

**HOUSE . . . . . No. 1443**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Kevin G. Honan***

*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 adoption of the accompanying bill:

An Act relative to land use.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>1/20/2011</i>

**HOUSE . . . . . No. 1443**

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By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 1443) of Kevin G. Honan relative to land use regulations and zoning. Municipalities and Regional Government.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3572 OF 2009-2010.]

**The Commonwealth of Massachusetts**

—————  
**In the Year Two Thousand Eleven**  
—————

An Act relative to land use.

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

1           SECTION 1. Section 1A of chapter 40A of the General Laws, as so appearing, is hereby  
2 amended by inserting after the first paragraph the following 2 paragraphs:-

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

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

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

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

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

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

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

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

27 No zoning ordinance or by-law or amendment thereto shall be adopted or changed except  
28 by a majority vote of all the members of the town council, or of the city council where there is a  
29 commission form of government or a single branch, or of each branch where there are two  
30 branches, or by a majority vote of a town meeting; except in each case if a two-thirds vote has

31 been prescribed in an ordinance or by-law adopted by a two-thirds vote of the local legislative  
32 body.

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

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

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

46 Subject to the transition rules set forth below, within a municipality that is not a certified  
47 plan community, if a declaration of development intent is submitted to a planning board, and  
48 written notice of such submission has been given to the city or town clerk, the development  
49 described in such declaration shall be governed by the applicable provisions of the zoning  
50 ordinance or by-law, if any, in effect at the time of such declaration, for a vesting period that  
51 ends eight years from the date of such written notice of submission; provided that: (i) the  
52 development described in such declaration shall be subject to subsequent amendment of the

53 zoning ordinance or by-law, if the first notice thereof was posted prior to such written notice of  
54 submission, and (ii) the development described in such declaration shall be subject to subsequent  
55 amendment of the zoning ordinance or by-law, unless a definitive plan, or a preliminary plan  
56 followed within seven months by a definitive plan, is submitted to a planning board for approval  
57 under the subdivision control law prior to such amendment, and, if such definitive plan or an  
58 amendment thereof is thereafter finally approved. The length of such vesting period shall be  
59 extended by a period equal to the time which a city or town imposes or has imposed upon it by a  
60 state, a federal agency or a court, a moratorium on construction, the issuance of permits or utility  
61 connections. The provisions of this paragraph shall not apply to development substantially  
62 different in use or substantially greater in extent from the development described in the  
63 declaration of development intent.

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

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

76 (B) If a definitive plan, or preliminary plan followed within seven months by a definitive  
77 plan, is submitted to a planning board for approval under the subdivision control law after  
78 December 1, 2008 and on or before the date six months after the effective date of this act, then:  
79 (i) a declaration of development intent must be submitted to a planning board, and written notice  
80 of such submission be given to the city or town clerk, on or before the date six months after the  
81 effective date in order to obtain the benefit of the foregoing paragraph; (ii) the vesting period  
82 ends eight years from the date of the submission of the plan first submitted; (iii) the  
83 development described in such declaration shall not be subject to subsequent amendment of the  
84 zoning ordinance or by-law for the duration of the vesting period, so long as such definitive plan  
85 or an amendment thereof is thereafter finally approved; and (iv) the benefits of the foregoing  
86 paragraph may be obtained whether or not the declaration of development intent is consistent  
87 with the contents of the plans submitted for approval.

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

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

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

122 Section 7A. Site Plan Review

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

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

136

137 (c) An ordinance or by-law requiring site plan review, whether adopted under this  
138 section or under the municipality's home rule authority, shall comply with the provisions of this  
139 and all following subsections of Section 7A. The ordinance or by-law shall establish the  
140 submission, review, and approval process for applications, which may include the requirement of  
141 a public hearing held pursuant to the provisions in section eleven of this chapter. Approval of a



142 site plan shall require a simple majority vote of the designated authority and shall be made within  
143 the time limits prescribed by ordinance or by-law, not to exceed 90 days from the date of filing  
144 of the application. If no decision is issued within the time limit prescribed, the site plan shall be  
145 deemed constructively approved as provided in section 9, paragraph 11 of this chapter. The  
146 submission and review process for a site plan submitted in connection with an application for a  
147 special permit or variance shall be conducted with the review of such application in a  
148 coordinated process.

