 declaration of development intent.

132

133

134

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

136

137 Section 7A. Site Plan Review

138

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

144

145 (b) In addition to the home rule authority of cities and towns to require site plan review, a
146 municipality may adopt a local ordinance or by-law under this section requiring site plan review and
147 approval by a designated authority before authorization is granted for the use of land or structures
148 governed by a zoning ordinance or by-law. The approving authority may adopt, and from time to time
149 amend, rules and regulations to implement the local site plan review ordinance or by-law, including
150 provisions for the imposition of reasonable fees for the employment of outside consultants in the same
151 manner as set forth in section 53G of chapter 44.

152

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

164

165 (d) Site plan review may include only those conditions that are necessary: (i) to ensure substantial
166 compliance of the proposed use of land or structures with the requirements of the zoning ordinance or
167 by-law; or (ii) to mitigate any extraordinary adverse impacts of the project on adjacent properties or
168 public infrastructure. Site plan approval may not require the payment or performance of any off-site

169 mitigation, except that site plan approval may be subject to development impact fees imposed in
170 accordance with the provisions of Section 9D of this chapter. A site plan application may be denied only
171 on the grounds that: (i) the proposed use of land or structures project does not meet the conditions and
172 requirements set forth in the zoning ordinance or by-law; (ii) the applicant failed to submit information
173 and fees required by the zoning ordinance or by-law and necessary for an adequate and timely review of
174 the design of the proposed land or structures; or (iii) it is not possible to adequately mitigate
175 extraordinary adverse project impacts on adjacent properties or public infrastructure by means of
176 suitable site design conditions.

177

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

184

185 (f) Except where site plan review is required in connection with the issuance of a special permit or
186 variance, decisions made under site plan review, whether made pursuant to statutory or home rule
187 authority, may be appealed by a civil action in the nature of certiorari pursuant to Chapter 249, Section
188 4 of the General Laws, and not otherwise. Such civil action may be brought in the superior court or in
189 the land court and shall be commenced within twenty days after the filing of decision of the site plan
190 review approving authority with the city or town clerk. All issues in any proceeding under this section
191 shall have precedence over all other civil actions and proceedings. A complaint by a plaintiff challenging
192 a site plan approval under this section shall allege the specific reasons why the project fails to satisfy the
193 requirements of this section or the zoning ordinance or by-law or other applicable law and allege
194 specific facts establishing how the plaintiff is aggrieved by such decision. The approving authority's
195 decision in such a case shall be affirmed unless the court concludes the approving authority abused its
196 discretion under subsection (d) in approving the project.

197

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

201

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

204

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

214

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

217

218 “Cluster development” means residential development in which reduced dimensional requirements
219 allow the developed areas to be concentrated in order to preserve open land elsewhere on the plot.
220 Zoning ordinances or by-laws may authorize cluster development for development proceeding as-of-
221 right or otherwise. Unless such open land is subject to a conservation restriction or agricultural
222 preservation restriction, such open land shall be required to either be conveyed to the city or town and
223 accepted by it for park or open space use, or be conveyed to a non-profit organization the principal
224 purpose of which is the conservation of open space, agricultural land, historic resources, or watersheds,
225 or to be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential
226 units within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with
227 conveyances of the lots or residential units. In any case where such land is not conveyed to the city or
228 town or a non-profit organization as described above, a restriction shall be recorded providing that such
229 land shall be preserved accordingly and not be built for residential use or developed for accessory uses
230 such as parking or roadway.

231

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

234

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

241

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

244

245 Section 9D. Development Impact Fee

246

247 (a) Authority

248

249 (1) In addition to its home rule authority to impose a development impact fee, a city or town may
250 adopt a local ordinance or by-law under this section that requires the payment of a development impact
251 fee as a condition of any permit or approval otherwise required for any proposed development within
252 the scope of this section, and having development impacts as defined in the ordinance or by-law. The
253 development impact fee may be imposed only on construction, enlargement, expansion, substantial
254 rehabilitation, or change of use of a development. The development impact fee shall be used solely for
255 the purposes of defraying the costs of capital infrastructure facilities to be provided or paid for by the
256 city or town and which are caused by and necessary to support or compensate for the proposed
257 development. Such capital infrastructure facilities may include the costs related to the provision of
258 equipment, facilities, or studies associated with the following: water supply; sewers; storm water
259 management and treatment; pollution abatement; solid waste processing and disposal; traffic
260 mitigation; roadways, transit, bicycle and pedestrian facilities, and other public transportation facilities;
261 and affordable housing; costs related to facilities such as schools, public safety facilities, and municipal
262 offices shall be excluded.

