SENATE DOCKET, NO. 660 FILED ON: 1/17/2013

SENATE . . . . . No. 928

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to land use.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	*First Worcester*
Gale D. Candaras	*First Hampden and Hampshire*

SENATE DOCKET, NO. 660 FILED ON: 1/17/2013

SENATE . . . . . No. 928

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 928) of Harriette L. Chandler and Gale D. Candaras for legislation relative to land use. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1008* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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:

SECTION 1. Section 1A of chapter 40A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the first paragraph the following 2 paragraphs:-

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

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

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

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

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

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

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

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

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

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

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

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

Subject to the transition rules set forth below, within a municipality that is not a certified plan community, if a declaration of development intent is submitted to a planning board, and written notice of such submission has been given to the city or town clerk, the development

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

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

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

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

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

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

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

123 Section 7A. Site Plan Review

124 (a) As used in this section, "site plan review" shall mean review and approval under a
125 municipality's zoning ordinance or by-law, by an authority other than the zoning administrator,
126 of a proposed use of land or structures that does not require a special permit or a variance,

127 whether to determine whether a proposed use of land or structures is in compliance with the
128 ordinance or by-law, to evaluate the proposed use of land or structures, to consider site design
129 alternatives or otherwise.

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

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

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

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

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

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

200 "Cluster development" means residential development in which reduced dimensional
201 requirements allow the developed areas to be concentrated in order to preserve open land

elsewhere on the plot. Zoning ordinances or by-laws may authorize cluster development for development proceeding as-of-right or otherwise. Unless such open land is subject to a conservation restriction or agricultural preservation restriction, such open land shall be required to either be conveyed to the city or town and accepted by it for park or open space use, or be conveyed to a non-profit organization the principal purpose of which is the conservation of open space, agricultural land, historic resources, or watersheds, or to be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plot. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. In any case where such land is not conveyed to the city or town or a non-profit organization as described above, a restriction shall be recorded providing that such land shall be preserved accordingly and not be built for residential use or developed for accessory uses such as parking or roadway.

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

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

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

Section 9D. Development Impact Fee

(a) Authority

(1) In addition to its home rule authority to impose a development impact fee, a city or town may adopt a local ordinance or by-law under this section that requires the payment of a development impact fee as a condition of any permit or approval otherwise required for any proposed development within the scope of this section, and having development impacts as defined in the ordinance or by-law. The development impact fee may be imposed only on construction, enlargement, expansion, substantial rehabilitation, or change of use of a development. The development impact fee shall be used solely for the purposes of defraying the costs of capital infrastructure facilities to be provided or paid for by the city or town and which are caused by and necessary to support or compensate for the proposed development. Such capital infrastructure facilities may include the costs related to the provision of equipment, facilities, or studies associated with the following: water supply; sewers; storm water management and treatment; pollution abatement; solid waste processing and disposal; traffic

239 mitigation; roadways, transit, bicycle and pedestrian facilities, and other public transportation
240 facilities; and affordable housing; costs related to facilities such as schools, public safety
241 facilities, and municipal offices shall be excluded.

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

249 (b) Limitations

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

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

260 (c) Requirements

261 (1) Prior to the imposition of development impact fees under this section, a city
262 or town shall complete a study that: (i) analyzes existing capital improvement plans, or the
263 facilities element of a plan adopted under section 81D of chapter 41, or the infrastructure
264 improvements element of a community land use plan adopted under Section [4] of Chapter 41;
265 (ii) estimates future development based on the then current zoning ordinance or by-law; (iii)
266 assesses the impacts related to such development; (iv) determines the need for capital
267 infrastructure facilities required to address the impacts of the estimated development including
268 excess facility capacity, if any, currently planned to accommodate future development; (v)
269 develops cost projections for the needed capital infrastructure facilities and documents costs of
270 existing facilities with planned excess capacity; and (vi) establishes the amount of any
271 development impact fee authorized under this section in accordance with a methodology
272 determined pursuant to the study. The study shall be updated periodically to reflect actual
273 development activity, actual costs of infrastructure improvements completed or underway, plan
274 changes, or amendments to the zoning ordinance or by-law.

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

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

281 (4) The fee may not be assessed more than once for the same impact, nor may
282 the fee be assessed for impacts, or portions thereof, offset by other dedicated means, including
283 state or federal grants or contributions or other mitigation commitments made by the applicant
284 undertaking the development.