149 (d) Site plan review may include only those conditions that are necessary: (i) to ensure  
150 substantial compliance of the proposed use of land or structures with the requirements of the  
151 zoning ordinance or by-law; or (ii) to mitigate any extraordinary adverse impacts of the project  
152 on adjacent properties or public infrastructure. Site plan approval may not require the payment or  
153 performance of any off-site mitigation, except that site plan approval may be subject to  
154 development impact fees imposed in accordance with the provisions of Section 9D of this  
155 chapter. A site plan application may be denied only on the grounds that: (i) the proposed use of  
156 land or structures project does not meet the conditions and requirements set forth in the zoning  
157 ordinance or by-law; (ii) the applicant failed to submit information and fees required by the  
158 zoning ordinance or by-law and necessary for an adequate and timely review of the design of the  
159 proposed land or structures; or (iii) it is not possible to adequately mitigate extraordinary adverse  
160 project impacts on adjacent properties or public infrastructure by means of suitable site design  
161 conditions.

162 (e) Zoning ordinances or by-laws shall provide that a site plan approval granted under  
163 this section shall lapse within a specified period of time, not less than two years from the date of  
164 the filing of such approval with the city or town clerk, if substantial use or construction has not

165 yet begun, except as extended for good cause by the approving authority. Such extension shall  
166 not include time required to pursue or await the determination of an appeal under subsection (f)  
167 or Section 17. The aforesaid minimum period of two years may, by ordinance or by-law, be  
168 increased to a longer period.

169

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

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

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

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

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

201 “Cluster development” means residential development in which reduced dimensional  
202 requirements allow the developed areas to be concentrated in order to preserve open land  
203 elsewhere on the plot. Zoning ordinances or by-laws may authorize cluster development for  
204 development proceeding as-of-right or otherwise. Unless such open land is subject to a  
205 conservation restriction or agricultural preservation restriction, such open land shall be required  
206 to either be conveyed to the city or town and accepted by it for park or open space use, or be  
207 conveyed to a non-profit organization the principal purpose of which is the conservation of open  
208 space, agricultural land, historic resources, or watersheds, or to be conveyed to a corporation or

209 trust owned or to be owned by the owners of lots or residential units within the plot. If such a  
210 corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or  
211 residential units. In any case where such land is not conveyed to the city or town or a non-profit  
212 organization as described above, a restriction shall be recorded providing that such land shall be  
213 preserved accordingly and not be built for residential use or developed for accessory uses such as  
214 parking or roadway.

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

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

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

226 Section 9D. Development Impact Fee

227 (a) Authority

228

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

244

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

252

253 (b) Limitations

254

255 (1) No development impact fee under this section shall be imposed upon any dwelling  
256 unit, regardless of how created or permitted, which is subject to a restriction on sale price or rent  
257 under the provisions of G.L. c. 184 as amended ensuring that the unit will remain affordable for a  
258 period of at least 30 years to households at or below the area median income as most recently  
259 defined by the United States Department of Housing and Urban Development or successor  
260 agency, or any other dwelling unit permitted under G.L. c. 40B.

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

265

266 (c) Requirements

267

268 (1) Prior to the imposition of development impact fees under this section, a city or  
269 town shall complete a study that: (i) analyzes existing capital improvement plans, or the facilities  
270 element of a plan adopted under section 81D of chapter 41, or the infrastructure improvements  
271 element of a community land use plan adopted under Section [4] of Chapter 41; (ii) estimates  
272 future development based on the then current zoning ordinance or by-law; (iii) assesses the

273 impacts related to such development; (iv) determines the need for capital infrastructure facilities  
274 required to address the impacts of the estimated development including excess facility capacity,  
275 if any, currently planned to accommodate future development; (v) develops cost projections for  
276 the needed capital infrastructure facilities and documents costs of existing facilities with planned  
277 excess capacity; and (vi) establishes the amount of any development impact fee authorized under  
278 this section in accordance with a methodology determined pursuant to the study. The study shall  
279 be updated periodically to reflect actual development activity, actual costs of infrastructure  
280 improvements completed or underway, plan changes, or amendments to the zoning ordinance or  
281 by-law.

282

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

287

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

290

291 (4) The fee may not be assessed more than once for the same impact, nor may the fee  
292 be assessed for impacts, or portions thereof, offset by other dedicated means, including state or

293 federal grants or contributions or other mitigation commitments made by the applicant  
294 undertaking the development.