263

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

270

271 (b) Limitations

272

273 (1) No development impact fee under this section shall be imposed upon any dwelling unit,

274 regardless of how created or permitted, which is subject to a restriction on sale price or rent under the
275 provisions of G.L. c. 184 as amended ensuring that the unit will remain affordable for a period of at least
276 30 years to households at or below the area median income as most recently defined by the United
277 States Department of Housing and Urban Development or successor agency, or any other dwelling unit
278 permitted under G.L. c. 40B.

279

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

284

285 (c) Requirements

286

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

300

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

304

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

306

307 (4) The fee may not be assessed more than once for the same impact, nor may the fee be assessed

308 for impacts, or portions thereof, offset by other dedicated means, including state or federal grants or
309 contributions or other mitigation commitments made by the applicant undertaking the development.

310

311 (d) Administration

312

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

316

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

320

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

325

326 (4) Any funds not expended or encumbered by the end of the calendar quarter immediately following
327 5 years from the date the development impact fee was paid shall, upon request of the applicant or its
328 assigns, be returned with interest provided that an application for a refund prescribed in the ordinance
329 or by-law has been submitted within one 180 calendar days prior to the expiration of the 5 year period.
330 If no application for refund is received by the city or town within said period, any funds not expended or
331 encumbered by the end of the calendar quarter shall then revert to and become part of the general
332 fund under section 53 of chapter 44. In the event of any disagreement relative to who shall receive the
333 refund, the city or town may retain said development impact fee pending instructions given in writing by
334 the parties involved or by a court of competent jurisdiction.

335

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

338

339 "Certified plan community" shall have the meaning set forth in Section [2] of Chapter 41.

340

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

343

344 “Minor subdivision review ” shall mean an alternative method of approval under the subdivision control
345 law, applicable to any proposed division of a tract of land into four or fewer lots, under which: (a) no
346 preliminary plan is required; (b) approval is granted by a simple majority of the planning board; (c)
347 decisions are made within 60 days, or else deemed constructively approved, as defined in Section [2] of
348 Chapter 41; (c) approval shall be based solely on the compliance of the lots shown with reasonable rules
349 and regulations regarding the adequacy of access, utilities and stormwater drainage controls and on the
350 compliance of the lots shown with the zoning ordinance or by-law; and (d) such rules and regulations
351 may include a requirement that two or more of the lots have shared access to an existing public way,
352 but may not impose design or construction requirements on such shared access other than those
353 minimally necessary to provide for public safety. Lots approved under minor subdivision review may not
354 be re-subdivided so as to create additional lots under minor subdivision review for a period of ten years
355 after initial approval.

356

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

359 “Subdivision” shall mean the division of a tract of land into two or more lots and shall include
360 resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or
361 the land or territory subdivided; provided, however, unless a municipality is a certified plan
362 community and has in effect minor subdivision review procedures, that the division of a tract of
363 land into two or more lots shall not be deemed to constitute a subdivision within the meaning of
364 the subdivision control law if, at the time when it is made, every lot within the tract so divided
365 has frontage on (a) a public way or a way which the clerk of the city or town certifies is
366 maintained and used as a public way, or (b) a way shown on a plan theretofore approved and
367 endorsed in accordance with the subdivision control law, or (c) a way in existence when the
368 subdivision control law became effective in the city or town in which the land lies, having, in the
369 opinion of the planning board, sufficient width, suitable grades and adequate construction to
370 provide for the needs of vehicular traffic in relation to the proposed use of the land abutting
371 thereon or served thereby, and for the installation of municipal services to serve such land and
372 the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as
373 is then required by zoning or other ordinance or by-law, if any, of said city or town for erection
374 of a building on such lot, and if no distance is so required, such frontage shall be of at least
375 twenty feet. If a municipality is a certified plan community and has in effect minor subdivision
376 review procedures, then any division of a tract of land into two or more lots, including
377 resubdivision, shall be deemed to constitute a subdivision within the meaning of the subdivision
378 control law, except as provided in the following sentence. Conveyances or other instruments
379 adding to, taking away from, or changing the size and shape of, lots in such a manner as not to
380 leave any lot so affected without the frontage above set forth, or the division of a tract of land on

