

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

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 to promote livable communities and zoning reform act.

PETITION OF:

NAME:

Marc R. Pacheco

DISTRICT/ADDRESS:

First Plymouth and Bristol

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00151 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROMOTE LIVABLE COMMUNITIES AND ZONING REFORM ACT.

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. (a) the land and waters within the Commonwealth possess distinct natural, scientific,
2 historical, scenic, cultural, architectural, archeological, recreational, economic, agricultural and other
3 values
- 4 (b) there is a national, regional, state, and local, interest in preserving and enhancing these values; and
5 these values are being threatened and may be irreparably damaged by uncoordinated or inappropriate
6 uses of the Commonwealth's land and resources.
- 7
- 8 (c) the obligation to protect the many valuable resources of the Commonwealth is shared by
9 local, regional, state and national governments, civic organizations, businesses and the general public.

11 (d) these resources are being adversely affected by a lack of effective and coordinated planning
12 among the various levels of government and a lack of adequate funding and technical assistance for
13 municipalities.

14

15 (e) these resources can be protected if each level of government participates in sustainable
16 planning for smart growth.

17 Section 2.(a) State principles and goals

18 (1) state policies and spending decisions should encourage growth in appropriate and identified
19 places.

20 (2) state resources should be targeted to support development in areas where infrastructure is
21 already in place.

22 (3) state polices and spending decisions should not encourage or subsidize sprawl.

23 (4) state policies and spending decisions should discourage growth in environmentally sensitive
24 areas in order to protect the Commonwealth's most valuable remaining natural resources before they
25 are lost.

26 (b) To that end it shall be the policy of the Commonwealth to :

27 (1) discourage wasteful use of land, water and energy resources;

28 (2) support revitalization and reinvestment in urban areas and older suburbs;

29 (3) encourage the reuse and rehabilitation of existing infrastructure rather than the construction
30 of new infrastructure in undeveloped areas

31 (4) protect, to the maximum extent possible, environmentally sensitive lands, natural resources,
32 wildlife habitats. and cultural, natural, and historic landscapes;

33 (5) support a range of convenient and affordable transportation choices;

34 (6) protect economically productive natural areas including farmland and forests;

35 (7) provide an adequate supply of affordable housing for all income levels throughout each
36 community; particularly for households earning 50 per cent or less of the area median income, as
37 defined by the federal Department of Housing and Urban Development.

38 (8) encourage a clear and transparent development approval process;

39 (9) encourage regional solutions and approaches to planning issues as appropriate, e.g.,
40 transportation, housing supply, and water supply;

41 (10) assist municipalities and regions in planning for growth;

42 (11) require coordination among state agencies so that sustainable development efforts by one
43 agency are not undermined by other state decisions and policies;

44

45 (12) Encourage coordination and cooperation among levels of government; and

46

47 (13) Ensure that permitting, funding, and construction activities by state agencies do not enable,
48 contribute to, or perpetuate development that is inconsistent with state, regional and local sustainable
49 development plans.

50

51 Section 3. For purposes of this chapter, the following words shall have the following meanings:

52

53 “Agency” any agency, department, board, commission, authority, and instrumentality of the
54 Commonwealth and any authority or any political subdivision which is responsible for siting, designing,
55 funding, constructing or permitting of infrastructure projects, public facilities or private development or
56 which is responsible for which is responsible for transportation, water supply, waste water treatment
57 and disposal and solid waste management facilities or infrastructure.

58

59 “Secondary growth impacts”, growth that occurs as a result of making infrastructure available.

60

61 “Sustainable”, purposefully designed to bring about efficient, safe, healthy, prosperous communities
62 that include a sufficient amount of affordable housing while simultaneously maintaining and enhancing
63 the environment, the natural resource base and the ongoing functioning of natural ecosystems that are
64 fundamental to sustaining life and prosperity for current as well as future generations.

65

66 Section 4. (a) There shall be a council for a sustainable commonwealth, known in this chapter as
67 the council, to be chaired by the governor or his designee. The council shall consist of the following
68 voting members: the director of housing and community development or her designee, the secretary of
69 environmental affairs or his designee, the secretary of transportation and construction or his designee,
70 the secretary of administration and finance or his designee and the director of economic development
71 or his designee. The council shall also include the following non-voting members, who shall serve in an

72 advisory capacity: the chairman of the Massachusetts Water Resources Authority or his designee, the
73 chairman of the Massachusetts Bay Transit Authority or his designee, the secretary of the
74 commonwealth acting as chairman of the Massachusetts historical commission or his designee, two
75 chairs of regional planning agencies nominated by the governor, a municipal planning representative
76 appointed by the governor and a professional planner appointed by the governor.

77

78 (b) the council for a sustainable commonwealth shall have the following primary
79 responsibilities, to:

80

81 (1) consider, coordinate and, where appropriate, recommend modifications to the capital
82 planning done by each state agency;

83

84 (2) resolve inconsistencies among and between each of the capital and operating plans of the
85 agencies and regional sustainable development plans, and any inconsistencies that cannot be resolved
86 through discussion and mediation shall be resolved by a majority vote of the voting members of the
87 council;

88

89 (3) encourage the state agencies to consider secondary growth impacts in their capital planning
90 and to encourage agencies to site facilities in areas where infrastructure already exists or to create
91 infrastructure in developed areas, rather than in undeveloped areas; and

92

93 (4) determine and direct the appropriate agency or agencies to provide technical assistance, on
94 an as needed basis, to municipalities as they seek to implement their plans.

95

96 (5) develop guidelines for an urban initiative program that will be part of each regional
97 sustainable development plan.

98

99 Section 5. (a) By March 15 of every odd year, each agency shall develop a five-year agency
100 sustainable development plan, known in this chapter as an agency plan that is consistent with the state
101 goals, principles and policies outlined in section 2 and that meets the following criteria:

102

103 (1) all agencies shall promote, assist and pursue the rehabilitation and revitalization of
104 infrastructure, structures, sites, and areas previously developed and still suitable for economic reuse.
105 Such rehabilitation and revitalization, where practicable, shall be deemed preferable over construction
106 of new facilities or development of areas with significant value in terms of environmental quality and
107 resources. However, all agencies shall recognize that a lack of low and moderate-income housing may
108 necessitate new construction of affordable and mixed income housing in areas in which there is an
109 imbalance between housing supply and demand.

110

111 (2) all agency plans, and all infrastructure spending under them, shall seek to minimize
112 unnecessary loss or depletion of environmental quality and resources that might result from such
113 activity.

114

115 (3) all agencies shall consider secondary growth impacts in the development of their agency
116 plans.