285 (d) Administration

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

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

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

297 (4) Any funds not expended or encumbered by the end of the calendar quarter
298 immediately following 5 years from the date the development impact fee was paid shall, upon
299 request of the applicant or its assigns, be returned with interest provided that an application for a
300 refund prescribed in the ordinance or by-law has been submitted within one 180 calendar days
301 prior to the expiration of the 5 year period. If no application for refund is received by the city or
302 town within said period, any funds not expended or encumbered by the end of the calendar
303 quarter shall then revert to and become part of the general fund under section 53 of chapter 44.
304 In the event of any disagreement relative to who shall receive the refund, the city or town may
305 retain said development impact fee pending instructions given in writing by the parties involved
306 or by a court of competent jurisdiction.

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

309 "Certified plan community" shall have the meaning set forth in Section [2] of Chapter 41.

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

312 "Minor subdivision review " shall mean an alternative method of approval under the
313 subdivision control law, applicable to any proposed division of a tract of land into four or fewer
314 lots, under which: (a) no preliminary plan is required; (b) approval is granted by a simple
315 majority of the planning board; (c) decisions are made within 60 days, or else deemed
316 constructively approved, as defined in Section [2] of Chapter 41; (c) approval shall be based
317 solely on the compliance of the lots shown with reasonable rules and regulations regarding the
318 adequacy of access, utilities and stormwater drainage controls and on the compliance of the lots
319 shown with the zoning ordinance or by-law; and (d) such rules and regulations may include a
320 requirement that two or more of the lots have shared access to an existing public way, but may
321 not impose design or construction requirements on such shared access other than those
322 minimally necessary to provide for public safety. Lots approved under minor subdivision review
323 may not be re-subdivided so as to create additional lots under minor subdivision review for a
324 period of ten years after initial approval.

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

327 "Subdivision" shall mean the division of a tract of land into two or more lots and
328 shall include resubdivision, and, when appropriate to the context, shall relate to the process of
329 subdivision or the land or territory subdivided; provided, however, unless a municipality is a
330 certified plan community and has in effect minor subdivision review procedures, that the division
331 of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the
332 meaning of the subdivision control law if, at the time when it is made, every lot within the tract
333 so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies
334 is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and
335 endorsed in accordance with the subdivision control law, or (c) a way in existence when the
336 subdivision control law became effective in the city or town in which the land lies, having, in the
337 opinion of the planning board, sufficient width, suitable grades and adequate construction to
338 provide for the needs of vehicular traffic in relation to the proposed use of the land abutting
339 thereon or served thereby, and for the installation of municipal services to serve such land and
340 the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as
341 is then required by zoning or other ordinance or by-law, if any, of said city or town for erection
342 of a building on such lot, and if no distance is so required, such frontage shall be of at least
343 twenty feet. If a municipality is a certified plan community and has in effect minor subdivision
344 review procedures, then any division of a tract of land into two or more lots, including
345 resubdivision, shall be deemed to constitute a subdivision within the meaning of the subdivision
346 control law, except as provided in the following sentence. Conveyances or other instruments
347 adding to, taking away from, or changing the size and shape of, lots in such a manner as not to
348 leave any lot so affected without the frontage above set forth, or the division of a tract of land on

349 which two or more buildings were standing when the subdivision control law went into effect in
350 the city or town in which the land lies into separate lots on each of which one of such buildings
351 remains standing, shall not constitute a subdivision. Within a certified plan community that has
352 adopted minor subdivision review procedures as of the municipality's effective date, a tract of
353 land that was divided into two or more lots pursuant to Chapter 41, Section 81P of the General
354 Laws prior to the municipality's effective date, but after December 1, 2008, shall be deemed a
355 subdivision within the meaning of the subdivision control law with respect to the lots so created
356 for which a building permit has not been issued by the municipality prior to the municipality's
357 effective date.