295

296 (d) Administration

297

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

301

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

305

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

311 (4) Any funds not expended or encumbered by the end of the calendar quarter  
312 immediately following 5 years from the date the development impact fee was paid shall, upon



313 request of the applicant or its assigns, be returned with interest provided that an application for a  
314 refund prescribed in the ordinance or by-law has been submitted within one 180 calendar days  
315 prior to the expiration of the 5 year period. If no application for refund is received by the city or  
316 town within said period, any funds not expended or encumbered by the end of the calendar  
317 quarter shall then revert to and become part of the general fund under section 53 of chapter 44.  
318 In the event of any disagreement relative to who shall receive the refund, the city or town may  
319 retain said development impact fee pending instructions given in writing by the parties involved  
320 or by a court of competent jurisdiction.

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

323 “Certified plan community” shall have the meaning set forth in Section [2] of Chapter 41.

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

326 “Minor subdivision review ” shall mean an alternative method of approval under the  
327 subdivision control law, applicable to any proposed division of a tract of land into four or fewer  
328 lots, under which: (a) no preliminary plan is required; (b) approval is granted by a simple  
329 majority of the planning board; (c) decisions are made within 60 days, or else deemed  
330 constructively approved, as defined in Section [2] of Chapter 41; (c) approval shall be based  
331 solely on the compliance of the lots shown with reasonable rules and regulations regarding the  
332 adequacy of access, utilities and stormwater drainage controls and on the compliance of the lots  
333 shown with the zoning ordinance or by-law; and (d) such rules and regulations may include a  
334 requirement that two or more of the lots have shared access to an existing public way, but may

335 not impose design or construction requirements on such shared access other than those  
336 minimally necessary to provide for public safety. Lots approved under minor subdivision review  
337 may not be re-subdivided so as to create additional lots under minor subdivision review for a  
338 period of ten years after initial approval.

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

341 “Subdivision” shall mean the division of a tract of land into two or more lots and shall  
342 include resubdivision, and, when appropriate to the context, shall relate to the process of  
343 subdivision or the land or territory subdivided; provided, however, unless a municipality is a  
344 certified plan community and has in effect minor subdivision review procedures, that the division  
345 of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the  
346 meaning of the subdivision control law if, at the time when it is made, every lot within the tract  
347 so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies  
348 is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and  
349 endorsed in accordance with the subdivision control law, or (c) a way in existence when the  
350 subdivision control law became effective in the city or town in which the land lies, having, in the  
351 opinion of the planning board, sufficient width, suitable grades and adequate construction to  
352 provide for the needs of vehicular traffic in relation to the proposed use of the land abutting  
353 thereon or served thereby, and for the installation of municipal services to serve such land and  
354 the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as  
355 is then required by zoning or other ordinance or by-law, if any, of said city or town for erection  
356 of a building on such lot, and if no distance is so required, such frontage shall be of at least  
357 twenty feet. If a municipality is a certified plan community and has in effect minor subdivision

358 review procedures, then any division of a tract of land into two or more lots, including  
359 resubdivision, shall be deemed to constitute a subdivision within the meaning of the subdivision  
360 control law, except as provided in the following sentence. Conveyances or other instruments  
361 adding to, taking away from, or changing the size and shape of, lots in such a manner as not to  
362 leave any lot so affected without the frontage above set forth, or the division of a tract of land on  
363 which two or more buildings were standing when the subdivision control law went into effect in  
364 the city or town in which the land lies into separate lots on each of which one of such buildings  
365 remains standing, shall not constitute a subdivision. Within a certified plan community that has  
366 adopted minor subdivision review procedures as of the municipality's effective date, a tract of  
367 land that was divided into two or more lots pursuant to Chapter 41, Section 81P of the General  
368 Laws prior to the municipality's effective date, but after December 1, 2008, shall be deemed a  
369 subdivision within the meaning of the subdivision control law with respect to the lots so created  
370 for which a building permit has not been issued by the municipality prior to the municipality's  
371 effective date.

