

**SENATE . . . . . No. 625**

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**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 promoting affordable housing and community planning in the Commonwealth.

PETITION OF:

NAME:

Ms. Chandler

DISTRICT/ADDRESS:

First Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00751 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT PROMOTING AFFORDABLE HOUSING AND COMMUNITY PLANNING IN THE COMMONWEALTH.

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

1           SECTION 1. Section 15 of chapter 19, of the General Laws, as appearing in the 2002 Official  
2 Edition, is hereby amended by adding the following clause:-

3 (k) to collect and maintain information on the number of group home units in each community and report  
4 such information, including the location of such group home units, to the department of housing and  
5 community development on an annual basis. Such location shall be held by the department of housing and  
6 community development subject to chapter 66A.

7           SECTION 2. clause (b) of section 15 of chapter 19B of the General Laws, as so appearing, is  
8 hereby amended by adding the following sentence:-

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

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

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

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

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

21 Section 20 – Definitions The following words, wherever used in this section and in sections 20A to 23,  
22 inclusive, shall, unless a different meaning clearly appears from the context, have the following  
23 meanings:-

24 “Affordable Housing Threshold”, each city or town shall have a minimum affordable housing threshold  
25 such that at least 10 percent of year round housing units meet the requirements for inclusion on the  
26 subsidized housing inventory in a manner consistent with sections 20 through 23 of this chapter.

27 “Committee”, the housing appeals committee.

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

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

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

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

36 “Local Board”, any town or city board of survey, board of health, planning board, conservation  
37 commission, building inspector or the officer or board having supervision of the construction of buildings  
38 or the power of enforcing municipal building laws, or city council or board of selectmen or other boards  
39 exercising power specified locally.

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

42 “Low or moderate-income households”, individuals or families living in a housing unit with combined  
43 incomes no higher than 80 percent of the median income for the metropolitan statistical area, primary  
44 metropolitan statistical area, or the county in which the housing unit is located, whichever is lower, as  
45 determined by the United States department of housing and urban development or, in the absence of such  
46 a determination, by the department.

47 “Low or moderate-income housing”, any year round housing subsidized by the federal or state  
48 government under any program, or subsidized by a local government under a local program authorized  
49 and approved by the department, to produce housing which serves low or moderate-income households as  
50 defined in this chapter. Low or moderate income-housing shall also include manufactured homes, as such  
51 term is defined in G.L. c. 140, § 32Q.

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

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

59 “Uneconomic”, any condition brought about by any single factor or combination of factors to the extent  
60 that such condition makes it impossible for a public agency or nonprofit organization to proceed in  
61 building or operating low or moderate income housing without financial loss, or for a limited dividend  
62 organization to proceed and still realize a reasonable return in building or operating such housing within  
63 the limitations set by the subsidizing agency on the size or character of the development or on the amount  
64 or nature of the subsidy or on the tenants, rentals and income permissible, and without substantially  
65 changing the rent levels and units sizes proposed by the public, nonprofit or limited dividend  
66 organizations. In calculating whether a condition or conditions render a project uneconomic, the  
67 maximum land value shall be the lesser of: (i) actual amount paid by the applicant, or any party related  
68 thereto, for the subject property in an arm’s length transaction, with all allowable carrying costs; or (ii)  
69 the subject property’s as-is fair market value without the benefit of any waivers or variances from local  
70 by-laws or regulations. In making such a calculation, an applicant shall also be bound by the actual costs  
71 of development, and, accordingly, costs attributable to related parties shall be limited to the actual costs  
72 expended by such parties.

73 SECTION 5. Said chapter is hereby further amended by inserting after section 20, the following  
74 new section:-

75 Section 20A. Consistent with local needs.

76 Decisions and requirements by the zoning board of appeals shall be considered consistent with local  
77 needs if they are reasonable in view of the regional need for low or moderate income housing considered  
78 with the number of low and moderate income persons in the city or town affected and the need to protect  
79 the health or safety of the occupants of the proposed housing or of the residents of the city or town, to

80 promote better site and building design in relation to the surroundings, or to preserve open spaces, and if  
81 such decisions and requirements are applied as equally as possible to both subsidized and unsubsidized  
82 housing. A zoning board of appeals is not required to grant waivers for use restrictions in zoning districts  
83 that are limited to industrial uses.

