

SENATE No. 739

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Affordable Housing Community Planning..

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

1 SECTION 1. Section 15 of chapter 19 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by adding the following paragraph:-

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

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

9 The department of mental retardation shall report the number of group home units in each
10 city or town on an annual basis to the department of housing and community development. The
11 department of mental retardation shall also report the location of such group homes to the
12 department of housing and community development. Such location shall be held by the
13 department of housing and community development subject to chapter 66A.

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

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

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

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

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

31 “Committee”, the housing appeals committee.

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

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

34 “Family”, 2 or more persons who live or will live regularly in a unit as their primary
35 residence whose income and resources are available to meet the family’s needs and who are
36 either related by blood, marriage, operation of law or who have otherwise evidenced an inter-
37 dependent relationship.

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

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

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

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

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

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

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

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

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

73 Section 20A. Decisions and requirements by the planning board shall be considered
74 consistent with local needs if they are reasonable in view of the regional need for low or
75 moderate income housing considered with the number of low and moderate income persons in
76 the city or town affected and the need to protect the health or safety of the occupants of the
77 proposed housing or of the residents of the city or town, to promote better site and building

78 design in relation to the surroundings, or to preserve open spaces and the quality of drinking
79 water supply and water resources; and if such decisions and requirements are applied as equally
80 as possible to both subsidized and unsubsidized housing. Decisions and requirements shall also
81 be deemed consistent with local needs when imposed by a planning board after comprehensive
82 hearing in a city or town where:

83 (1) low or moderate-income housing exists which is at least 10 per cent of the year round
84 housing units reported in the most recent federal decennial census of the city or town; or on sites
85 comprising one and one-half per cent or more of total land area zoned for residential, commercial
86 or industrial use; (2) the development is large scale for the city or town in which it is proposed. A
87 proposed development shall be large scale if: (a) in a city or town which has a total number of
88 7,500 or more year round housing units as enumerated in the most recent federal decennial
89 census, the application for a comprehensive permit involves construction of more than 300
90 housing units or a number of housing units equal to or greater than 2 per cent of all housing units
91 in the city or town, whichever number is greater; or (b) in a city or town which has between
92 5,000 and 7,500 year round housing units exclusive, as so enumerated, the application for a
93 comprehensive permit involves construction of more than 250 housing units; or

94 (c) in a city or town which has between 2,500 and 5,000 year round housing units
95 inclusive, as so enumerated, the application for a comprehensive permit involves construction of
96 more than 200 housing units; or (d) in a city or town which has less than 2,500 year round
97 housing units, as so enumerated, the application for a comprehensive permit involves
98 construction of more than 150 housing units; or (3) the city or town has made recent progress
99 toward attaining its affordable housing threshold. Recent progress toward its affordable housing
100 threshold shall mean that the number of housing units that have been created during the 12

101 months prior to the date of the comprehensive permit application and that are eligible to be
102 included on the subsidized housing inventory equal to or greater than 2 per cent of the city or
103 town's total year round housing units as enumerated in the most recent federal decennial census;
104 or (4) 12 months has not elapsed between the date of application for a comprehensive permit and
105 the date of the most recent pendency of a prior application for a variance, special permit,
106 subdivision or other approval related to construction on the same land if that prior application
107 included no provision for low or moderate income housing, provided that any such application
108 shall not be considered a prior application if it concerns only insubstantial changes to an existing
109 use; (5) the city or town has adopted an affordable housing plan approved by the department
110 pursuant to which there is an increase in its number of low or moderate-income housing units
111 eligible for inclusion on the subsidized housing inventory by at least one-half of 1 per cent of
112 total year round housing units every calendar year until housing needs are met pursuant to this
113 chapter, subject to paragraphs (a) and (b).