358 SECTION 16. Chapter 41 of the General Laws is hereby amended by striking out section
359 81Q, as so appearing, and inserting in place thereof the following section:-

360 Section 81Q. After a public hearing, notice of the time and place of which, and of the
361 subject matter, sufficient for identification, shall be published in a newspaper of general
362 circulation in the city or town once in each of two successive weeks, the first publication to be
363 not less than fourteen days before the day of the hearing or if there is no such newspaper in such
364 city or town then by posting such notice in a conspicuous place in the city or town hall for a
365 period of not less than fourteen days before the day of such hearing, a planning board shall
366 adopt, and, in the same manner, may, from time to time, amend, reasonable rules and regulations
367 relative to subdivision control not inconsistent with the subdivision control law or with any other
368 provisions of a statute or of any valid ordinance or by-law of the city or town. Such rules and
369 regulations may prescribe the size, form, contents, style and number of copies of plans and the
370 procedure for the submission and approval thereof, and shall be such as to enable the person
371 submitting the plan to comply with the requirements of the register of deeds for the recording of
372 the same, and to assure the board of a copy for its files; and shall set forth the requirements of the
373 board with respect to the location, construction, width and grades of the proposed ways shown
374 on a plan and the installation of municipal services therein, which requirements shall be
375 established in such manner as to carry out the purposes of the subdivision control law as set forth
376 in section eighty-one M. Such rules and regulations shall not require referral of a subdivision
377 plan to any other board or person prior to its submission to the planning board. In establishing
378 such requirements regarding ways, due regard shall be paid to the prospective character of
379 different subdivisions, whether open residence, dense residence, business or industrial, and the
380 prospective amount of travel upon the various ways therein, and to adjustment of the
381 requirements accordingly; provided, however, that in no case shall a city or town establish rules
382 or regulations regarding the laying out, construction, alteration, or maintenance of ways within a
383 particular subdivision which exceed the standards and criteria commonly applied by that city or
384 town to the laying out, construction, alteration, or maintenance of its publicly financed ways
385 located in similarly zoned districts within such city or town. Without limiting the foregoing,
386 there shall be a rebuttable presumption that such requirements are unlawfully excessive, to the
387 extent that the requirements for subdivisions within zoning districts having a minimum lot size of

40,000 square feet exceed the standards and criteria previously applied by that city or town to the laying out, construction, alteration, or maintenance of ways within previously approved subdivisions within zoning districts having a minimum lot size of 20,000 square feet or less. Such rules and regulations may set forth a requirement that a turnaround be provided at the end of the approved portion of a way which does not connect with another way. Any easement in any turnaround shown on a plan approved under the subdivision control law which arises after January first, nineteen hundred and sixty, other than an easement appurtenant to a lot abutting the turnaround, shall terminate upon the approval and recording of a plan showing extension of said way, except in such portion of said turnaround as is included in said extension, and the recording of a certificate by the planning board of the construction of such extension. Such rules and regulations may set forth a requirement that underground distribution systems be provided for any and all utility services, including electrical and telephone services, as may be specified in such rules and regulations, and may set forth a requirement that poles and any associated overhead structures, of a design approved by the planning board, be provided for use for police and fire alarm boxes and any similar municipal equipment and for use for street lighting. The rules and regulations may encourage the use of solar energy systems and protect to the extent feasible the access to direct sunlight of solar energy systems. Such rules and regulations may include standards for the orientation of new streets, lots and buildings; building set back requirements from property lines; limitations on the type, height and placement, of vegetation; and restrictive covenants protecting solar access not inconsistent with existing local ordinances or by-laws. Except in so far as it may require compliance with the requirements of existing ordinances or by-laws, no rule or regulation shall relate to the size, shape, width, frontage or use of lots within a subdivision, or to the buildings which may be constructed thereon, or other subject matters addressed thereby, or shall be inconsistent with the regulations and requirements of any other municipal board acting within its jurisdiction. No rule or regulation shall require, and no planning board shall impose, as a condition for the approval of a plan of a subdivision, that any of the land within said subdivision be dedicated to the public use, or conveyed or released to the commonwealth or to the county, city or town in which the subdivision is located, for use as a public way, public park or playground, or for any other public purpose, without just compensation to the owner thereof. The rules and regulations may, however, provide that not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the city or town, without the consent of the planning board, and that such consent may be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision. No rule or regulation shall require, and no planning board shall impose, as a condition for the approval of a plan of a subdivision, the payment or performance of off-site mitigation, except for the imposition of a development impact fee under Chapter 40A, Section 9D. A true copy of the rules and regulations, with their most recent amendments, shall be kept on file available for inspection in the office of the planning board of the city or town by which they were adopted, and in the office of the clerk of