84 Decisions and requirements shall also be deemed consistent with local needs when imposed by a board of  
85 zoning appeals after comprehensive hearing in a city or town where:

86 (1) Low or moderate-income housing exists which is at least 10 per cent of the housing units reported in  
87 the most recent federal decennial census of the city or town or on sites comprising one and one half per  
88 cent or more of total land area zoned for residential, commercial or industrial use; (2) The development is  
89 large scale for the city or town in which it is proposed. A proposed development shall be large scale if:

90 \* in a city or town which has a total number of 7,500 or more housing units as enumerated in the  
91 most recent federal decennial census, the application for a comprehensive permit involves construction of  
92 more than 300 housing units or a number of housing units equal to or greater than 2 percent of all housing  
93 units in the city or town, whichever number is greater; or

94 \* in a city or town which has between 5,000 and 7,500 housing units exclusive, as so enumerated,  
95 the application for a comprehensive permit involves construction of more than 250 housing units; or

96 \* in a city or town which has between 2,500 and 5,000 housing units inclusive, as so enumerated,  
97 the application for a comprehensive permit involves construction of more than 200 housing units; or

98 \* in a city or town which has less than 2,500 housing units, as so enumerated, the application for a  
99 comprehensive permit involves construction of more than 150 housing units; or

100 (3) The city or town has made recent progress toward attaining its affordable housing threshold. Recent  
101 progress toward its affordable housing threshold shall mean that the number of housing units that have  
102 been created during the twelve months prior to the date of the comprehensive permit application and that

103 are eligible to be included on the subsidized housing inventory equal to or greater than 2 percent of the  
104 city or town's total housing units as enumerated in the most recent federal decennial census; or

105 (4) 12 months has not elapsed between the date of application for a comprehensive permit and the date of  
106 the most recent pendency of a prior application for a variance, special permit, subdivision or other  
107 approval related to construction on the same land if that prior application included no provision for low or  
108 moderate income housing, provided that any such application shall not be considered a prior application if  
109 it concerns only insubstantial changes to an existing use;

110 (5) the city or town has adopted an affordable housing plan approved by the department pursuant to which  
111 there is an increase in its number of low or moderate-income housing units eligible for inclusion on the  
112 subsidized housing inventory by at least one-half of 1 percent of total units every calendar year until  
113 housing needs are met pursuant to this chapter, subject to paragraphs (a) and (b) below.

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

118 b. The affordable housing plan shall address the matters set out in guidelines adopted by the department,  
119 including:

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

123 \* the strategy by which the city or town will achieve its housing goals based upon its  
124 comprehensive needs assessment;

125 \* the characteristics of projects the city or town prefers that are consistent with the guidelines  
126 established by the department f or smart growth and development including, but not limited to,  
127 redevelopment and adaptive reuse, cluster housing, higher-density housing, transit or pedestrian-oriented  
128 development which provides access to jobs and services, resource efficient buildings, and development in  
129 locations with existing infrastructure;

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

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

136 \* the identification of specific sites or characteristics of sites for which the city or town will  
137 encourage the filing of comprehensive permit applications pursuant to section 21 of this chapter; and

138 \* city or town owned parcels, if any, for which the city or town commits to issue requests for  
139 proposals to develop low or moderate-income housing.

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

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

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

164 e. Units which were created and which became eligible to be counted toward a city or town's affordable  
165 housing threshold between August 1, 2002 and December 31, 2002 shall be credited toward the city or  
166 town's affordable housing threshold for the first year of planned production under an approved affordable  
167 housing plan, regardless of the date the plan is submitted to or certified by the department. An approved  
168 plan shall take effect for the purpose of the definition of consistent with local needs in this section only  
169 when the department certifies that the city or town has approved permits resulting in an initial annual  
170 increase in its low-or moderate-income housing units of at least one-half of 1 percent of total housing  
171 units in accordance with its plan. It is the responsibility of the city or town to request such certification  
172 from the department. Once the department has made such a certification of initial compliance and  
173 subsequent annual certifications of compliance:

174 \* The board may, in its discretion, deny, or approve with conditions, any comprehensive permit  
175 applications for the period of one year from any certification, and such denial or approval with conditions  
176 shall be deemed consistent with local needs; or, alternatively,

177 \* The board may, in its discretion, deny or approve with conditions any comprehensive permit  
178 applications for the period of 2 years from any certification, if, in the year it was certified, the city or town  
179 has increased its low or moderate-income housing stock by at least 1 percent of total housing units in a  
180 manner consistent with the plan, or alternatively,

181 \* The board may, in its discretion, deny, or approve with conditions, any comprehensive permit  
182 applications for the period of 3 years from any certification, if, in the year it was certified, the city or town  
183 has increased its low or moderate-income housing stock by at least 1 1/2 percent of total housing units in a  
184 manner consistent with the plan; or

185 (6) the board has approved 3 or more comprehensive permits, at least 3 of which contain 20 or more  
186 housing units each within 12 months preceding the filing of an application for a comprehensive permit  
187 and those permits have become final.

188 SECTION 6. Said chapter is hereby further amended by inserting after section 20, the following  
189 new section:-

190 Section 20B. Local determination of affordable housing threshold.

191 (a) Comprehensive permit requirements.

192 (1) To be eligible to submit an application for a comprehensive permit or to file or maintain an appeal  
193 before the committee, the applicant and the project shall fulfill the following jurisdictional requirements:

194 (i) The applicant shall be a public agency, a non-profit organization, or a limited dividend organization.

195 An applicant shall satisfy the limited dividend organization requirement if the comprehensive permit

196 contains a condition that the owner of the project execute a regulatory agreement with a subsidizing  
197 agency which limits the owner's return on building or operating the project to: (i) 20% of total  
198 development costs for a home-ownership project; and/or (ii) 10% per year for rental projects. Each  
199 regulatory agreement shall affirmatively require that all excess profit shall be paid to the local  
200 municipality for the exclusive use of developing, maintaining, or operating affordable housing, provided  
201 that such housing is restricted for sale or lease to households earning no more than 120% of the  
202 designated Area Median Income. Such regulatory agreement shall be recorded or filed prior to the  
203 beginning of construction of the land records with the registry of deeds or land court in the registry  
204 district or district office of the land court in which the project is located. In calculating the allowable  
205 limited dividend, the maximum allowable land value shall be the lesser of: (i) actual amount paid by the  
206 applicant, or a party related thereto, for the subject property in an arm's length transaction, with all  
207 allowable carrying costs; or (ii) the subject property's as-is fair market value without the benefit of any  
208 waivers or variances from local by-laws or regulations. In making such a calculation, an applicant shall  
209 also be bound by the actual costs of development, and, accordingly, costs attributable to related parties  
210 shall be limited to the actual costs expended by such parties. An applicant shall disclose, to the  
211 municipality all documents which are used to determine the amount of the dividend or profit in the  
212 projects and the local municipality is permitted to monitor an applicant's compliance with its limited  
213 dividend obligations.

214 (ii) The project shall be fundable by a subsidizing agency under a low and moderate-income housing  
215 subsidy program.

216 \* The applicant shall control the site.

217 \* The proposed development shall contain no less than 25 percent of its total housing units as units  
218 affordable to low or moderate income households, or in the alternative a proposed development may

219 contain no less than 20 percent of its total housing units as affordable to households whose income does  
220 not exceed 50 percent of the area median income.

221 Provided further the inclusion of commercial, recreational or other land uses which are in conjunction  
222 with the housing development shall not preclude eligibility.