117

118 (4) all agency plans and all infrastructure spending under them, shall consider any applicable
119 regional sustainable development plans created under section 5 of chapter 40B as amended by this act,
120 that are in effect on the date of publication of the agency plans, and conform to the regional plans,
121 where feasible.

122

123 Section 6. (a) the executive office of environmental affairs, the department of economic
124 development, the department of housing and community development, and the executive office of
125 transportation and construction, when awarding discretionary grants to municipalities, excluding any
126 grants made under chapter 90, shall give priority to municipalities that have adopted certified local
127 sustainable development plans pursuant to chapter 41, section 81D as amended by this Act.

128

129 (b) the executive office of environmental affairs, the department of economic development, the
130 department of housing and community development, and the executive office of transportation and
131 construction, when awarding grants that require a municipal match, shall reduce the match requirement
132 by no less than 10% for municipalities that have adopted certified local sustainable development plans.

133

134 SECTION 2. Section 6 of chapter 132C of the General Laws shall be effective 3 years after the effective
135 date of this act.

136

137 SECTION 3. Section 62A of chapter 30 of the General Laws, as appearing in the 2000 Official Edition, is
138 hereby amended by adding the following paragraph:

139

140 The secretary of environmental affairs shall consider in his review of any project under this
141 section the consistency of that project with chapter 132C and its consistency with plans created under
142 section 81D of chapter 41 as amended by this act.

143

144 SECTION 4. The secretary, chairman or director of every agency subject to chapter 132C of the General
145 Laws, within one year from the effective date of this act, and thereafter on an annual basis, shall report
146 on the status and effectiveness of their compliance with said chapter 132C. The reports shall be
147 submitted to the governor, the clerks of the house of representatives and the senate and the chairs of
148 the joint committee on natural resources and agriculture, and shall be made available by each agency
149 for public review.

150

151 SECTION 5. The governor shall, within three months of the effective date of this Act, issue a guidance
152 document for use by agencies in preparing their annual reports under Section 4 of this act and shall,
153 within six months following the submission of the agencies' reports and after consideration of any

154 comments received on such reports, submit to the council for a sustainable commonwealth a summary
155 report and recommendations for the continued implementation of chapter 132C of the General Laws.

156

157 SECTION 6 Chapter 40B of the General Laws, as so appearing, is hereby amended by striking
158 out Section 5 and inserting in place thereof the following section:

159

160 Section 5. (a) For purposes of this section, the following words shall have the following
161 meanings:

162

163 “Concentrated Development Center”, an area composed of concentrated mixed use
164 development established by a municipality or collection of municipalities in conjunction
165 with the regional planning commission.

166 “Council”, the council for a sustainable commonwealth created under chapter 132C.

167 “Regional planning commission”, regional or district planning commissions established
168 under this chapter.

169 “Regional sustainable development plan”, a regional plan.

170 “Sustainable”, purposefully designed to bring about efficient, safe, healthy, economically
171 vital communities that include a sufficient amount of affordable housing while
172 simultaneously maintaining or enhancing the environment, the natural resource base and
173 the ongoing functioning of natural ecosystems that are fundamental to sustaining life and
174 prosperity for current as well as future generations.

175 “Targeted Investment Area”, an area of a municipality or collection of municipalities
176 designated by a regional planning commission, based on municipal recommendations,
177 which is consistent with resource-efficient development and which shall receive priority
178 for public funds.

179 (b) (1) Each regional planning commission shall develop a regional sustainable development
180 plan. This may include the revision or modification of a plan previously created under this chapter.
181 Regional plans shall be revised or updated at least every 5 years. Regional plans shall contain the
182 elements of a complete local sustainable development plan as provided in Chapter 41, Section 81D of
183 the General Laws as amended by this Act. Each RPA shall adapt said elements to the regional plan.
184 Regional plans also shall adhere to the policies of the commonwealth established by section 2 of chapter
185 132C.

186 (2) Regional plans shall consider all local sustainable development plans, created under
187 section 81D of chapter 41 as amended by this Act, of municipalities within the planning region,
188 which are in effect at the time the regional plan is being developed by the regional planning
189 commission. If any local plans within a region’s planning district are inconsistent with one
190 another, the regional planning commission shall encourage the conflicting municipalities to
191 create consistent plans and make recommendations for bringing the plans into compliance with
192 one another.

193 (c) (1) The regional planning commissions may collectively establish uniform procedures
194 under this section.

195 (2) In developing regional plans, the regional planning commissions shall each employ an
196 open, inclusive and broadly participatory process. The regional planning commissions shall
197 undertake public notification and participation procedures that are designed to seek widespread

198 public participation in the regional planning process, including, but not limited to input from the
199 following: local planning boards and other officials and residents of each municipality within the
200 planning district; business and industry representatives; environmental and public health groups;
201 housing advocates and providers, advocates for the local watershed area or areas; representatives
202 of conservation commissions; officials and/or residents of a neighboring planning region with an
203 interest, and representatives of the commonwealth's agencies and departments who have
204 infrastructure or investments in the planning district.

205 (3) The executive committee of each regional planning commission shall review its
206 regional plan for compliance with this section and internal consistency before forwarding it to its
207 commission members for approval. If a regional plan is approved by a simple majority vote of
208 the regional planning commission's members, the plan shall be considered approved and there
209 shall be a rebuttable presumption that the plan is fully compliant with this section and internally
210 consistent. Once the regional plan is approved by a majority vote of the commission members,
211 the regional planning commission shall forward it to the council for sustainable commonwealth,
212 created under chapter 132C, to enable the commonwealth's agencies to develop capital spending
213 plans that are consistent with the regional plans.

214 (d) The regional planning commissions shall review all local sustainable development
215 plans in their jurisdictions under subsection (d) of section 81D of chapter 41 as amended by this
216 Act.

217

218 (e) The council shall develop minimum guidelines for regional urban initiative programs. Each
219 regional plan shall include an urban initiative planning component. Each regional planning agency shall
220 have the opportunity to expand and shape the urban initiative program to meet the needs of its region.

221

222 (1) A fundamental element of the urban initiative program shall include identification and
223 designation of Targeted Investment Areas, based on municipal recommendations. Examples include:
224 infill development in areas with infrastructure capacity; re-development of brownfield sites; and
225 adaptive reuse of structures.

226

227 (2) The urban initiative program shall also require regional planning commissions to work with
228 their municipal jurisdictions to develop criteria for and identify and designate Concentrated
229 Development Centers. Such areas may vary in size and complexity depending on the degree of
230 urbanization in the region or the area proposing designation. Concentrated Development Centers may
231 be designated in the urban economic core, in urban growth areas, in subregional areas, and in suburban
232 and rural centers.