428 such city or town. A copy certified by such clerk of any such rules and regulations, or any
429 amendment thereof, adopted after the first day of January, nineteen hundred and fifty-four shall
430 be transmitted forthwith by such planning board to the register of deeds and recorder of the land
431 court. Once a definitive plan has been submitted to a planning board, and written notice has been
432 given to the city or town clerk pursuant to section eighty-one T and until final action has been
433 taken thereon by the planning board or the time for such action prescribed by section eighty-one
434 U has elapsed, the rules and regulations governing such plan shall be those in effect relative to
435 subdivision control at the time of the submission of such plan. When a preliminary plan referred
436 to in section eighty-one S has been submitted to a planning board, and written notice of the
437 submission of such plan has been given to the city or town clerk, such preliminary plan and the
438 definitive plan evolved therefrom shall be governed by the rules and regulations relative to
439 subdivision control in effect at the time of the submission of the preliminary plan, provided that
440 the definitive plan is duly submitted within seven months from the date on which the preliminary
441 plan was submitted.

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

444 Section 81BB. Any person, whether or not previously a party to the proceedings, or any
445 municipal officer or board, aggrieved by a decision of a board of appeals under section eighty-
446 one Y, or by any decision of a planning board concerning a plan of a subdivision of land, or by
447 the failure of such a board to take final action concerning such a plan within the required time,
448 may appeal to the superior court for the county in which said land is situated or to the land court;
449 provided, that such appeal is entered within twenty days after such decision has been recorded in
450 the office of the city or town clerk or within twenty days after the expiration of the required time
451 as aforesaid, as the case may be, and notice of such appeal is given to such city or town clerk so
452 as to be received within such twenty days. A complaint by a plaintiff challenging a subdivision
453 approval under this section shall allege the specific reasons why the subdivision fails to satisfy
454 the requirements of the board's rules and regulations or other applicable law and allege specific
455 facts establishing how the plaintiff is aggrieved by such decision. The board's decision in such a
456 case shall be affirmed unless the court concludes the board abused its discretion in approving the
457 subdivision.

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

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

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

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

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

468 c) Attract businesses and jobs to locations near housing, infrastructure, and
469 transportation options;

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

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

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

477 g) Maximize energy efficiency and renewable energy opportunities to reduce
478 greenhouse gas emissions and consumption of fossil fuels;

479 h) Promote equitable sharing of the benefits and burdens of development;

480 i) Make regulatory and permitting processes for development clear, predictable,
481 coordinated, and timely in accordance with smart growth and environmental stewardship; and

482 j) Support the development and implementation of local and regional plans that
483 have broad public support and are consistent with these purposes.

484 Section 2. Definitions

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

487 "As of right" shall mean that development may proceed under zoning and other local land
488 use regulations without the need for a special permit, variance, amendment, waiver or other
489 discretionary approval. As of right development may be subject to site plan review, as defined in
490 Section 7A of Chapter 40A. If a municipality has issued, at the time of the municipality's
491 effective date, a special permit that in itself allows new housing units equal to one-half or more
492 of the municipality's housing target number, and if such special permit remains in effect for at
493 least two years after the municipality's effective date, then residential development under such
494 special permit which otherwise qualifies hereunder shall also be deemed as of right.

495 "Certified plan community" shall mean a community for which a community land use
496 plan and implementing regulations have been certified by the applicable regional planning
497 agency, adopted by the municipality, and remain in effect.

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

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

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

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

517 “Implementing regulations” shall mean the local zoning ordinances or by-laws,
518 subdivision rules and regulations, and other local land use regulations, or amendments thereof,
519 necessary to effectuate the minimum standards for consistency with the Commonwealth’s land
520 use objectives established or required by a certified plan.

521 “Interagency Planning Board” shall mean a board comprised of the secretary of housing
522 and economic development, the secretary of energy and environmental affairs, and the state
523 permit ombudsman, or their designees, together with a representative designated by the
524 Massachusetts Association of Regional Planning Agencies (the “regional representative”) and a
525 representative designated by the Massachusetts Association of Planning Directors (the
526 “municipal representative”). The state permit ombudsman shall serve as the chair of the board.
527 The board, acting without the participation of the regional representative and the municipal
528 representative, shall have the power to promulgate regulations to effect the purposes of this act.

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

534 "Municipality's effective date" shall mean the date upon which a municipality has
535 adopted certified implementing regulations pursuant to a certified community land use plan.