381 which two or more buildings were standing when the subdivision control law went into effect in
382 the city or town in which the land lies into separate lots on each of which one of such buildings
383 remains standing, shall not constitute a subdivision. Within a certified plan community that has
384 adopted minor subdivision review procedures as of the municipality's effective date, a tract of
385 land that was divided into two or more lots pursuant to Chapter 41, Section 81P of the General
386 Laws prior to the municipality's effective date, but after December 1, 2008, shall be deemed a
387 subdivision within the meaning of the subdivision control law with respect to the lots so created
388 for which a building permit has not been issued by the municipality prior to the municipality's
389 effective date.

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

392

393 Section 81Q. After a public hearing, notice of the time and place of which, and of the subject matter,
394 sufficient for identification, shall be published in a newspaper of general circulation in the city or town
395 once in each of two successive weeks, the first publication to be not less than fourteen days before the
396 day of the hearing or if there is no such newspaper in such city or town then by posting such notice in a
397 conspicuous place in the city or town hall for a period of not less than fourteen days before the day of
398 such hearing, a planning board shall adopt, and, in the same manner, may, from time to time, amend,
399 reasonable rules and regulations relative to subdivision control not inconsistent with the subdivision
400 control law or with any other provisions of a statute or of any valid ordinance or by-law of the city or
401 town. Such rules and regulations may prescribe the size, form, contents, style and number of copies of
402 plans and the procedure for the submission and approval thereof, and shall be such as to enable the
403 person submitting the plan to comply with the requirements of the register of deeds for the recording of
404 the same, and to assure the board of a copy for its files; and shall set forth the requirements of the
405 board with respect to the location, construction, width and grades of the proposed ways shown on a
406 plan and the installation of municipal services therein, which requirements shall be established in such
407 manner as to carry out the purposes of the subdivision control law as set forth in section eighty-one M.
408 Such rules and regulations shall not require referral of a subdivision plan to any other board or person
409 prior to its submission to the planning board. In establishing such requirements regarding ways, due
410 regard shall be paid to the prospective character of different subdivisions, whether open residence,
411 dense residence, business or industrial, and the prospective amount of travel upon the various ways
412 therein, and to adjustment of the requirements accordingly; provided, however, that in no case shall a
413 city or town establish rules or regulations regarding the laying out, construction, alteration, or
414 maintenance of ways within a particular subdivision which exceed the standards and criteria commonly
415 applied by that city or town to the laying out, construction, alteration, or maintenance of its publicly
416 financed ways located in similarly zoned districts within such city or town. Without limiting the
417 foregoing, there shall be a rebuttable presumption that such requirements are unlawfully excessive, to
418 the extent that the requirements for subdivisions within zoning districts having a minimum lot size of
419 40,000 square feet exceed the standards and criteria previously applied by that city or town to the
420 laying out, construction, alteration, or maintenance of ways within previously approved subdivisions