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

225 (i) A determination of project eligibility shall include:

226 1. the name and address of the applicant;

227 2. the address of the site and site description;

228 3. the number and type (homeownership or rental) of housing units proposed;

229 4. the name of the housing program or programs under which project eligibility is sought; and

230 5. relevant details of the particular project if not mandated by the housing program, including the  
231 percentage of units for low or moderate income households, income eligibility standards, the duration of  
232 use restrictions requiring occupancy by low or moderate income households, and the limited dividend  
233 status of the developer;

234 (ii) A determination of project eligibility shall make the following findings:

235 1. that the proposed project appears generally eligible under the requirements of the housing  
236 program or programs, subject to final review of eligibility and to final approval;

237 2. that the subsidizing agency has performed an on-site inspection of the site and has reviewed  
238 pertinent information submitted by the applicant;

239 3. that the proposed housing design and density are generally appropriate for the site on which it is  
240 located, taking into account surrounding land uses, proximity to transportation, services and public  
241 utilities, and design to minimize land use impacts;

242 4. that the proposed project appears financially feasible within the housing market in which it will  
243 be situated, based on comparable rentals or sales figures;

244 5. that an initial pro forma has been reviewed and the project appears financially feasible on the  
245 basis of estimated development costs; and

246 F. that the developer of the proposed project meets the general eligibility standards of the housing  
247 program or programs.

248 \* In addition to the foregoing, a subsidizing agency shall consider the following in making a  
249 determination of project eligibility: overall density and size; environmental impact, including watersheds  
250 and existing land uses; consistency with principles of smart growth; impact on historical resources; the  
251 impact of other pending applications for housing development; and other local concerns of the city or  
252 town where the project is located.

253 \* Within 10 days of filing of its application for a determination of project eligibility with a  
254 subsidizing agency for preliminary approval of a project, the applicant shall serve written notice upon the  
255 director of the department.

256 \* Within 10 days of filing the application for a determination of project eligibility the applicant  
257 shall provide written notice and a copy of such application to the chief executive officer of the involved  
258 city or town and to the members of the general court representing such city or town. The applicant shall  
259 also provide written notice of the application to the planning board, board of health, conservation  
260 commission, water and sewer district, fire and police.. Within 30 days after such notice, the chief  
261 executive officer or designee of the chief executive officer may schedule and hold a meeting at a location

262 within the involved city or town. The meeting shall be chaired by the city or town's chief executive  
263 officer or designee and shall be attended by the applicant or its representative. Representatives from local  
264 boards are encouraged to attend the meeting and provide written comment. The purpose of the meeting is  
265 to allow the applicant and the city or town representatives to informally discuss the preliminary proposal  
266 so that the parties involved can develop an understanding of the proposal and to respond to concerns  
267 raised in an effort to achieve an outcome that meets the needs of the involved city or town as well as the  
268 applicant. In addition, a representative from a public or quasi-public housing agency, or a regional  
269 planning agency within the regional planning district or its designee knowledgeable with respect to  
270 chapter 40B may provide technical assistance on topics including, but not limited to, site design and  
271 density, open space, marketing, use restrictions, allowable costs and profit limitations. Following the  
272 close of the meeting, the chief executive officer of the city or town, local boards, and the regional  
273 planning district may issue written comments within 14 days to the subsidizing agency. Project eligibility  
274 determinations must be made within 90 days from receipt of the municipality's comments.

275 \* Within 10 days of receipt of a written determination of project eligibility from the subsidizing  
276 agency, the applicant shall serve a copy of that determination upon the director of the department.

277 (vii) An applicant which has obtained a determination of project eligibility shall be presumed to be  
278 eligible to submit an application for comprehensive permit or to file or maintain an appeal before the  
279 committee. Nothing set forth in this section 20B shall be deemed to confer upon any city or town, or any  
280 of its boards, committees, commissions or officials, or upon any other person the right to appeal or  
281 judicial review in any form the determination of project eligibility by the subsidizing agency, it being  
282 intended that the rights of appeal conferred by sections 21 and 22 of this chapter shall be the exclusive  
283 remedy for any party aggrieved by the issuance or denial of any comprehensive permit hereunder.

284 (viii) If project funding is provided through a non-governmental entity, a public or quasi-public entity  
285 authorized by the department shall make the determination of project eligibility. The designated entity

286 that issued the project eligibility determination shall administer the project thereafter as specified in  
287 program guidelines issued by the department.

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

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

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

302 (b) Local Action Prerequisite to Appeal.

303 In order to appeal to the committee, an applicant shall have applied to the board for a comprehensive  
304 permit in accordance with section 21 of this chapter and shall have been denied such permit or shall have  
305 been granted such permit with conditions which it alleges make the building or operation of such housing  
306 uneconomic.