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

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

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

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

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

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

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

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

140 (c) Upon submission to the department, the plan shall also be submitted to the regional
141 planning district established pursuant to this chapter or the Cape Cod commission, established
142 pursuant to section 18 of chapter 716 of the Acts of 1989, or the Martha's Vineyard commission,
143 established pursuant to chapter 831 of the Acts of 1977, within such district or commission area

144 such project is located or any other regional planning district hereafter established by the general
145 court, which shall have 30 days to comment to the department on the implications of the plan for
146 housing need, growth and development concerns, and other relevant matters. Within 90 days
147 after its submission to the department by a city or town's chief executive officer, the department
148 shall approve the plan if it meets the requirements specified herein, otherwise, it shall disapprove
149 the plan. The department shall notify the city or town of its decision to either approve or
150 disapprove a plan in writing. If the department disapproves a plan, the notification shall include a
151 statement of reasons for the disapproval. A city or town that originally submitted a plan that had
152 been disapproved may submit a new or revised plan to the department at any time. A city or
153 town may amend its plan from time to time if the department approves the amendment. If the
154 department fails to mail notice of approval or disapproval of a plan or plan amendment within 90
155 days after its receipt, the plan or plan amendment shall be deemed to be approved.

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

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

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

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

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

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

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

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

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

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

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

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

215 (2) Fundability shall be established by submission of a written determination of project
216 eligibility by a subsidizing agency as follows: (i) A determination of project eligibility shall
217 include: (A) the name and address of the applicant; (B) the address of the site and site
218 description; (C) the number and type, either homeownership or rental, of housing units proposed;
219 (D) the name of the housing program or programs under which project eligibility is sought; and
220 (E) relevant details of the particular project if not mandated by the housing program, including
221 the percentage of units for low or moderate-income households, income eligibility standards, the
222 duration of use restrictions requiring occupancy by low or moderate-income households, and the
223 limited dividend status of the developer;

224 (ii) a determination of project eligibility shall make the following findings: (A) that the
225 proposed project appears generally eligible under the requirements of the housing programs,
226 subject to final review of eligibility and to final approval; (B) that the subsidizing agency has
227 performed an on-site inspection of the site and has reviewed pertinent information submitted by
228 the applicant; (C) that the proposed housing design and density are generally appropriate for the
229 site on which it is located, taking into account surrounding land uses, proximity to transportation,
230 services and public utilities, and design to minimize land use impacts; (D) that the proposed
231 project appears financially feasible within the housing market in which it will be situated, based

232 on comparable rentals or sales figures; (E) that an initial pro forma has been reviewed and the
233 project appears financially feasible on the basis of estimated development costs; and

234 (F) that the developer of the proposed project meets the general eligibility standards of
235 the housing program or programs.

236 (iii) In addition to the foregoing, a subsidizing agency shall consider the following in
237 making a determination of project eligibility; overall density and size; environmental impact,
238 including impacts on watersheds, rivers, and water bodies, wildlife habitat and existing land
239 uses; consistency with principles of smart growth, including without limitation land use
240 protections set forth in the open space and recreation plans adopted by the planning board of the
241 municipalities, or by the town meeting or city council and approved by the executive office of
242 energy and environmental affairs; impact on historical resources; the impact of other pending
243 applications for housing development; and other local concerns of the city or town where the
244 project is located.

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

248 (v) Within 10 days of filing the application for a determination of project eligibility the
249 applicant shall provide written notice and a copy of such application to the chief executive
250 officer of the involved city or town and to the members of the general court representing such
251 city or town. The applicant shall also provide written notice of the application to the board of
252 zoning appeals, board of health, conservation commission, water and sewer district, fire and
253 police. Within 30 days after such notice, the chief executive officer or designee of the chief

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

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

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

277 and 22 shall be the exclusive remedy for any party aggrieved by the issuance or denial of any
278 comprehensive permit hereunder.