421 within zoning districts having a minimum lot size of 20,000 square feet or less. Such rules and
422 regulations may set forth a requirement that a turnaround be provided at the end of the approved
423 portion of a way which does not connect with another way. Any easement in any turnaround shown on
424 a plan approved under the subdivision control law which arises after January first, nineteen hundred and
425 sixty, other than an easement appurtenant to a lot abutting the turnaround, shall terminate upon the
426 approval and recording of a plan showing extension of said way, except in such portion of said
427 turnaround as is included in said extension, and the recording of a certificate by the planning board of
428 the construction of such extension. Such rules and regulations may set forth a requirement that
429 underground distribution systems be provided for any and all utility services, including electrical and
430 telephone services, as may be specified in such rules and regulations, and may set forth a requirement
431 that poles and any associated overhead structures, of a design approved by the planning board, be
432 provided for use for police and fire alarm boxes and any similar municipal equipment and for use for
433 street lighting. The rules and regulations may encourage the use of solar energy systems and protect to
434 the extent feasible the access to direct sunlight of solar energy systems. Such rules and regulations may
435 include standards for the orientation of new streets, lots and buildings; building set back requirements
436 from property lines; limitations on the type, height and placement, of vegetation; and restrictive
437 covenants protecting solar access not inconsistent with existing local ordinances or by-laws. Except in so
438 far as it may require compliance with the requirements of existing ordinances or by-laws, no rule or
439 regulation shall relate to the size, shape, width, frontage or use of lots within a subdivision, or to the
440 buildings which may be constructed thereon, or other subject matters addressed thereby, or shall be
441 inconsistent with the regulations and requirements of any other municipal board acting within its
442 jurisdiction. No rule or regulation shall require, and no planning board shall impose, as a condition for
443 the approval of a plan of a subdivision, that any of the land within said subdivision be dedicated to the
444 public use, or conveyed or released to the commonwealth or to the county, city or town in which the
445 subdivision is located, for use as a public way, public park or playground, or for any other public
446 purpose, without just compensation to the owner thereof. The rules and regulations may, however,
447 provide that not more than one building designed or available for use for dwelling purposes shall be
448 erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the city or
449 town, without the consent of the planning board, and that such consent may be conditional upon the
450 providing of adequate ways furnishing access to each site for such building, in the same manner as
451 otherwise required for lots within a subdivision. No rule or regulation shall require, and no planning
452 board shall impose, as a condition for the approval of a plan of a subdivision, the payment or
453 performance of off-site mitigation, except for the imposition of a development impact fee under
454 Chapter 40A, Section 9D. A true copy of the rules and regulations, with their most recent amendments,
455 shall be kept on file available for inspection in the office of the planning board of the city or town by
456 which they were adopted, and in the office of the clerk of such city or town. A copy certified by such
457 clerk of any such rules and regulations, or any amendment thereof, adopted after the first day of
458 January, nineteen hundred and fifty-four shall be transmitted forthwith by such planning board to the
459 register of deeds and recorder of the land court. Once a definitive plan has been submitted to a planning
460 board, and written notice has been given to the city or town clerk pursuant to section eighty-one T and
461 until final action has been taken thereon by the planning board or the time for such action prescribed by
462 section eighty-one U has elapsed, the rules and regulations governing such plan shall be those in effect

463 relative to subdivision control at the time of the submission of such plan. When a preliminary plan
464 referred to in section eighty-one S has been submitted to a planning board, and written notice of the
465 submission of such plan has been given to the city or town clerk, such preliminary plan and the definitive
466 plan evolved therefrom shall be governed by the rules and regulations relative to subdivision control in
467 effect at the time of the submission of the preliminary plan, provided that the definitive plan is duly
468 submitted within seven months from the date on which the preliminary plan was submitted.

469

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

472

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

486

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

489

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

491

492 The sections herein this chapter shall be known and may be cited as the "Land Use Partnership Act".
493 The purposes of the act shall be to advance the following land use objectives:

494 a) Support the revitalization of city and town centers and neighborhoods by promoting
495 development that is compact, conserves land and integrates uses;

496 b) Support the construction and rehabilitation of homes near jobs, infrastructure and

- 497 transportation options to meet the needs of people of all abilities, income levels, and household
498 types;
- 499 c) Attract businesses and jobs to locations near housing, infrastructure, and transportation
500 options;
- 501 d) Protect environmentally sensitive lands, natural resources, agricultural lands, critical habitats,
502 wetlands and water resources, and cultural and historic landscapes;
- 503 e) Construct and promote developments, buildings, and infrastructure that conserve natural
504 resources by reducing waste and pollution through efficient use of land, energy and water;
- 505 f) Support transportation options that maximize mobility, reduce congestion, conserve fuel and
506 improve air quality;
- 507 g) Maximize energy efficiency and renewable energy opportunities to reduce greenhouse gas
508 emissions and consumption of fossil fuels;
- 509 h) Promote equitable sharing of the benefits and burdens of development;
- 510 i) Make regulatory and permitting processes for development clear, predictable, coordinated, and
511 timely in accordance with smart growth and environmental stewardship; and
- 512 j) Support the development and implementation of local and regional plans that have broad public
513 support and are consistent with these purposes.