233

234 (f) The regional planning commissions shall develop initial regional sustainable development
235 plans under section 5 of chapter 40B of the General Laws no later than 18 months after the effective
236 date of this act. Under no circumstances shall the failure of a regional planning commission to initiate or
237 complete a regional plan prevent a municipality from developing a local sustainable development plan
238 under section 81D of chapter 41of the General Laws as amended by this Act.

239

240 (g) Regional planning commissions shall be responsible for developing a process to review major
241 developments affecting more than one community. Regional planning commissions will establish a
242 definition for major developments and procedures for comment and review. The Planning Board of any

243 municipality within a region can request that the regional planning commission hold a public hearing on
244 a major development. Any comments or recommendations that result from the review will be shared
245 with the Massachusetts Environmental Policy Act (MEPA) office, if the project requires MEPA review, or
246 with the appropriate decisionmaking and permitting authorities.

247

248 SECTION 7. Chapter 41 of the General Laws, as so appearing, is hereby amended by striking
249 out section 81D and inserting in place thereof the following section:

250

251 Section 81D

252

253 (a) For purposes of this section, the following words shall have the following meanings:

254

255 “Council”, the council for a sustainable commonwealth created under chapter 132C.

256 “Land use regulations”, regulations, administered in whole or in part by a municipality,
257 which materially affect the purposes of this section, including but not limited to: zoning,
258 subdivisions, wetlands, public health and transportation.

259 “Local sustainable development plan”, a local plan.

260 “Regional planning commissions”, organizations established under chapter 40B.

261 “Regional sustainable development plans ” or “regional plans”, plans developed under
262 section 5 of chapter 40B.

263 “Sustainable”, purposefully designed to bring about efficient, safe, healthy, economically
264 vital communities that include a sufficient amount of affordable housing, while
265 simultaneously maintaining and enhancing the environment, the natural resource base and the
266 ongoing functioning of natural ecosystems that are fundamental to sustaining life and
267 prosperity for current as well as future generations.

268 (b) (1) A planning board, established in a municipality under section 81A, shall develop, in
269 consultation with other elected and appointed municipal boards, a local sustainable development
270 plan of the municipality and, may, from time to time, extend or perfect such plan. The local plan
271 may be the revision or modification of a plan previously created pursuant to section 81D. The
272 local plan shall be revised or updated at least every 5 years.

273 (2) The local sustainable development plan shall be a plan that is designed to provide a
274 basis for decision-making regarding the long-term sustainable development of the municipality.
275 The local plans shall adhere to policies identified in section 2 of chapter 132C.

276 (3) The local plan may include text, maps, illustrations or other forms of communication.
277 The local plan shall include the following elements:

278 (i) A goals and policies statement which identifies the goals and policies of the municipality to
279 protect its natural resources and to provide for its sustainable growth and development. Each
280 community shall conduct an interactive process as described in subsection (4) to determine municipal
281 priorities and goals, to determine the best way to make development in the municipality sustainable and
282 to identify patterns of development that will be consistent with these goals.

283

284 (ii) Land use plan element illustrating present land uses and designating the proposed
285 distribution, location, and inter-relationship of public and private land uses. This element shall relate
286 population density and building intensity to the capacity of land available and to planned facilities and
287 services. A land use plan map illustrating the land use policies of the municipality shall be included.

288

289 (iii) Natural and cultural resources element which provides an inventory of the significant
290 natural, cultural, and historic resource areas of the municipality and policies and strategies for the
291 protection and management of such areas. This element shall also include any strategies for protecting
292 community character.

293

294 (iv) Watershed protection element which identifies ground and surface water resources
295 contained in whole or in part within a municipality, future needs, and threats, including the impact of
296 development on water supply, water quality, river and stream flow and wildlife habitat.

297 (v) Housing element which identifies and analyzes existing and forecasted housing needs
298 and objectives including programs for the preservation, improvement and development of
299 housing, particularly housing that is affordable to residents of the municipality who are low and
300 moderate income as defined by the federal Department of Housing and Urban Development.
301 This element shall identify policies and strategies to provide a range of local affordable housing
302 opportunities and strategies to rezone areas to allow the development of multi-family housing.

303 (vi) Economic development element which identifies policies and strategies for the expansion or
304 stabilization of the local economic base and the promotion of employment opportunities.

305

306 (vii) Open space and recreation element which provides an inventory of recreational resources
307 and open space areas of the municipality, and policies and strategies for the management and
308 protection of such resources and areas.

309

310 (viii) Services and facilities element which identifies and analyzes existing and forecasted needs
311 for facilities and services used by the public, including, but not limited to facilities for: education, public
312 safety, water and sewer services, energy demands and energy conservation, and other utilities.

313

314 (ix) Transportation element which identifies existing and proposed intermodal transportation
315 systems including roads, mass transit, pedestrian, bicycle, and waterways, as well as the impacts of such
316 systems on land uses within the municipality.

317

318 (x) Implementation program element which defines and schedules the specific municipal
319 actions, including the identification of the anticipated costs and revenues, associated with each element
320 of the plan. Scheduled expansion or replacement of public facilities or circulation system components
321 and the anticipated costs and revenues associated with accomplishments of such activities shall be
322 detailed in this element. This element shall specify the process by which the municipality's regulatory
323 structure shall be amended so as to be consistent with the plan.

324

325 (xi) Bylaw or ordinance element that shall outline appropriate land use regulations consistent
326 with the Plan and reasonably necessary to implement the elements of the Plan.

327

328 (4) In developing local plans, the municipalities shall each employ an open, inclusive and broadly
329 participatory process. The municipalities shall undertake public notification and participation
330 procedures that are designed to seek widespread public participation in the local planning process,
331 including but not limited to input from the following: local officials and residents of the municipality,
332 neighborhood representatives, business and industry representatives in the community, environmental
333 and public health groups, housing advocates and providers, advocates for the local watershed area or
334 areas; conservation commissions; the appropriate regional planning commission, representatives of
335 neighboring municipalities and representatives of the commonwealth's agencies and departments that
336 have infrastructure or investments in the municipality.

337

338 (5) To the extent that one or more of the elements of the plan is already addressed in another
339 plan, such as an open space and recreation plan, such plan(s) may be included as a component of the
340 local plan in order to satisfy that particular element of the Plan.

341

342 (6) A municipality which has an established local sustainable development plan and applies for a
343 state grant from the commonwealth shall prepare and keep on file within the municipality an economic
344 development supplement; but the municipality shall not be required to prepare the supplement if the
345 municipality has a supplement on file . The supplement shall be at least one page in length and shall
346 contain the goals of the municipality with respect to industrial or commercial development, affordable
347 housing, and preservation of parks and open space.