372 SECTION 16. Chapter 41 of the General Laws is hereby amended by striking out section  
373 81Q, as so appearing, and inserting in place thereof the following section:-

374 Section 81Q. After a public hearing, notice of the time and place of which, and of the  
375 subject matter, sufficient for identification, shall be published in a newspaper of general  
376 circulation in the city or town once in each of two successive weeks, the first publication to be  
377 not less than fourteen days before the day of the hearing or if there is no such newspaper in such  
378 city or town then by posting such notice in a conspicuous place in the city or town hall for a  
379 period of not less than fourteen days before the day of such hearing, a planning board shall  
380 adopt, and, in the same manner, may, from time to time, amend, reasonable rules and regulations

381 relative to subdivision control not inconsistent with the subdivision control law or with any other  
382 provisions of a statute or of any valid ordinance or by-law of the city or town. Such rules and  
383 regulations may prescribe the size, form, contents, style and number of copies of plans and the  
384 procedure for the submission and approval thereof, and shall be such as to enable the person  
385 submitting the plan to comply with the requirements of the register of deeds for the recording of  
386 the same, and to assure the board of a copy for its files; and shall set forth the requirements of the  
387 board with respect to the location, construction, width and grades of the proposed ways shown  
388 on a plan and the installation of municipal services therein, which requirements shall be  
389 established in such manner as to carry out the purposes of the subdivision control law as set forth  
390 in section eighty-one M. Such rules and regulations shall not require referral of a subdivision  
391 plan to any other board or person prior to its submission to the planning board. In establishing  
392 such requirements regarding ways, due regard shall be paid to the prospective character of  
393 different subdivisions, whether open residence, dense residence, business or industrial, and the  
394 prospective amount of travel upon the various ways therein, and to adjustment of the  
395 requirements accordingly; provided, however, that in no case shall a city or town establish rules  
396 or regulations regarding the laying out, construction, alteration, or maintenance of ways within a  
397 particular subdivision which exceed the standards and criteria commonly applied by that city or  
398 town to the laying out, construction, alteration, or maintenance of its publicly financed ways  
399 located in similarly zoned districts within such city or town. Without limiting the foregoing,  
400 there shall be a rebuttable presumption that such requirements are unlawfully excessive, to the  
401 extent that the requirements for subdivisions within zoning districts having a minimum lot size of  
402 40,000 square feet exceed the standards and criteria previously applied by that city or town to the  
403 laying out, construction, alteration, or maintenance of ways within previously approved

404 subdivisions within zoning districts having a minimum lot size of 20,000 square feet or less.  
405 Such rules and regulations may set forth a requirement that a turnaround be provided at the end  
406 of the approved portion of a way which does not connect with another way. Any easement in any  
407 turnaround shown on a plan approved under the subdivision control law which arises after  
408 January first, nineteen hundred and sixty, other than an easement appurtenant to a lot abutting the  
409 turnaround, shall terminate upon the approval and recording of a plan showing extension of said  
410 way, except in such portion of said turnaround as is included in said extension, and the recording  
411 of a certificate by the planning board of the construction of such extension. Such rules and  
412 regulations may set forth a requirement that underground distribution systems be provided for  
413 any and all utility services, including electrical and telephone services, as may be specified in  
414 such rules and regulations, and may set forth a requirement that poles and any associated  
415 overhead structures, of a design approved by the planning board, be provided for use for police  
416 and fire alarm boxes and any similar municipal equipment and for use for street lighting. The  
417 rules and regulations may encourage the use of solar energy systems and protect to the extent  
418 feasible the access to direct sunlight of solar energy systems. Such rules and regulations may  
419 include standards for the orientation of new streets, lots and buildings; building set back  
420 requirements from property lines; limitations on the type, height and placement, of vegetation;  
421 and restrictive covenants protecting solar access not inconsistent with existing local ordinances  
422 or by-laws. Except in so far as it may require compliance with the requirements of existing  
423 ordinances or by-laws, no rule or regulation shall relate to the size, shape, width, frontage or use  
424 of lots within a subdivision, or to the buildings which may be constructed thereon, or other  
425 subject matters addressed thereby, or shall be inconsistent with the regulations and requirements  
426 of any other municipal board acting within its jurisdiction. No rule or regulation shall require,

