HOUSE DOCKET, NO. 4051 FILED ON: 2/12/2009

HOUSE . . . . . No. 3909

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to zoning ordinances for residential sober housing..

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

Chapter 40A of the General Laws is hereby amended by inserting after section 9C the following section:-

Section 9D. (a) As used in this section, the term "sober house" shall mean a dwelling unit occupied by more than 4 unrelated persons, all of whom are in recovery from chemical dependency and considered handicapped under 42 U.S.C. 3601, et seq., that provides a non-institutional residential setting in which residents voluntarily are subject to written rules and regulations regarding recovery from chemical dependency, including the prohibition of alcohol and illegal drug use and a required 10 hours of group therapy per month. A sober house shall not include government subsidized facilities or group residences licensed or regulated by the commonwealth under section 71 of chapter 111. A sober house shall provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental, nutritional and other health care services; financial management services; legal services; vocational services; and other similar supportive services.

(b) A city or town may adopt zoning ordinances or by-laws for special permits authorizing the establishment and operation of sober houses upon the request of a reasonable accommodation pursuant to 42 U.S.C 3601 et. seq. to provide an exception to sections 22 to 31, inclusive, of chapter 140, which shall be granted if the following standards and conditions are met by the operator of such sober house:

(1) the operator shall submit a written request for reasonable accommodation to the permit granting authority of the city or town on a form provided by the municipality and states the number of residents to resided in the sober house and specifies the maximum number of residents as allowed by the square footage of living area that meets the requirements of the state sanitary code promulgated pursuant to section 127A of chapter 111 which shall be subject to verification by the city or town;

(2) the operator substantially complies with the state sanitary code as evidenced by an annual inspection of the municipality or any other inspection requested by a resident;

(3) the operator submits a written parking plan for motor vehicles for compliance in accordance the reasonable accommodation request and the municipality's reasonable parking ordinance or by-law; and

(4) the operator meets a grant of additional reasonable accommodation that the city or town may provide for this use under any other by-law, ordinance or guideline.

(c) A city or town may provide for a specific minimum distance from any other real property containing a sober house; provided that such distance is consistent with 42 U.S.C. 3601, et seq.