348

349 (7) All local sustainable development plans shall be internally consistent in their policies,
350 forecasts and standards, shall be consistent with the applicable regional sustainable development plan
351 and shall consider the local sustainable development plans of neighboring municipalities.

352

353 (8) A local plan shall not be in effect until the plan has been reviewed by the applicable
354 regional planning commission in accordance with subsection (c) and the plan has received local
355 approval in accordance with subsection (d).

356

357 (c) A municipality shall present its completed plan to the applicable regional planning
358 commission for review. The regional planning commission shall, within 60 days of receipt of the
359 plan, prepare and submit to the municipality a written review of the plan that shall certify
360 whether the plan satisfies all the goals and elements required by subsection (b), whether it is both
361 internally consistent and consistent with the applicable regional sustainable development plan,
362 and whether it has given consideration to the local sustainable development plans of neighboring
363 municipalities. The review shall identify any deficiency or omission with respect to each
364 required element and goal described in subsection (b). The review shall include, where
365 appropriate, recommendations as to how any omissions or deficiencies may be rectified. Upon
366 receipt of the regional planning commission's certification indicating satisfactory compliance
367 with this section, the planning board shall file the local plan with the office of the clerk of the
368 municipality.

369 (d) Upon receiving certification from the applicable regional planning commission, the planning
370 board shall present the local plan to the municipality's legislative body for approval with an outline of
371 changes needed in the municipalities zoning ordinances, land use regulations or other municipal law to

372 make the plan effective. Any additions to, modifications of, or amendments to the local plan must be
373 presented to and approved by the local legislative body in the same manner. The local plan or local plan
374 modifications shall, upon approval so described, be made part of the public record and a copy of the
375 plan or plan modifications shall be submitted to the department of housing and community
376 development and the executive office of environmental affairs. The plan and any modifications to the
377 plan shall be filed with the office of the clerk of the municipality and made available to the public.

378

379 (e) Municipalities shall have five years to make substantial progress towards implementation of
380 their plans. If after five years from the date of certification, the applicable regional planning commission
381 deems that little or no progress has been made towards implementation of the plan through changes in
382 bylaws or ordinances, the plan will be decertified and the regional planning commission shall notify the
383 council of the decertification.

384

385 SECTION 8 (a) There is hereby established and set up on the books of the commonwealth a Sustainable
386 Development Grant Fund, into which shall be credited monies contributed by the commonwealth
387 including any appropriations or other monies authorized by the general court and specifically designated
388 to be credited to said fund. The fund shall be administered by the council. Amounts credited to said
389 fund shall be provided as grants to municipalities and regional planning commissions for activities
390 relating to the development and preparation of local and regional sustainable development plans under
391 this Act.

392

393 (b) The council shall adopt regulations establishing the grant program created under this section
394 of the act including, but not limited to: the factors to be used by the Council in determining the amount
395 of the grant funds that will be awarded to each municipality; an application process for municipalities
396 that choose to apply for grant funds; and provisions governing the funding of regional planning
397 commissions in the conducting of their responsibilities under this Act.

398

399 (c) Factors to be used by the council in determining the amount of grant funds to be provided to
400 each municipality shall include, but not be limited to: complexity of the planning issues confronting each
401 municipality, the planning capacity of the municipality, and the capacity of each municipality to fund the
402 planning process. Regulations shall also create an incentive program for multi-municipal planning.

403

404 (d) Provided further that chapters 236 and 246 of the acts and resolves of 2002 be amended to
405 authorize and direct the secretary of environmental affairs and the secretary of transportation to
406 appropriate existing funds not to exceed \$35,000,000 for the purposes outlined in this act. Of this
407 amount, \$5,500,000 will be for one time grants to be made to the regional planning commissions
408 established under chapter 40B of the General Laws to facilitate compliance with section 5 of said
409 chapter 40B as amended by this act, in accordance with the following formula: base funding of \$100,000
410 per year per regional planning commission, plus 70 cents per capita based upon the most recent U.S.
411 Census data on population.

412

413 SECTION 9. Chapter 40A of the General Laws is hereby amended by inserting after section 1
414 the following section:-

415

416 40A:2. General Purposes of Zoning Ordinances and Bylaws

417

418 (a) The purpose of the zoning ordinances and bylaws as amended by this act is to provide guidance
419 to municipalities in their regulation of land use, growth, and development through the exercise
420 of home rule powers conferred by article 89 of the Massachusetts constitution. Except as
421 hereinafter provided, cities and towns may adopt zoning ordinances and by-laws in furtherance
422 of the purposes contained in this section for the benefit of their present and future inhabitants
423 to the full extent of the powers of such cities and towns, whether such power is independently
424 authorized by the constitution of the Commonwealth or here by the general court incident to
425 power granted to it by the constitution. The Commonwealth shall limit these powers only
426 where necessary to ensure consistency in zoning and promote regional and statewide interests
427 as specifically provided herein.

428

429 (b) These zoning ordinances and bylaws are intended to advance the following public
430 purposes of the Commonwealth, each with equal priority and numbered for reference
431 purposes only. The general court recognizes that cities and towns may advance some or
432 all of the purposes listed below or may advance other purposes not listed below as they
433 deem appropriate.

434

435 (1) Implementation of a plan adopted by the city or town under section 81D of
436 chapter 41 as amended by this Act.

437

438 (2) Achievement of a balance of housing choices, types and opportunities for all
439 income levels and groups, to assure the health, safety and welfare of all citizens
440 and their rights to affordable, accessible, safe, and sanitary housing.

441

442 (3) Orderly and sustainable growth and development which recognizes:

443

444 (i) the goals and patterns of land use contained in a plan adopted by the city
445 or town under section 81D of chapter 41 as amended by this Act;

446

447 (ii) the natural characteristics of the land, including its suitability for use based
448 on soil characteristics, topography, and susceptibility to surface or
449 groundwater pollution;

450

451 (iii) the values and dynamic nature of watersheds, coastal and freshwater
452 ponds, the shoreline, and freshwater and coastal wetlands;

453

454 (iv) the values of unique or valuable natural resources and features;

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456 (v) the availability and capacity of existing and planned public and/or private
457 services and facilities;

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459 (vi) the need to balance the “built” environment with the “natural”
460 environment; and

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(vii) the use of innovative development regulations and techniques such as development agreements, impact fees, inter-municipal transfers of development rights, agricultural zoning, inclusionary zoning, mediation and dispute resolution, and urban growth boundaries.

(4) Control, protection or abatement of air, water, groundwater, noise and light pollution, and soil erosion and sedimentation.