514

515

516 Section 2. Definitions

517

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

520

521 "As of right" shall mean that development may proceed under zoning and other local land use
522 regulations without the need for a special permit, variance, amendment, waiver or other discretionary
523 approval. As of right development may be subject to site plan review, as defined in Section 7A of
524 Chapter 40A. If a municipality has issued, at the time of the municipality's effective date, a special
525 permit that in itself allows new housing units equal to one-half or more of the municipality's housing
526 target number, and if such special permit remains in effect for at least two years after the municipality's
527 effective date, then residential development under such special permit which otherwise qualifies
528 hereunder shall also be deemed as of right.

529

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

533

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

540

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

544

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

551

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

555

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

560

561 “Interagency Planning Board” shall mean a board comprised of the secretary of housing and economic
562 development, the secretary of energy and environmental affairs, and the state permit ombudsman, or
563 their designees, together with a representative designated by the Massachusetts Association of Regional
564 Planning Agencies (the “regional representative”) and a representative designated by the Massachusetts
565 Association of Planning Directors (the “municipal representative”). The state permit ombudsman shall
566 serve as the chair of the board. The board, acting without the participation of the regional
567 representative and the municipal representative, shall have the power to promulgate regulations to
568 effect the purposes of this act.

569

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

574

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

577

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

588

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

592

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

595

596 “Planning board” shall mean a municipal planning board established or authorized pursuant to Chapter
597 41, Section 81A of the General Laws.

598

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

604

605 “Regional planning agency” shall mean the regional or district planning commission established
606 pursuant to Chapter 40B of the General Laws for the region within which a municipality is located. The
607 term shall also mean the Martha’s Vineyard Commission, as described in Chapter 831 of the Acts of
608 1977, and the Cape Cod Commission, as described in Chapter 716 of the Acts of 1989, the Franklin
609 Council of Governments, as described in Chapter 151 of the Acts of 1996, and the Northern Middlesex
610 Council of Governments, as described in Chapter 420 of the Acts of 1989.

611

612 “Residential development district” shall mean a zoning district that: (i) permits or allows residential use
613 at a density of not less than four (4) units per acre of developable land for single-family residential use
614 and not less than twelve (12) units per acre of developable land for multi-family residential use, or
615 permits or allows mixed use including residential use at such density, (ii) is in an eligible location, and (iii)
616 does not impose other requirements that add unreasonable costs or otherwise unreasonably impair the
617 economic feasibility of residential development at such density. A zoning district that permits or allows
618 mixed use may qualify as both an economic development district and a residential development district,
619 if the standards for both districts are met. The implementing regulations for any residential
620 development district that permits or allows mixed use shall contain adequate provisions to ensure that
621 any contemplated contribution towards the housing target number to be provided by such district will
622 be achieved.

623

624 Section 3. Elements of community land use plan

625

626 A planning board may prepare, and from time to time amend or renew, a community land use plan for a
627 municipality, to be submitted to the regional planning agency for certification. The plan shall address at

628 least the following five areas: economic development, housing, open space protection, water
629 management, and energy management.

630

631 The plan shall contain:

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

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

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

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

640 (e) an overall assessment of the plan's consistency with the Commonwealth's land use objectives
641 set forth in Section 1;

642 (f) an assessment of the plan's specific compliance with the minimum standards for consistency set
643 forth in Section 5 below; and

644 (g) a description of the manner and degree of public participation and involvement in the
645 preparation of the plan.

