SENATE DOCKET, NO. 303 FILED ON: 1/14/2015

SENATE . . . . . No. 116

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

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 to promote livable communities and zoning reform act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Marc R. Pacheco	*First Plymouth and Bristol*
Anne M. Gobi	*Worcester, Hampden, Hampshire and Middlesex*
Mary S. Keefe	*15th Worcester*
Brian A. Joyce	*Norfolk, Bristol and Plymouth*

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SENATE . . . . . No. 116

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 116) of Marc R. Pacheco, Mary S. Keefe and Brian A. Joyce for legislation to promote livable communities and zoning reform act. Community Development and Small Businesses.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *74* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to promote livable communities and zoning reform act.

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. (a) the land and waters within the Commonwealth possess distinct natural, scientific, historical, scenic, cultural, architectural, archeological, recreational, economic, agricultural and other values

(b) there is a national, regional, state, and local, interest in preserving and enhancing these values; and these values are being threatened and may be irreparably damaged by uncoordinated or inappropriate uses of the Commonwealth's land and resources.

(c) the obligation to protect the many valuable resources of the Commonwealth is shared by local, regional, state and national governments, civic organizations, businesses and the general public.

10 (d) these resources are being adversely affected by a lack of effective and coordinated
11 planning among the various levels of government and a lack of adequate funding and technical
12 assistance for municipalities.

13 (e) these resources can be protected if each level of government participates in
14 sustainable planning for smart growth.

15 SECTION 2.(a) State principles and goals

16 (1) state policies and spending decisions should encourage growth in appropriate and
17 identified places.

18 (2) state resources should be targeted to support development in areas where
19 infrastructure is already in place.

20 (3) state polices and spending decisions should not encourage or subsidize sprawl.

21 (4) state policies and spending decisions should discourage growth in environmentally
22 sensitive areas in order to protect the Commonwealth's most valuable remaining natural
23 resources before they are lost.

24 (b) To that end it shall be the policy of the Commonwealth to :

25 (1) discourage wasteful use of land, water and energy resources;

26 (2) support revitalization and reinvestment in urban areas and older suburbs;

27 (3) encourage the reuse and rehabilitation of existing infrastructure rather than the
28 construction of new infrastructure in undeveloped areas

29 (4) protect, to the maximum extent possible, environmentally sensitive lands, natural
30 resources, wildlife habitats. and cultural, natural, and historic landscapes;

31 (5) support a range of convenient and affordable transportation choices;

32 (6) protect economically productive natural areas including farmland and forests;

33 (7) provide an adequate supply of affordable housing for all income levels throughout
34 each community; particularly for households earning 50 per cent or less of the area median
35 income, as defined by the federal Department of Housing and Urban Development.

36 (8) encourage a clear and transparent development approval process;

37 (9) encourage regional solutions and approaches to planning issues as appropriate, e.g.,
38 transportation, housing supply, and water supply;

39 (10) assist municipalities and regions in planning for growth;

40 (11) require coordination among state agencies so that sustainable development efforts
41 by one agency are not undermined by other state decisions and policies;

42 (12) Encourage coordination and cooperation among levels of government; and

43 (13) Ensure that permitting, funding, and construction activities by state agencies do
44 not enable, contribute to, or perpetuate development that is inconsistent with state, regional and
45 local sustainable development plans.

46 Section 3. For purposes of this chapter, the following words shall have the following
47 meanings:

48 “Agency” any agency, department, board, commission, authority, and instrumentality of
49 the Commonwealth and any authority or any political subdivision which is responsible for siting,
50 designing, funding, constructing or permitting of infrastructure projects, public facilities or
51 private development or which is responsible for which is responsible for transportation, water
52 supply, waste water treatment and disposal and solid waste management facilities or
53 infrastructure.

54 “Secondary growth impacts”, growth that occurs as a result of making infrastructure
55 available.

56 “Sustainable”, purposefully designed to bring about efficient, safe, healthy, prosperous
57 communities that include a sufficient amount of affordable housing while simultaneously
58 maintaining and enhancing the environment, the natural resource base and the ongoing
59 functioning of natural ecosystems that are fundamental to sustaining life and prosperity for
60 current as well as future generations.