(5) Protection of the natural, historic, cultural, aesthetic, and scenic character of the city or town or areas therein.

(6) Preservation and promotion of agricultural production, forestry, aquaculture, and open space.

(7) Protection of the environment and natural resources, including but not limited to farmland, forestland, water quality and quantity, shore lands, ridgelines, recreational resources, open spaces, special habitats and ecosystems and other qualities of the environment and natural resources set forth in article 97 of the Massachusetts constitution.

- 482 (8) Protection of public investment in transportation, water, storm water management
483 systems, sewage treatment and disposal, solid waste treatment and disposal,
484 schools, recreation, public facilities, open space, and other public requirements.
485
- 486 (9) Improvement and expansion of existing infrastructure and construction of new
487 infrastructure in support of a plan adopted by the city or town under section 81D
488 of chapter 41 as amended by this Act and the purposes listed herein.
489
- 490 (10) An energy efficient, convenient and safe transportation infrastructure with as wide
491 a choice of modes as practical, including, wherever possible, maximal access to
492 public transit systems.
- 493 (11) Sustained or enhanced economic viability of the community and the region.
494
- 495 (12) Coordination of land uses with contiguous municipalities, other municipalities,
496 the state, and other agencies, as appropriate, especially with regard to resources
497 and facilities that extend beyond municipal boundaries or have a direct impact on
498 that municipality.
499
- 500 (13) Accommodation of regional growth in a fair and equitable, but sustainable
501 manner among municipalities.
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- 503 (14) Efficient, fair and timely review of development proposals, to clarify and expedite
504 the zoning approval process.

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- (15) Effective procedures for the administration of the zoning ordinance or bylaw, including, but not limited to, variances, special permits, other locally-adopted zoning permits, reviews or procedures, and, where adopted, procedures for modification.
- (16) Protection of the public health, safety, and general welfare.
- (17) A range of uses and intensities of use appropriate to the character of the city or town and reflecting current and expected sustainable future needs.
- (18) Safety from fire, flood, and other natural or man-made disasters.
- (19) High level of quality in the design and development of private and public facilities.
- (20) Conservation of the value of land and buildings.
- (21) Conservation and enhancement of community amenities.
- (22) Efficiency in energy usage and the reduction of pollution from energy generation, including the promotion of renewable energy sources and associated technologies.
- .

528 SECTION 10. Section 3 of chapter 40A of the General Laws, as appearing in the 2000 Official
529 Edition, is hereby amended by inserting, after the word "the", in line 25, the following word:-
530 minimum.

531
532 SECTION 11. Said section 3 of said chapter 40A, as so appearing, is hereby further amended by
533 striking out, in lines 26-34 inclusive, the words "nor shall any such ordinance or by-law prohibit,
534 regulate or restrict the use of land or structures for religious purposes or for educational purposes
535 on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies
536 politic, or by a religious sect or denomination, or by a nonprofit educational corporation;
537 provided, however, that such land or structures may be subject to reasonable regulations
538 concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open
539 space, parking and building coverage requirements."

540
541 SECTION 12. Said section 3 of said chapter 40A, as so appearing, is hereby further amended by
542 striking out the third paragraph and inserting in place thereof the following paragraph:-

543
544 Zoning ordinances or bylaws shall not prohibit the use of land or structures thereon for: a)
545 educational purposes on land owned or leased by the Commonwealth or any of its agencies,
546 subdivisions or bodies politic or by a nonprofit educational corporation; b) religious purposes by
547 a religious sect or denomination; c) the purposes of operating a child care facility or d) the
548 purposes of operating a community residential program. As used in this section the following
549 words shall have the following meanings: a) "educational purposes" means public and nonprofit
550 private primary, secondary and higher educational purposes; b) "child care facility" means a day

551 care center or school age child care program, as those terms are defined in section 9 of chapter
552 28A; c) “community residential program” means a residential facility licensed by the
553 Commonwealth to provide care or shelter or supervision or education to a maximum of eight (8)
554 individuals with a mental or physical disability or to victims of crime, of physical or mental
555 abuse, or of neglect in a small-scale residential setting with on-site or off-site supervision. The
556 land or structures used for such purposes may, however, be subject to reasonable regulations
557 regarding the bulk and height of structures, yard sizes, frontage, lot area, building coverage
558 requirements, setbacks, floor area ratio, parking, access and egress, lighting, drainage,
559 landscaping, buffering and open space, and similar matters. Compliance with such regulations
560 may be determined as provided by ordinance or bylaw in each city or town, including through
561 site plan review under which reasonable conditions, safeguards, and limitations to mitigate the
562 impact of a specific use of land or structures on the neighborhood may be imposed pursuant to
563 section 7A of this chapter. In addition, the application of such regulations to particular land or
564 structures used for such purposes may be waived in whole or in part by special permit, and
565 reasonable conditions may be imposed as part of the special permit. The waiver may be granted
566 if the special permit granting authority finds, based upon the evidence presented by the person
567 seeking the waiver, that the waiver will not result in substantially more detriment to the
568 neighborhood than the use of the particular land or structures for such purposes without the
569 waiver.”

570

571 SECTION 13. Section 5 of said chapter 40A, as so appearing, is hereby amended by inserting, after the
572 tenth paragraph, the following paragraphs:-

573

574 A zoning ordinance or bylaw adopted or amended under this chapter shall not be inconsistent with a
575 plan prepared by the city or town under section 81D of chapter 41 as amended by this Act. Said
576 ordinances or bylaws shall provide that in the instance of uncertainty in the construction or application
577 of any section therein, the ordinance or by-law shall be construed in a manner that will further the
578 implementation of, and not be contrary to, the goals, policies and applicable elements of said plan. This
579 paragraph shall not become effective until five years after it is enacted in the General Laws.

580

581 SECTION 14. Chapter 40A of the General Laws is hereby amended by striking out section 6 and inserting
582 in place thereof the following section:-.

583

584 40A:6. Applicability of Zoning Ordinances and Bylaws

585

586 40A:6A. Nonconforming Lots, Structures and Uses

587

588 (a) Residential Lot Exemption

589

590 Increases in lot area, frontage, width or depth, or building setback requirements of a zoning
591 ordinance or bylaw shall not apply to a lot for single- or two-family residential use which
592 immediately prior to the effective date of the zoning amendment that rendered the lot
593 nonconforming:

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- (1) was shown or described as a separate lot on a recorded plan or deed or on an assessors map or plat and has access to and frontage on an existing public way, or if not, to a way of sufficient width, grade and construction to provide safe access to such lot as the planning board or its designee may determine; and
- (2) conformed to the then existing lot area, frontage and lot width or depth requirements; and
- (3) had at least five thousand square feet of area and fifty feet of frontage in the case of a single-family residential use and at least seventy-five thousand square feet of area and seventy-five feet of frontage in the case of two-family residential use; and
- (4) was not held in common ownership with any adjoining land. For the purposes of this section, common ownership shall include lots held by separate legal entities, persons or trusts under common control or with common beneficial interests.