307 (c) Local progress toward affordable housing threshold.

308 (1) Affordable housing thresholds. A city or town may record progress towards its affordable housing  
309 threshold as documented in the subsidized housing inventory in the following manner:

310 i. Rental Housing Units: (a) If at least 25 percent of housing units within a development are restricted to  
311 serve low or moderate-income households, 100 percent of housing units within the development shall be  
312 eligible to be included toward the city or town's affordable housing threshold. If fewer than 25 percent of  
313 housing units within a development are restricted to serve low or moderate-income households, only  
314 those units which serve low or moderate-income households shall be eligible to be included toward the  
315 city or town's affordable housing threshold or (b) if at least 20 percent of housing units within a  
316 development are restricted to serve households with household income at or below 50 percent of area  
317 median income, 100 percent of housing units within the development shall be eligible to be included  
318 toward the city or town's affordable housing threshold. If fewer than 25 percent of housing units within a  
319 development are restricted to serve low or moderate-income households, only such restricted units shall  
320 be eligible to be included toward the city or town's affordable housing threshold;

321 ii. Homeownership Units: (a) if at least 25 percent of housing units within a development are restricted to  
322 serve low or moderate-income households, 2 times the actual number of such restricted units, not to  
323 exceed the total number of homeownership units authorized by the permit shall be included toward the  
324 city or town's affordable housing threshold or (b) if at least 20 percent of housing units within a  
325 development serve households earning at or below 50 percent of area median income, 2 times the actual  
326 number of units serving such households, not to exceed the total number of homeownership units  
327 authorized by the permit shall be included toward the city or town's affordable housing threshold. If  
328 fewer than 25 percent of housing units within a development are restricted to serve low or moderate-  
329 income households, only such units which are restricted to serve low or moderate-income households  
330 shall be eligible to be included toward the city or town's affordable housing threshold;

331 iii. Community Preservation Act Housing Units: any community housing, as defined in chapter 44B  
332 which is restricted to occupancy by persons of low or moderate income households, provided further, that  
333 such housing payment exclusive of utilities shall not exceed 30 percent of monthly income of a household  
334 at or below 80 percent of area median income, adjusted for household size, shall be eligible to be included  
335 toward the city or town's affordable housing threshold;

336 iv. Accessory Apartment Units: any accessory apartment which is approved pursuant to a city or town's  
337 ordinance or bylaw and is occupied by persons of low or moderate income, provided further that such  
338 rental payment exclusive of utilities shall not exceed 30 percent of monthly income of a household  
339 earning at or below 80 percent of area median income, adjusted for household size, shall be eligible to be  
340 included toward the city or town's affordable housing threshold. Each such accessory apartment unit shall  
341 be subject to a use restriction, which may be revocable upon the sale of the principal residence. Each city  
342 or town shall certify annually the number of such accessory apartments within its borders;

343 v. Group Home Units: all group home units in each city or town as reported annually by the department of  
344 mental health and the department of mental retardation to the department shall be eligible to be included  
345 toward the city or town's affordable housing threshold;

346 vi. Local Housing Units: housing units created under a local program or subsidy or which qualify as local  
347 initiative units pursuant to regulations promulgated by the department and restricted to serve low or  
348 moderate income households as defined in this chapter shall be eligible to be included toward the city or  
349 town's affordable housing threshold as documented on the subsidized housing inventory; and

350 vii. Urban Center Housing Tax Increment Financing Units: low or moderate income housing created  
351 pursuant to section 60 of chapter 40 provided further, that such housing payment exclusive of utilities  
352 shall not exceed 30 percent of monthly household income of a household earning at or below 80 percent  
353 of area median income shall be eligible to be included toward the city or town's affordable housing  
354 threshold.

355 viii. Expiring Use Units: In instances where housing units were developed to serve low or moderate  
356 income households and the use restriction has expired as a result of refinancing or operation of law or  
357 otherwise, the department shall have the discretion to count such units pursuant to guidelines promulgated  
358 by the department toward a city or town's affordable housing threshold as recorded in the subsidized  
359 housing inventory. The approved affordable units in any project under G.L. c. 40B, Sections 20-23, shall  
360 remain affordable for the longer of: (a) the term of affordability contained in a recorded restriction; or (2)  
361 the time which such project remains non-compliant with the city or town's zoning ordinances or bylaws.