427 and no planning board shall impose, as a condition for the approval of a plan of a subdivision,  
428 that any of the land within said subdivision be dedicated to the public use, or conveyed or  
429 released to the commonwealth or to the county, city or town in which the subdivision is located,  
430 for use as a public way, public park or playground, or for any other public purpose, without just  
431 compensation to the owner thereof. The rules and regulations may, however, provide that not  
432 more than one building designed or available for use for dwelling purposes shall be erected or  
433 placed or converted to use as such on any lot in a subdivision, or elsewhere in the city or town,  
434 without the consent of the planning board, and that such consent may be conditional upon the  
435 providing of adequate ways furnishing access to each site for such building, in the same manner  
436 as otherwise required for lots within a subdivision. No rule or regulation shall require, and no  
437 planning board shall impose, as a condition for the approval of a plan of a subdivision, the  
438 payment or performance of off-site mitigation, except for the imposition of a development  
439 impact fee under Chapter 40A, Section 9D. A true copy of the rules and regulations, with their  
440 most recent amendments, shall be kept on file available for inspection in the office of the  
441 planning board of the city or town by which they were adopted, and in the office of the clerk of  
442 such city or town. A copy certified by such clerk of any such rules and regulations, or any  
443 amendment thereof, adopted after the first day of January, nineteen hundred and fifty-four shall  
444 be transmitted forthwith by such planning board to the register of deeds and recorder of the land  
445 court. Once a definitive plan has been submitted to a planning board, and written notice has been  
446 given to the city or town clerk pursuant to section eighty-one T and until final action has been  
447 taken thereon by the planning board or the time for such action prescribed by section eighty-one  
448 U has elapsed, the rules and regulations governing such plan shall be those in effect relative to  
449 subdivision control at the time of the submission of such plan. When a preliminary plan referred

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

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

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

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

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

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

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

479 b) Support the construction and rehabilitation of homes near jobs, infrastructure and  
480 transportation options to meet the needs of people of all abilities, income levels, and household  
481 types;

482 c) Attract businesses and jobs to locations near housing, infrastructure, and  
483 transportation options;

484 d) Protect environmentally sensitive lands, natural resources, agricultural lands,  
485 critical habitats, wetlands and water resources, and cultural and historic landscapes;

486 e) Construct and promote developments, buildings, and infrastructure that conserve  
487 natural resources by reducing waste and pollution through efficient use of land, energy and  
488 water;

489 f) Support transportation options that maximize mobility, reduce congestion,  
490 conserve fuel and improve air quality;



- 491 g) Maximize energy efficiency and renewable energy opportunities to reduce  
492 greenhouse gas emissions and consumption of fossil fuels;
- 493 h) Promote equitable sharing of the benefits and burdens of development;
- 494 i) Make regulatory and permitting processes for development clear, predictable,  
495 coordinated, and timely in accordance with smart growth and environmental stewardship; and
- 496 j) Support the development and implementation of local and regional plans that  
497 have broad public support and are consistent with these purposes.

498 Section 2. Definitions

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

501 “As of right” shall mean that development may proceed under zoning and other local land  
502 use regulations without the need for a special permit, variance, amendment, waiver or other  
503 discretionary approval. As of right development may be subject to site plan review, as defined in  
504 Section 7A of Chapter 40A. If a municipality has issued, at the time of the municipality’s  
505 effective date, a special permit that in itself allows new housing units equal to one-half or more  
506 of the municipality’s housing target number, and if such special permit remains in effect for at  
507 least two years after the municipality’s effective date, then residential development under such  
508 special permit which otherwise qualifies hereunder shall also be deemed as of right.

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

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

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

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

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

531           “Implementing regulations” shall mean the local zoning ordinances or by-laws,  
532 subdivision rules and regulations, and other local land use regulations, or amendments thereof,

533 necessary to effectuate the minimum standards for consistency with the Commonwealth’s land  
534 use objectives established or required by a certified plan.

535 “Interagency Planning Board” shall mean a board comprised of the secretary of housing  
536 and economic development, the secretary of energy and environmental affairs, and the state  
537 permit ombudsman, or their designees, together with a representative designated by the  
538 Massachusetts Association of Regional Planning Agencies (the “regional representative”) and a  
539 representative designated by the Massachusetts Association of Planning Directors (the  
540 “municipal representative”). The state permit ombudsman shall serve as the chair of the board.  
541 The board, acting without the participation of the regional representative and the municipal  
542 representative, shall have the power to promulgate regulations to effect the purposes of this act.