646

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

649

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

654

655

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

657

658 The chief executive officer of the municipality may, if such action is recommended by the planning
659 board, submit the plan to the regional planning agency for certification. Within 90 days after receiving a
660 submission, the regional planning agency shall determine whether the plan is (a) complete and (b)
661 consistent with the Commonwealth's land use objectives. A plan shall be determined to be complete if
662 it contains all the elements required in Section 3. A plan shall be determined to be consistent with the
663 Commonwealth's land use objectives if it satisfies the minimum standards for consistency in accordance
664 with Section 5. If the regional planning agency determines that the plan is complete and consistent with
665 the Commonwealth's land use objectives, then the agency shall issue a written certification to that
666 effect. If the regional planning agency determines that it is unable to issue such a certification, then the
667 agency shall provide the municipality with a written statement of the reasons for its determination. A
668 municipality may re-submit for certification at any time a modified plan that addresses the issues set
669 forth in the agency's statement of reasons. If the regional planning agency does not issue a certification
670 or provide a statement of reasons within 90 days after receiving a plan (including a re-submitted plan),
671 then the plan shall be deemed certified.

672

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

675

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

677

678 A regional planning agency shall determine that a plan is consistent with the Commonwealth's land use
679 objectives if the plan meets certain minimum standards in the following five areas: economic
680 development, housing, open space protection, water management, and energy management. The
681 minimum standards for consistency shall be set forth in regulations duly promulgated by the
682 Interagency Planning Board. Notwithstanding the foregoing, for plans submitted for certification within
683 the first five years of the effective date of passage of this act, a determination of consistency with the
684 Commonwealth's land use objectives shall be mandatory if the following minimum standards have been
685 satisfied:

686

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

692

693 B. The plan establishes prompt and predictable permitting of residential development within one
694 or more residential development districts that can collectively accommodate, in the
695 determination of the regional planning agency, a number of new housing units (excluding new
696 housing units which are restricted, through zoning or other legal means, as to the number of
697 bedrooms or as to the age of their residents) equal to the housing target number. For the initial
698 certification of a plan, a municipality's housing target number shall be reduced by the number of
699 new housing units for which building permits were issued within two years prior to the
700 municipality's effective date, to the extent such building permits were issued within residential
701 development districts for which there was prompt and predictable permitting at the time of
702 building permit issuance. This standard may be waived or modified upon a determination by
703 the regional planning agency that the lack of adequate water supply and/or wastewater
704 infrastructure within the municipality prevents full compliance with this standard, provided that
705 the municipality may be required to instead participate in any regional housing plan established
706 by the regional planning agency.

707

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

712

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

716

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

721

722 Section 6. Certification and adoption of implementing regulations

723

724 (a) Prior to or following municipal adoption of a certified plan, the municipality may prepare
725 implementing regulations. To assist municipalities in this effort, the regulations to be promulgated by
726 the Interagency Planning Board hereunder shall include at least one model provision for implementing

727 regulations for open space residential design, low impact development, and clean energy
728 generation/cogeneration facilities that would satisfy the standards hereof.

729

730 (b) The chief executive officer of the municipality may submit the implementing regulations to the
731 regional planning agency for certification. Within 90 days of receiving a submission, the regional
732 planning agency shall determine whether the implementing regulations are consistent with the certified
733 plan. The implementing regulations shall be deemed consistent with the certified plan if they effectuate
734 the minimum standards for consistency with the Commonwealth's land use objectives established or
735 required by the certified plan. If the regional planning agency determines that the implementing
736 regulations are consistent with the certified plan, then the agency shall issue a written certification to
737 that effect. If the regional planning agency determines that it is unable to issue such a certification, then
738 the agency shall provide the municipality with a written statement of the reasons for its determination.
739 A municipality may re-submit for certification at any time modified implementing regulations that
740 address the issues set forth in the agency's statement of reasons. If the regional planning agency does
741 not issue a certification or provide a statement of reasons within 90 days after receiving implementing
742 regulations (including re-submitted implementing regulations), then the implementing regulations shall
743 be deemed certified. The municipality shall have the option of submitting its implementing regulations
744 together with its submission of its community land use plan pursuant to Section 4, in which case the
745 regional planning agency shall review both the plan and the implementing regulations within the same
746 90 day period.