362 (d) Subsidized Housing Inventory.

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

374 SECTION 7. Said chapter is hereby further amended by inserting after section 20, the following  
375 section:-

376 Section 20C. A city or town, pursuant to sections 20 through 23 of chapter 40B, with a pending  
377 comprehensive permit for an application of development of housing, that shares a contiguous border to an  
378 adjacent city or town may propose to enter into an agreement with such city or town to share

379 infrastructure and service costs associated with such development. Pursuant to such agreement, if such  
380 infrastructure and service costs are shared by a city or town, both cities and towns may share in counting  
381 such units towards their affordable housing threshold pursuant to sections 20 through 23 of chapter 40B.  
382 Any such proposed agreement shall be subject to approval by the department of housing and community  
383 development, which shall set forth guidelines for such agreements. Provided further such cities and towns  
384 may provide for a joint application to each city or town for a comprehensive permit application and  
385 provide for a joint hearing process for consideration of such joint application by such local zoning boards.

386 SECTION 8. Said chapter is hereby further amended by inserting after section 20, the following  
387 section:-

388 Section 20D. The Massachusetts Housing Partnership Fund board, as established by section 35 of chapter  
389 405 of the acts of 1985, or its designee, shall make technical assistance available to local zoning boards of  
390 appeal to assist in their review of applications for comprehensive permits. No subsidizing agency shall  
391 issue a determination of project eligibility or site approval unless a fee to defray the costs of such  
392 technical assistance program has been collected from the applicant and remitted to the Massachusetts  
393 Housing Partnership Fund board in accordance with a fee schedule adopted by the department.

394 SECTION 9. Said chapter is hereby further amended by inserting after section 20, the following  
395 section:-

396 Section 20E. The department shall promulgate regulations and establish programs, policies, guidelines  
397 and necessary fee schedules to implement sections 20 to 23, inclusive, of this chapter. The department  
398 shall make available planning and housing development information and technical assistance to assist  
399 cities and towns in reaching their affordable housing threshold as defined in this chapter.

400 SECTION 10. Section 23 of said chapter 40B, as so appearing, is hereby amended by inserting  
401 after the first sentence the following sentence:-

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

405 SECTION 11. The department of housing and community development in consultation with the  
406 commonwealth development coordinating council shall create a pilot program under which 3 housing  
407 regions may be established to address regional housing needs of cities and towns within a region. Such  
408 cities or towns in a region may agree to meet affordable housing thresholds established under sections 20  
409 through 23 of chapter 40B in one region. The department and the commonwealth development  
410 coordinating council shall establish criteria for such housing region to include but not be limited to the  
411 following:

412 1. only contiguous communities that have not exceeded 10 percent toward their affordable housing  
413 thresholds on the subsidized housing inventory maintained by the department pursuant to sections 20  
414 through 23 of chapter 40B shall be eligible to participate in such region;

415 2. contiguous communities shall enter into an inter-municipal agreement and develop a joint  
416 housing plan for the region consistent with development goals established by the department. Such plan  
417 shall:

418 1. address how the communities will share the infrastructure or service costs and benefits of low-  
419 and moderate-income housing development, and how credit for such affordable housing development will  
420 be reflected on the subsidized housing inventory for each city or town within the region.

421 2. address how contiguous cities or towns will achieve their housing goals. The total housing goals  
422 in the region shall be at a minimum, the sum of the goals established by section 20 of chapter 40B of each  
423 city or town participating in the plan.

424 The authority granted by this section shall cease on June 30, 2006, and the department shall report the  
425 results of said pilot program to the clerks of the house of representatives and the senate and the joint  
426 committee on housing and urban development.

427 SECTION 12. Notwithstanding any general or special law to the contrary, no application for a  
428 comprehensive permit filed before the effective date of this act shall be denied as a result of changes to  
429 the General Laws pursuant to this act.

430 SECTION 13. This act shall become effective immediately upon passage.

431