(b) Lawfully Nonconforming Structures and Uses

- (1) For the purposes of this section, a lawfully nonconforming structure or use shall be a structure or use lawfully in existence at the time of the effective date of the zoning amendment rendering such structure or use nonconforming.

617

618 (2) Adoption or amendment of a zoning ordinance or bylaw shall not apply to lawfully
619 nonconforming structures or uses and shall not apply to structures and uses lawfully
620 begun prior to the first publication of notice of the public hearing on the adoption or
621 amendment of the relevant zoning ordinance or bylaw required by section five.

622

623 (3) A zoning ordinance or bylaw may provide that, if a nonconforming use or structure is
624 abandoned for a period of two years or more, it may not be reestablished.
625 Abandonment shall consist of some overt act, or failure to act, which would lead one to
626 believe that the owner neither claims or retains any interest in continuing the
627 nonconforming use or structure, unless the owner can demonstrate an intent not to
628 abandon it. An involuntary interruption of a nonconforming structure or use, such as by
629 fire and natural catastrophe, does not establish the intent to abandon. However, if a
630 nonconforming structure or use is halted, unused or vacated for a period of two years,
631 the owner shall be presumed to have abandoned it.

632

633 (4) This subsection 6A(b) shall not apply to establishments which display live nudity for their
634 patrons, as defined in section nine A, adult bookstores, adult motion picture theaters,
635 adult paraphernalia shops, or adult video stores subject to the provisions of section nine
636 A.

637

638 (c) Alteration, Reconstruction, Extension or Structural Change of Lawfully Nonconforming
639 Structures and Uses

640

641 (1) A zoning ordinance or bylaw shall not prohibit the alteration, reconstruction, extension,
642 or structural change to a lawfully nonconforming single- or two-family residential
643 structure, provided there is no increase in the degree of nonconformity of the structure.

644

645 (2) A zoning ordinance or bylaw may permit, as of right or by special permit, lawfully
646 nonconforming structures or uses to be altered, reconstructed, extended or structurally
647 changed provided that such actions shall not increase the degree of nonconformity of
648 the structure or use.

649

650 (3) A zoning ordinance or bylaw may permit, by special permit, lawfully nonconforming
651 structures or uses to be altered, reconstructed, extended or structurally changed in a
652 manner that increases the degree of nonconformity of the structure or use, provided
653 that the permit granting authority finds that such actions shall not be substantially more
654 detrimental to the neighborhood than the lawfully nonconforming structure or use.

655

656 (4) A zoning ordinance or bylaw may regulate nonconforming structures differently than
657 nonconforming uses.

658

659 (5) A zoning ordinance or bylaw may vary by zoning district(s) the requirements for the
660 alteration, reconstruction, extension or structural change for all lawfully nonconforming
661 structures and uses, except single- and two-family residential structures.

662

663 40A:6B. Vested Rights: Effective Date of Zoning Amendments

664

665 (a) Building Permits and Special Permits

666

667 (1) Adoption or amendment of a zoning ordinance or bylaw shall not apply to a building
668 permit issued or special permit granted prior to the first publication of notice of the
669 public hearing on the adoption or amendment of the relevant zoning ordinance or
670 bylaw required by section five.

671

672 (2) The provisions of subsection 6B(a)(1) shall not apply to building permits unless
673 construction under the permit is commenced within six months after issuance and is
674 carried through to completion as continuously and expeditiously as is reasonable.

675

676 (3) The provisions of subsection 6B (a)(1) shall not apply to special permits unless
677 the use or construction authorized under such permit is commenced within two
678 years.

679

680 (b) Subdivision Plans

681

682 (1) Adoption or amendment of a zoning ordinance or bylaw shall not apply to a definitive
683 subdivision plan approved prior to the first publication of notice of the public hearing on
684 the adoption or amendment of the relevant zoning ordinance or bylaw required by
685 section five.

686

687 (2) The provisions of subsection 6B(b)(1) shall apply for a period of three years.

688

~~689~~ 689 General Provisions

690

691 (1) The time requirements of this section 6B shall be extended for a period of time
692 equal to the duration of:

693

694 (i) any extensions granted by the applicable local board or authority;

695

696 (ii) the period of an appeal from the decision of any applicable local board or
697 authority taken under applicable provisions of law on a building permit,
698 special permit or definitive subdivision plan; and

699

700 (iii) any moratoria upon permitting or construction imposed by any
701 government entity.

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(2) The record owner of the land shall have the right, at any time, by an instrument duly recorded in the registry of deeds for the district in which the land lies, a copy of which shall be filed with the building inspector and town clerk, to waive the provisions of this section 6B, in which case the zoning ordinance or bylaw then or thereafter in effect shall apply.

SECTION 15. Chapter 40A of the General Laws is hereby amended by inserting after section 7 the following section:-

40A:7. Site Plan Review

- (a) As used in this section, a "site plan" is a submission made to a municipality that includes documents and drawings required by an ordinance or bylaw and used by the municipality to determine whether a proposed use of land or structures is in compliance with applicable local ordinances or bylaws, to evaluate the effects of the proposed use of land or structures on the neighborhood and/or community, and to evaluate and propose site design modifications that will lessen those impacts.

- (b) A city or town may adopt a local ordinance or bylaw requiring the submission, review and approval of a site plan before authorization is granted for the use of land or structures governed by a zoning ordinance or bylaw.

725 (c) Such ordinance or bylaw for site plan review shall:

726

727 (1) establish which uses of land or structures are subject to site plan review;

728

729 (2) specify the local board or official charged with reviewing and

730 approving site plans, which may differ for different types, scales, or categories of

731 uses of land or structures;

732

733 (3) establish the submission and review process for a site plan which is submitted in

734 connection with an application for a variance, special permit, or other

735 discretionary zoning approval. This submission and review may be conducted as

736 part of the review of the application for discretionary approval or may be a

737 separate review process under subsection (c)(4) below;

738

739 (4) establish the submission and review process for applications not governed by the

740 procedures for review of discretionary zoning approval under subsection (c)(3)

741 above, which may include the requirement of a public hearing held pursuant to

742 the provisions in section 11 of this chapter. A decision under this subsection (4)

743 shall require a vote by no more than a majority of the full board and shall be

744 made within the time limits prescribed in the ordinance or bylaw, not to exceed

745 the time limits for special permits contained in section 9 of this chapter. If no

746 decision is issued within the prescribed time limit, the applicant shall be entitled

747 to constructive approval of the site plan submitted as provided in section 9,
748 paragraph (12) of this chapter;

749
750 (5) establish standards by which the use of land or structures and its impact on the
751 neighborhood shall be evaluated; and

752
753 (6) contain provisions that make the terms, conditions, and content of the site plan
754 once approved enforceable by the municipality, which may include the
755 requirement of performance guarantees.