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

283 (3) A showing that the applicant, or any entity 50 per cent or more of which is owned by
284 the applicant, owns a 50 per cent or greater interest, legal or equitable, in the proposed site, or
285 holds any option or contract to purchase the proposed site, shall be considered by the board or
286 the housing appeals committee to be conclusive evidence of the applicant's interest in the site.(4)
287 No determination of project eligibility shall be issued for a project sooner than 45 days after the
288 filing of its application with the subsidizing agency for preliminary approval of the project. A
289 determination of project eligibility shall be for a particular financing program or programs. An
290 applicant may proceed under alternative financing programs if the application to the board or
291 appeal to the committee so indicates and if full information concerning the project under the
292 alternative financing arrangements is provided.

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

297 (b) In order to appeal to the committee, an applicant shall have applied to the board for a
298 comprehensive permit in accordance with section 21 of this chapter and shall have been denied

299 such permit or shall have been granted such permit with conditions which it alleges make the
300 building or operation of such housing uneconomic.

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

303 (i) (a) if at least 25 per cent of housing units within a development are restricted to serve
304 low or moderate-income households, 100 per cent of housing units within the development shall
305 be eligible to be included toward the city or town's affordable housing threshold, but if fewer
306 than 25 per cent of housing units within a development are restricted to serve low or moderate-
307 income households, only those units which serve low or moderate-income households shall be
308 eligible to be included toward the city or town's affordable housing threshold or (b) if at least 20
309 per cent of housing units within a development are restricted to serve households with household
310 income at or below 50 per cent of area median income, 100 per cent of housing units within the
311 development shall be eligible to be included toward the city or town's affordable housing
312 threshold but, if fewer than 25 per cent of housing units within a development are restricted to
313 serve low or moderate-income households, only such restricted units shall be eligible to be
314 included toward the city or town's affordable housing threshold;

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

321 number of homeownership units authorized by the permit shall be included toward the city or
322 town's affordable housing threshold, but if fewer than 25 per cent of housing units within a
323 development are restricted to serve low or moderate-income households, only such units which
324 are restricted to serve low or moderate-income households shall be eligible to be included toward
325 the city or town's affordable housing threshold;

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

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

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

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

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

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

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

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

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

375 Section 20C. The Massachusetts Housing Partnership Fund board, as established by
376 section 35 of chapter 405 of the acts of 1985, or its designee, shall make technical assistance
377 available to local zoning boards of appeal to assist in their review of applications for
378 comprehensive permits. No subsidizing agency shall issue a determination of project eligibility
379 or site approval unless a fee to defray the costs of such technical assistance program has been
380 collected from the applicant and remitted to the Massachusetts Housing Partnership Fund board
381 in accordance with a fee schedule adopted by the department. Such fee shall be payable upon the
382 filing of a comprehensive permit application.

383 Section 20D. The department shall promulgate regulations and establish programs,
384 policies, guidelines and necessary fee schedules to implement sections 20 to 23, inclusive, of this
385 chapter. The department shall make available planning and housing development information

386 and technical assistance to assist cities and towns in reaching their affordable housing threshold
387 as defined in this chapter.

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

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

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

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

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

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

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

409 SECTION 12. There is hereby established a special commission to study the opportunity
410 to increase the availability of housing for extremely low to moderate-income families and
411 individuals in the commonwealth by prioritizing the redevelopment of brownfield sites, so-
412 called, and commercial areas for residential purposes. Said commission shall consist of 3
413 members of the senate, 3 members of the house of representatives, 1 from each branch shall
414 serve as co-chairmen, the director of housing and community development or his designee, the
415 director of Massachusetts Development Finance Agency or his designee, and 5 persons to be
416 appointed by the governor, 1 of whom shall be a representative from Citizen's Housing and
417 Planning Association, Inc., 1 of whom shall be a representative of the Greater Boston Chamber
418 of Commerce, 1 of whom shall be a representative from the Massachusetts Homebuilders
419 Association, and 1 of whom shall be a representative from the Massachusetts Municipal
420 Association. Said commission shall file its recommendations together with the recommendations
421 for legislation, if any, with the house and senate clerks who shall forward the same to the house
422 and senate committees on housing on or before November 15th, 2009.

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

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