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

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

550 “Open space residential design” shall mean a process for the cluster development of land,  
551 as that term is defined in Section 9 of Chapter 40A, that in addition: (a) requires identification of  
552 the significant natural features of the land and concentrates development, by use of reduced  
553 dimensional requirements, in order to preserve those natural features; (b) preserves at least fifty  
554 percent of the land’s developable area in a natural, scenic or open condition or in agricultural,

555 farming or forest use; and (c) permits the development of a number of new housing units at least  
556 equal to the quotient of the land’s developable area divided by the minimum lot area per housing  
557 unit required by the zoning ordinance or by-law. For the purposes of this definition, the land’s  
558 developable area shall be determined pursuant to: (i) state land use laws and regulations, and (ii)  
559 the zoning ordinance or by-law, without regard in either case to the suitability of soils or  
560 groundwater for on-site wastewater disposal.

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

565

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

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

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

575 “Regional planning agency” shall mean the regional or district planning commission  
576 established pursuant to Chapter 40B of the General Laws for the region within which a  
577 municipality is located. The term shall also mean the Martha’s Vineyard Commission, as  
578 described in Chapter 831 of the Acts of 1977, and the Cape Cod Commission, as described in  
579 Chapter 716 of the Acts of 1989, the Franklin Council of Governments, as described in Chapter  
580 151 of the Acts of 1996, and the Northern Middlesex Council of Governments, as described in  
581 Chapter 420 of the Acts of 1989.

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

593 Section 3. Elements of community land use plan

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

596 plan shall address at least the following five areas: economic development, housing, open space  
597 protection, water management, and energy management.

598 The plan shall contain:

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

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

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

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

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

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

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

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

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

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

622           The chief executive officer of the municipality may, if such action is recommended by  
623 the planning board, submit the plan to the regional planning agency for certification. Within 90  
624 days after receiving a submission, the regional planning agency shall determine whether the plan  
625 is (a) complete and (b) consistent with the Commonwealth's land use objectives. A plan shall be  
626 determined to be complete if it contains all the elements required in Section 3. A plan shall be  
627 determined to be consistent with the Commonwealth's land use objectives if it satisfies the  
628 minimum standards for consistency in accordance with Section 5. If the regional planning  
629 agency determines that the plan is complete and consistent with the Commonwealth's land use  
630 objectives, then the agency shall issue a written certification to that effect. If the regional  
631 planning agency determines that it is unable to issue such a certification, then the agency shall  
632 provide the municipality with a written statement of the reasons for its determination. A  
633 municipality may re-submit for certification at any time a modified plan that addresses the issues  
634 set forth in the agency's statement of reasons. If the regional planning agency does not issue a  
635 certification or provide a statement of reasons within 90 days after receiving a plan (including a  
636 re-submitted plan), then the plan shall be deemed certified.

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

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

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

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

654           B.     The plan establishes prompt and predictable permitting of residential development  
655 within one or more residential development districts that can collectively accommodate, in the  
656 determination of the regional planning agency, a number of new housing units (excluding new  
657 housing units which are restricted, through zoning or other legal means, as to the number of  
658 bedrooms or as to the age of their residents) equal to the housing target number. For the initial



659 certification of a plan, a municipality's housing target number shall be reduced by the number of  
660 new housing units for which building permits were issued within two years prior to the  
661 municipality's effective date, to the extent such building permits were issued within residential  
662 development districts for which there was prompt and predictable permitting at the time of  
663 building permit issuance. This standard may be waived or modified upon a determination by the  
664 regional planning agency that the lack of adequate water supply and/or wastewater infrastructure  
665 within the municipality prevents full compliance with this standard, provided that the  
666 municipality may be required to instead participate in any regional housing plan established by  
667 the regional planning agency.

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

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

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

679 Section 6. Certification and adoption of implementing regulations

680 (a) Prior to or following municipal adoption of a certified plan, the municipality may  
681 prepare implementing regulations. To assist municipalities in this effort, the regulations to be  
682 promulgated by the Interagency Planning Board hereunder shall include at least one model  
683 provision for implementing regulations for open space residential design, low impact  
684 development, and clean energy generation/cogeneration facilities that would satisfy the standards  
685 hereof.