756
757 (d) The local board or official charged with review of site plans may adopt, and from time to
758 time amend, after a public hearing, rules to implement the local site plan ordinance or
759 bylaw adopted under this section. Notice of the proposed rules and of the location, date
760 and time of the public hearing shall be filed with the city or town clerk and published in a
761 newspaper of general circulation in the city or town at least 14 days before the public
762 hearing.

763
764 (e) A site plan submitted for the use of specific land or structures provided in subsection
765 (c)(4) shall be approved if the site plan:

766
767 (1) meets the procedural and submission requirements of the site plan review process
768 applicable to the specific land or structures;

769

770 (2) complies with the regulations applicable to such land or structures in the local
771 zoning ordinance or bylaw; and

772
773 (3) meets such standards as the local zoning ordinance or bylaw provides by which
774 the use of land or structures and its impact on the neighborhood shall be
775 evaluated.

776
777 (f) A site plan approved hereunder may include reasonable conditions, safeguards and
778 limitations to mitigate the impacts of a specific use of land or structures on the
779 neighborhood.

780
781 (g) Decisions made under site plan review may be appealed as specified in the ordinance or
782 by law, which may include direct judicial review pursuant to section 17 of this chapter.

783
784 (h) Zoning ordinances or bylaws shall provide that a site plan approval granted under this
785 section shall lapse within a specified period of time, not more than two years from the
786 date of the filing of such approval with the city or town clerk, so long as substantial use
787 or construction has not yet begun, except as extended for good cause by the approving
788 authority designated pursuant to (c)(2) above. Such time shall not include time required
789 to pursue or await the determination of an appeal pursuant to subsection (g) above.

790

791 SECTION 16. Section 9 of chapter 40A of the General Laws is hereby amended by striking out
792 the fourth paragraph, inserted by section 1 of chapter 197 of the acts of 2002, and inserting in
793 place thereof the following paragraph:-

794
795 Zoning ordinances or bylaws may provide for the authorization of the transfer of development
796 rights of land within or between districts. Such authorization may be by special permit or by
797 other methods, including but not limited to the applicable provisions of sections 81K to 81GG,
798 inclusive, of chapter 41 and in accordance with a planning board's rules and regulations
799 governing subdivision control.

800
801 SECTION 17. Section 1A of chapter 40A of the General Laws, as appearing in the 2000 Official
802 Edition, is hereby amended by inserting the following definition:-

803
804 "Development impact fees" a contribution paid to a city or town by the applicant undertaking a
805 development for the purpose of offsetting the impacts related to the development.

806
807 SECTION 18. Chapter 40A of the General Laws is hereby amended by inserting after section 9C
808 the following section:-

809
810 40A:9D. Development Impact Fees

811 (a) Authority

812 Cities and towns may adopt ordinances and bylaws establishing and governing the
813 procedure by which they may calculate, assess and impose development impact fees on

814 proposed developments, including procedures to allow waiver or reduction of
815 development impact fees for affordable housing developments.

816 (b) Administration

817 (1) Any development impact fee assessed under this section shall be paid to and held
818 in a separate account in the city or town in which the proposed development is
819 located. In the event that the proposed development is located in more than one
820 municipality, the impact fee shall be apportioned among the municipalities in
821 accordance with the land area or other equitable unit measure of the impacts of
822 the proposed development in each city or town having adopted an ordinance or
823 bylaw under this section.

824 (2) Any development impact fee imposed or permitted under this section shall
825 comply with the following:

826 (i) The fee shall be rationally related and reasonably proportional to an
827 impact directly or indirectly created by the development.

828 (ii) The purposes for which the fee is expended shall reasonably benefit the
829 proposed development.

830 (iii) The fee shall be expended for the creation or improvement of capital
831 facilities in accordance with a municipal plan, including, but not limited
832 to, the creation or improvement of streets, sewers, water supplies,
833 pollution abatement, parks, schools and similar capital facilities.

834 (3) Nothing in this section shall prevent a municipality from imposing fees or
835 conditions which it may otherwise impose under applicable laws and
836 constitutional provisions.

837 SECTION 19. Section 17 of chapter 40A of the General Laws, as appearing in the 2000 Official
838 Edition, is hereby amended by inserting after the seventh paragraph the following paragraph:-

839 Mediation of land use appeals: After the filing of an appeal hereunder, the parties may agree to mediate
840 the decision that was appealed. In all events, the parties shall file a statement advising the court in
841 which such appeal was filed that the dispute has been considered for mediation, and if they agree to
842 mediation, such mediation shall begin within within 60 days of the date such statement was filed, or
843 such other period as the parties may agree or the court may allow upon application by any party. Such
844 mediation shall conclude not more than 180 days of such filing, provided that such period may be
845 extended for an additional 180 days upon mutual agreement of the parties, or for such additional period
846 as the court may allow upon application by any party. Mediators may be chosen from a list to be
847 provided by the court in which the appeal was filed or by a mediator selected by the parties and
848 approved by the court upon application. The mediator shall be compensated by the parties as they may
849 agree, or under terms approved by the court as a cost of such appeal as hereinafter provided. During
850 such mediation, however, any appeal otherwise pending is stayed. A party may withdraw from
851 mediation at any time after written notification to the other parties and to the court in which such
852 appeal was filed, but shall remain responsible for that party's share of the costs of mediation until the
853 time of withdrawal. The mediator shall have the protections provided under section 23C of Chapter 233,
854 and to the extent that public agencies are participants in such mediations, their deliberations shall not
855 be subject to the provisions of Chapter 39, Section 29B. At the conclusion of such mediation, the
856 mediator shall file with the court a statement describing whether the parties have come to agreement
857 or not. If unresolved, the appeal will then go forward, and if the matter has been resolved, the appeal

858 will be dismissed with prejudice. The cost of mediation will be distributed among the parties as costs of
859 the appeal as the parties may agree and if not, as the court in which such appeal was filed may
860 determine. Mediation hereunder shall not be the only method of resolving a zoning appeal.