536 "Open space residential design" shall mean a process for the cluster development of land,
537 as that term is defined in Section 9 of Chapter 40A, that in addition: (a) requires identification of
538 the significant natural features of the land and concentrates development, by use of reduced
539 dimensional requirements, in order to preserve those natural features; (b) preserves at least fifty
540 percent of the land's developable area in a natural, scenic or open condition or in agricultural,
541 farming or forest use; and (c) permits the development of a number of new housing units at least
542 equal to the quotient of the land's developable area divided by the minimum lot area per housing
543 unit required by the zoning ordinance or by-law. For the purposes of this definition, the land's
544 developable area shall be determined pursuant to: (i) state land use laws and regulations, and (ii)
545 the zoning ordinance or by-law, without regard in either case to the suitability of soils or
546 groundwater for on-site wastewater disposal.

547 "Other local land use regulations" shall mean all local legislative, regulatory, or other
548 actions which are more restrictive than state requirements, if any, including subdivision and
549 board of health rules, local wetlands ordinances or by-laws, and other local ordinances, by-laws,
550 codes, and regulations.

551 "Plan" shall mean a community land use plan prepared by the planning board in
552 accordance with Section 3.

553 "Planning board" shall mean a municipal planning board established or authorized
554 pursuant to Chapter 41, Section 81A of the General Laws.

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

560 "Regional planning agency" shall mean the regional or district planning
561 commission established pursuant to Chapter 40B of the General Laws for the region within
562 which a municipality is located. The term shall also mean the Martha's Vineyard Commission, as
563 described in Chapter 831 of the Acts of 1977, and the Cape Cod Commission, as described in
564 Chapter 716 of the Acts of 1989, the Franklin Council of Governments, as described in Chapter
565 151 of the Acts of 1996, and the Northern Middlesex Council of Governments, as described in
566 Chapter 420 of the Acts of 1989.

567 "Residential development district" shall mean a zoning district that: (i) permits or allows
568 residential use at a density of not less than four (4) units per acre of developable land for single-
569 family residential use and not less than twelve (12) units per acre of developable land for multi-

570 family residential use, or permits or allows mixed use including residential use at such density,
571 (ii) is in an eligible location, and (iii) does not impose other requirements that add unreasonable
572 costs or otherwise unreasonably impair the economic feasibility of residential development at
573 such density. A zoning district that permits or allows mixed use may qualify as both an economic
574 development district and a residential development district, if the standards for both districts are
575 met. The implementing regulations for any residential development district that permits or
576 allows mixed use shall contain adequate provisions to ensure that any contemplated contribution
577 towards the housing target number to be provided by such district will be achieved.

578 Section 3. Elements of community land use plan

579 A planning board may prepare, and from time to time amend or renew, a community land
580 use plan for a municipality, to be submitted to the regional planning agency for certification. The
581 plan shall address at least the following five areas: economic development, housing, open space
582 protection, water management, and energy management.

583 The plan shall contain:

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

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

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

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

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

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

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

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

601 The planning board shall hold at least one public hearing, with two weeks prior notice,
602 for public review of and comment upon the plan, before the plan is submitted to the regional

603 planning agency for certification. After the public hearing, the planning board may recommend
604 to the chief executive officer of the municipality that the plan be submitted to the regional
605 planning agency for certification.

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

607 The chief executive officer of the municipality may, if such action is recommended by
608 the planning board, submit the plan to the regional planning agency for certification. Within 90
609 days after receiving a submission, the regional planning agency shall determine whether the plan
610 is (a) complete and (b) consistent with the Commonwealth's land use objectives. A plan shall be
611 determined to be complete if it contains all the elements required in Section 3. A plan shall be
612 determined to be consistent with the Commonwealth's land use objectives if it satisfies the
613 minimum standards for consistency in accordance with Section 5. If the regional planning
614 agency determines that the plan is complete and consistent with the Commonwealth's land use
615 objectives, then the agency shall issue a written certification to that effect. If the regional
616 planning agency determines that it is unable to issue such a certification, then the agency shall
617 provide the municipality with a written statement of the reasons for its determination. A
618 municipality may re-submit for certification at any time a modified plan that addresses the issues
619 set forth in the agency's statement of reasons. If the regional planning agency does not issue a
620 certification or provide a statement of reasons within 90 days after receiving a plan (including a
621 re-submitted plan), then the plan shall be deemed certified.