686 (b) The chief executive officer of the municipality may submit the implementing  
687 regulations to the regional planning agency for certification. Within 90 days of receiving a  
688 submission, the regional planning agency shall determine whether the implementing regulations  
689 are consistent with the certified plan. The implementing regulations shall be deemed consistent  
690 with the certified plan if they effectuate the minimum standards for consistency with the  
691 Commonwealth's land use objectives established or required by the certified plan. If the  
692 regional planning agency determines that the implementing regulations are consistent with the  
693 certified plan, then the agency shall issue a written certification to that effect. If the regional  
694 planning agency determines that it is unable to issue such a certification, then the agency shall  
695 provide the municipality with a written statement of the reasons for its determination. A  
696 municipality may re-submit for certification at any time modified implementing regulations that  
697 address the issues set forth in the agency's statement of reasons. If the regional planning agency  
698 does not issue a certification or provide a statement of reasons within 90 days after receiving  
699 implementing regulations (including re-submitted implementing regulations), then the  
700 implementing regulations shall be deemed certified. The municipality shall have the option of  
701 submitting its implementing regulations together with its submission of its community land use

702 plan pursuant to Section 4, in which case the regional planning agency shall review both the plan  
703 and the implementing regulations within the same 90 day period.

704 (c) Following certification by the regional planning agency, the implementing  
705 regulations may be adopted by the municipality by a simple majority vote of its legislative body.  
706 On the date of receipt by the regional planning agency of proof of adoption of the certified  
707 implementing regulations pursuant to a certified plan, a municipality shall be deemed a “certified  
708 plan community”. Such date shall be deemed the “municipality’s effective date”.

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

710 (a) Following the municipality’s effective date, local zoning ordinances or by-laws,  
711 subdivision rules and regulations, and other local land use regulations (other than certified  
712 implementing regulations) which are determined to be inconsistent with the certified plan or the  
713 certified implementing regulations shall be deemed invalid. Such a determination may be sought  
714 and obtained through any means otherwise available by statute for the determination of the  
715 validity of such land use regulations. Any material amendment to a certified plan or certified  
716 implementing regulations that has not been prepared, certified and adopted in accordance with  
717 the provisions hereof shall be presumed to be inconsistent with the certified plan.

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

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

727 (d) If at any time more than two years after the municipality's effective date the total  
728 number of housing units for which building permits have been applied for within the residential  
729 development districts since the municipality's effective date is greater than the housing target  
730 number (adjusted pro rata for the number of years since the municipality's effective date), but the  
731 total number of housing units for which building permits have been issued within the residential  
732 development districts is less than the pro rata housing target number, then the provisions of this  
733 subsection shall be in effect. During such time period, any applications for building permits or  
734 other local land use permits for residential development within such residential development  
735 districts shall deemed constructively approved if not acted upon within 180 days after receipt of  
736 permit applications. In addition, an application received under this section shall be subject only  
737 to those conditions that are necessary to ensure substantial compliance of the proposed  
738 development project with applicable laws and regulations; and it may be denied only on the  
739 grounds that: (i) the proposed development project does not substantially comply with applicable  
740 laws and regulations, or (ii) the applicant failed to submit information and fees required by  
741 applicable laws and regulations and necessary for an adequate and timely review of the  
742 development project. The foregoing provisions shall no longer be in effect once the total number  
743 of housing units for which building permits have been issued within such residential  
744 development districts equals or exceed the pro rata housing target number.

745 Section 8. Review of certification by regional planning agency

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

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

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

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

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

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

772 Section 10. Priority for Infrastructure Funding

773 The executive office of housing and economic development, the executive office of  
774 energy and environmental affairs, the executive office of transportation, and the executive office  
775 of administration and finance shall, when awarding discretionary funds for local infrastructure  
776 improvements, give priority consideration to infrastructure improvements identified in the  
777 certified plans of certified plan communities.

778 Section 11. Consideration under State Programs

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

783 SECTION 19. Item 7002-0013 in chapter 182 of the Acts of 2008, as so appearing, is  
784 hereby amended by adding the following:- “provided, that not more than \$1,000,000 shall be  
785 expended for technical assistance grants to municipalities for the preparation of plans and  
786 implementing regulations, and grants are to be administered by the Interagency Planning Board;  
787 provided further, that not more than \$500,000 shall be expended for technical assistance grants to  
788 regional planning agencies for the certification of plans and implementing regulations and the  
789 preparation of guidelines, and such grants are to be administered by the Interagency Planning

790 Board; and provided further, priority for the municipal grants administered by the Interagency  
791 Planning Board shall be given to those municipalities identified by the applicable regional  
792 planning agencies as being most likely to prepare and adopt certified plans and implementing  
793 regulations, if provided with financial assistance”