861 SECTION 20. Section 81L of chapter 41 of the General Laws, as appearing in the 2000 Official Edition, is
862 hereby amended by striking out, in lines 52-78 inclusive, the definition of "Subdivision" and inserting in
863 place thereof the following definition:-

864 "Subdivision" shall mean the division of a tract of land into one or more lots and shall include
865 resubdivision. When appropriate to the context, subdivision shall include the process of subdivision or
866 the land or territory subdivided. Except as provided in this chapter, any adjustments to existing lot lines
867 of a recorded lot by any means shall be considered a subdivision. Lot area and frontage shall be of at
868 least such dimension as is then required by zoning or other ordinance or bylaw, if any, of said city or
869 town for erection of a building on such lot. If no such dimensions are so required, such area shall be at
870 least five thousand square feet and such frontage shall be at least fifty feet.

871 SECTION 21. Section 81O of said chapter 41, as so appearing, is hereby amended by striking out the
872 second sentence in the first paragraph and inserting in place thereof the following sentence:- After the
873 approval of a plan the location and width of ways, or the number, shape, and size of the lots shown
874 thereon shall not be changed unless the plan is amended accordingly under section eighty-one W,
875 except that the planning board may adopt alternate rules and regulations pursuant to sections eighty-
876 one P and eighty-one Q of this chapter defining and regulating changes to the number, shape, and size
877 of the lots shown thereon as minor subdivisions.

878 SECTION 22. Said chapter 41, as so appearing, is hereby amended by striking out section 81P and
879 inserting in place thereof the following section:-

880 41:81P. Alternative Approvals for Minor Subdivisions

881 Under section eighty-one Q, a planning board may adopt rules and regulations defining and regulating
882 minor subdivisions in a more expeditious manner than would apply to other subdivisions. Such rules
883 and regulations may establish reduced procedural requirements, review periods, fee schedules,
884 performance guarantees, and construction and design standards than would otherwise apply.

885 SECTION 23. Section 81T of said chapter 41, as so appearing, is hereby amended by striking out, in lines
886 2-3 inclusive, the following words:- “or for a determination that approval is not required”.

887 SECTION 24. Section 81X of said chapter 41, as so appearing, is hereby amended by striking out, in lines
888 12-13 inclusive, the following words:- “such plan bears the endorsement of the planning board that
889 approval of such plan is not required, as provided in section eighty-one P, or (3)”.

890 SECTION 25. Section 81X of said chapter 41, as so appearing, is hereby further amended by striking out,
891 in lines 17-20 inclusive, the following words:- “or that it is a plan submitted pursuant to section eighty-
892 one P and that it has been determined by failure of the planning board to act thereon within the
893 prescribed time that approval is not required,”.

894 SECTION 26. Section 81X of said chapter 41, as so appearing, is hereby further amended by striking out
895 the fourth paragraph and inserting in place thereof the following paragraph:-

896 Notwithstanding the foregoing provisions of this section, the register of deeds shall accept for recording
897 and the land court shall accept with a petition for registration or confirmation of title any plan bearing a
898 certificate by a registered land surveyor that 1) the property lines shown are the lines dividing existing
899 ownerships, and the lines of streets and ways shown are those of public or private streets or ways
900 already established, and that no new lines for division of existing ownership or for new ways are shown,
901 or 2) unless subject to section eighty-one O of this chapter or subject to alternate rules and regulations

902 pursuant to section eighty-one P and eighty-one Q of this chapter, the property lines shown do not
903 create a new lot or render an existing lot nonconforming or more nonconforming. The recording of such
904 plan shall not relieve any owner from compliance with the provisions of the subdivision control law or of
905 any other applicable provision of law.

906 SECTION 27. Section 81M of said chapter 41, as so appearing, is hereby amended by inserting, after the
907 word “systems”, in the third sentence, the words:- , and for a plan adopted by the city or town under
908 section 81-D of this chapter.

909 SECTION 28. Section 81O of said chapter 41, as so appearing, is hereby amended by striking out the
910 second paragraph and inserting in place thereof the following paragraph:-

911 A plan shall be deemed submitted under this section at the next regularly-scheduled meeting of the
912 planning board provided it is 1) sent by registered mail or delivered to the planning board and received
913 by said board seven days prior to said meeting, and 2) determined to be complete by the board or their
914 designee at said meeting in accordance with the planning board’s rules and regulations.

915

916 SECTION 29. Section 81Q of said chapter 41, as so appearing, is hereby amended by inserting after the
917 first paragraph the following paragraphs:-

918

919 Notwithstanding anything to the contrary in this section, a planning board may adopt a rule or
920 regulation that a plan for a residential subdivision show a lot or lots that shall be reserved for the
921 required construction by the applicant of dwelling units affordable to persons whose household income
922 does not exceed a percentage of the area median income, as such income is determined by the federal
923 Department of Housing and Urban Development. Such requirements shall not exceed fifteen percent of

924 the dwelling units within the subdivision. In lieu of the construction of the required affordable dwelling
925 units within a subdivision, a planning board rule or regulation may allow for the construction of such
926 units off-site, the dedication of land for such purpose, or the payment of sufficient funds to a separate
927 account created by the city or town for such purpose. Cities and towns are hereby empowered to
928 establish said separate accounts to be administered by the treasurer of the city or town.

929 Rules and regulations adopted or amended under this chapter shall not be inconsistent with a plan
930 prepared under section 81D of chapter 41 as amended by this Act. Said rules and regulations shall
931 provide that in the instance of uncertainty in the construction or application of any section therein, the
932 rules and regulations shall be construed in a manner that will further the implementation of, and not be
933 contrary to, the goals, policies and applicable elements of said plan. This paragraph shall not become
934 effective until five years after it is enacted in the General Laws.

935 SECTION 30. Section 81Q of said chapter 41, as so appearing, is hereby amended by striking out, in lines
936 62-69 inclusive, the words "No rule or regulation shall require, and no planning board shall impose, as a
937 condition of approval of a subdivision, that any of the land within said subdivision be dedicated to the
938 public use, or conveyed or released to the commonwealth or to the county, city or town in which the
939 subdivision is located, for use as a public way, public park or playground, or for any other public
940 purpose, without just compensation to the owner thereof." and inserting in place thereof the following
941 words:- The rules and regulations may require the plan to show a park or parks suitably located for
942 playground or recreation purposes or for providing light and air and not unreasonable in area in relation
943 to the area of land being subdivided and the prospective uses of such land.

944 SECTION 31. Section 81U of said chapter 41, as so appearing, is hereby amended by striking out, in lines
945 174-175 inclusive, the words "for a period of not more than three years".

946 SECTION 32. Section 81U of said chapter 41, as so appearing, is hereby amended by inserting, after the
947 word "applicant", in line 79, the words ", subject to the discretion and approval of the planning board".

948