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

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

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

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

639 B. The plan establishes prompt and predictable permitting of residential development
640 within one or more residential development districts that can collectively accommodate, in the
641 determination of the regional planning agency, a number of new housing units (excluding new
642 housing units which are restricted, through zoning or other legal means, as to the number of
643 bedrooms or as to the age of their residents) equal to the housing target number. For the initial
644 certification of a plan, a municipality's housing target number shall be reduced by the number of
645 new housing units for which building permits were issued within two years prior to the
646 municipality's effective date, to the extent such building permits were issued within residential
647 development districts for which there was prompt and predictable permitting at the time of
648 building permit issuance. This standard may be waived or modified upon a determination by the
649 regional planning agency that the lack of adequate water supply and/or wastewater infrastructure
650 within the municipality prevents full compliance with this standard, provided that the
651 municipality may be required to instead participate in any regional housing plan established by
652 the regional planning agency.

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

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

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

664 Section 6. Certification and adoption of implementing regulations

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

671 (b) The chief executive officer of the municipality may submit the implementing
672 regulations to the regional planning agency for certification. Within 90 days of receiving a
673 submission, the regional planning agency shall determine whether the implementing regulations
674 are consistent with the certified plan. The implementing regulations shall be deemed consistent
675 with the certified plan if they effectuate the minimum standards for consistency with the

676 Commonwealth's land use objectives established or required by the certified plan. If the
677 regional planning agency determines that the implementing regulations are consistent with the
678 certified plan, then the agency shall issue a written certification to that effect. If the regional
679 planning agency determines that it is unable to issue such a certification, then the agency shall
680 provide the municipality with a written statement of the reasons for its determination. A
681 municipality may re-submit for certification at any time modified implementing regulations that
682 address the issues set forth in the agency's statement of reasons. If the regional planning agency
683 does not issue a certification or provide a statement of reasons within 90 days after receiving
684 implementing regulations (including re-submitted implementing regulations), then the
685 implementing regulations shall be deemed certified. The municipality shall have the option of
686 submitting its implementing regulations together with its submission of its community land use
687 plan pursuant to Section 4, in which case the regional planning agency shall review both the plan
688 and the implementing regulations within the same 90 day period.

689 (c) Following certification by the regional planning agency, the implementing
690 regulations may be adopted by the municipality by a simple majority vote of its legislative body.
691 On the date of receipt by the regional planning agency of proof of adoption of the certified
692 implementing regulations pursuant to a certified plan, a municipality shall be deemed a "certified
693 plan community". Such date shall be deemed the "municipality's effective date".

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

695 (a) Following the municipality's effective date, local zoning ordinances or by-laws,
696 subdivision rules and regulations, and other local land use regulations (other than certified
697 implementing regulations) which are determined to be inconsistent with the certified plan or the
698 certified implementing regulations shall be deemed invalid. Such a determination may be sought
699 and obtained through any means otherwise available by statute for the determination of the
700 validity of such land use regulations. Any material amendment to a certified plan or certified
701 implementing regulations that has not been prepared, certified and adopted in accordance with
702 the provisions hereof shall be presumed to be inconsistent with the certified plan.

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

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

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

730 Section 8. Review of certification by regional planning agency

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

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

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

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

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

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

757 Section 10. Priority for Infrastructure Funding

758 The executive office of housing and economic development, the executive office of
759 energy and environmental affairs, the executive office of transportation, and the executive office
760 of administration and finance shall, when awarding discretionary funds for local infrastructure
761 improvements, give priority consideration to infrastructure improvements identified in the
762 certified plans of certified plan communities.

763 Section 11. Consideration under State Programs

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

768 SECTION 19. Item 7002-0013 in chapter 182 of the Acts of 2008, as so appearing, is
769 hereby amended by adding the following:- "provided, that not more than $1,000,000 shall be
770 expended for technical assistance grants to municipalities for the preparation of plans and
771 implementing regulations, and grants are to be administered by the Interagency Planning Board;
772 provided further, that not more than $500,000 shall be expended for technical assistance grants to
773 regional planning agencies for the certification of plans and implementing regulations and the
774 preparation of guidelines, and such grants are to be administered by the Interagency Planning
775 Board; and provided further, priority for the municipal grants administered by the Interagency
776 Planning Board shall be given to those municipalities identified by the applicable regional
777 planning agencies as being most likely to prepare and adopt certified plans and implementing
778 regulations, if provided with financial assistance"