747

748 (c) Following certification by the regional planning agency, the implementing regulations may be
749 adopted by the municipality by a simple majority vote of its legislative body. On the date of receipt by
750 the regional planning agency of proof of adoption of the certified implementing regulations pursuant to
751 a certified plan, a municipality shall be deemed a "certified plan community". Such date shall be deemed
752 the "municipality's effective date".

753

754

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

756

757 (a) Following the municipality's effective date, local zoning ordinances or by-laws, subdivision rules
758 and regulations, and other local land use regulations (other than certified implementing regulations)
759 which are determined to be inconsistent with the certified plan or the certified implementing
760 regulations shall be deemed invalid. Such a determination may be sought and obtained through any
761 means otherwise available by statute for the determination of the validity of such land use regulations.
762 Any material amendment to a certified plan or certified implementing regulations that has not been

763 prepared, certified and adopted in accordance with the provisions hereof shall be presumed to be
764 inconsistent with the certified plan.

765

766 (b) Following the municipality's effective date, a zoning ordinance or by-law that limits the number of
767 new housing units within residential development districts for which building permits may be issued in
768 any twelve month period to an amount equal to or greater than one-fifth of the housing target number
769 (but in no event less than ten new housing units) shall not be declared exclusionary or otherwise against
770 public policy.

771

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

776

777 (d) If at any time more than two years after the municipality's effective date the total number of
778 housing units for which building permits have been applied for within the residential development
779 districts since the municipality's effective date is greater than the housing target number (adjusted pro
780 rata for the number of years since the municipality's effective date), but the total number of housing
781 units for which building permits have been issued within the residential development districts is less
782 than the pro rata housing target number, then the provisions of this subsection shall be in effect. During
783 such time period, any applications for building permits or other local land use permits for residential
784 development within such residential development districts shall deemed constructively approved if not
785 acted upon within 180 days after receipt of permit applications. In addition, an application received
786 under this section shall be subject only to those conditions that are necessary to ensure substantial
787 compliance of the proposed development project with applicable laws and regulations; and it may be
788 denied only on the grounds that: (i) the proposed development project does not substantially comply
789 with applicable laws and regulations, or (ii) the applicant failed to submit information and fees required
790 by applicable laws and regulations and necessary for an adequate and timely review of the development
791 project. The foregoing provisions shall no longer be in effect once the total number of housing units for
792 which building permits have been issued within such residential development districts equals or exceed
793 the pro rata housing target number.

794

795 Section 8. Review of certification by regional planning agency

796

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

803

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

808

809 The Interagency Planning Board may through regulation establish a procedure for reviewing and
810 approving guidelines prepared by regional planning agencies to be used in the certification of plans,
811 implementing regulations and material amendments. If a certification or determination of non-
812 certification under review by the Interagency Planning Board has been issued by the regional planning
813 agency based upon an approved guideline, then the board may only modify or reverse such decision for
814 inconsistency with the approved guideline.

815

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

817

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

822

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

827

828 Section 10. Priority for Infrastructure Funding

829

830 The executive office of housing and economic development, the executive office of energy and
831 environmental affairs, the executive office of transportation, and the executive office of administration
832 and finance shall, when awarding discretionary funds for local infrastructure improvements, give priority
833 consideration to infrastructure improvements identified in the certified plans of certified plan
834 communities.

835

836 Section 11. Consideration under State Programs

837

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

842

843

844 SECTION 19. Item 7002-0013 in chapter 182 of the Acts of 2008, as so appearing, is hereby amended by
845 adding the following:- "provided, that not more than \$1,000,000 shall be expended for technical
846 assistance grants to municipalities for the preparation of plans and implementing regulations, and
847 grants are to be administered by the Interagency Planning Board; provided further, that not more than
848 \$500,000 shall be expended for technical assistance grants to regional planning agencies for the
849 certification of plans and implementing regulations and the preparation of guidelines, and such grants
850 are to be administered by the Interagency Planning Board; and provided further, priority for the
851 municipal grants administered by the Interagency Planning Board shall be given to those municipalities
852 identified by the applicable regional planning agencies as being most likely to prepare and adopt
853 certified plans and implementing regulations, if provided with financial assistance"

854