61 Section 4. (a) There shall be a council for a sustainable commonwealth, known in this
62 chapter as the council, to be chaired by the governor or his designee. The council shall consist of
63 the following voting members: the director of housing and community development or her
64 designee, the secretary of environmental affairs or his designee, the secretary of transportation
65 and construction or his designee, the secretary of administration and finance or his designee and
66 the director of economic development or his designee. The council shall also include the
67 following non-voting members, who shall serve in an advisory capacity: the chairman of the
68 Massachusetts Water Resources Authority or his designee, the chairman of the Massachusetts
69 Bay Transit Authority or his designee, the secretary of the commonwealth acting as chairman of

70 the Massachusetts historical commission or his designee, two chairs of regional planning
71 agencies nominated by the governor, a municipal planning representative appointed by the
72 governor and a professional planner appointed by the governor.

73 (b) the council for a sustainable commonwealth shall have the following primary
74 responsibilities, to:

75 (1) consider, coordinate and, where appropriate, recommend modifications to the
76 capital planning done by each state agency;

77 (2) resolve inconsistencies among and between each of the capital and operating plans
78 of the agencies and regional sustainable development plans, and any inconsistencies that cannot
79 be resolved through discussion and mediation shall be resolved by a majority vote of the voting
80 members of the council;

81 (3) encourage the state agencies to consider secondary growth impacts in their capital
82 planning and to encourage agencies to site facilities in areas where infrastructure already exists
83 or to create infrastructure in developed areas, rather than in undeveloped areas; and

84 (4) determine and direct the appropriate agency or agencies to provide technical
85 assistance, on an as needed basis, to municipalities as they seek to implement their plans.

86 (5) develop guidelines for an urban initiative program that will be part of each regional
87 sustainable development plan.

88 Section 5. (a) By March 15 of every odd year, each agency shall develop a five-year
89 agency sustainable development plan, known in this chapter as an agency plan that is consistent

90 with the state goals, principles and policies outlined in section 2 and that meets the following
91 criteria:

92 (1) all agencies shall promote, assist and pursue the rehabilitation and revitalization of
93 infrastructure, structures, sites, and areas previously developed and still suitable for economic
94 reuse. Such rehabilitation and revitalization, where practicable, shall be deemed preferable over
95 construction of new facilities or development of areas with significant value in terms of
96 environmental quality and resources. However, all agencies shall recognize that a lack of low
97 and moderate-income housing may necessitate new construction of affordable and mixed income
98 housing in areas in which there is an imbalance between housing supply and demand.

99 (2) all agency plans, and all infrastructure spending under them, shall seek to minimize
100 unnecessary loss or depletion of environmental quality and resources that might result from such
101 activity.

102 (3) all agencies shall consider secondary growth impacts in the development of their
103 agency plans.

104 (4) all agency plans and all infrastructure spending under them, shall consider any
105 applicable regional sustainable development plans created under section 5 of chapter 40B as
106 amended by this act, that are in effect on the date of publication of the agency plans, and
107 conform to the regional plans, where feasible.

108 Section 6. (a) the executive office of environmental affairs, the department of economic
109 development, the department of housing and community development, and the executive office
110 of transportation and construction, when awarding discretionary grants to municipalities,
111 excluding any grants made under chapter 90, shall give priority to municipalities that have

112 adopted certified local sustainable development plans pursuant to chapter 41, section 81D as
113 amended by this Act.

114 (b) the executive office of environmental affairs, the department of economic
115 development, the department of housing and community development, and the executive office
116 of transportation and construction, when awarding grants that require a municipal match, shall
117 reduce the match requirement by no less than 10% for municipalities that have adopted certified
118 local sustainable development plans.

119 SECTION 2. Section 6 of chapter 132C of the General Laws shall be effective 3 years
120 after the effective date of this act.

121 SECTION 3. Section 62A of chapter 30 of the General Laws, as appearing in the 2014
122 Official Edition, is hereby amended by adding the following paragraph:

123 The secretary of environmental affairs shall consider in his review of any project under
124 this section the consistency of that project with chapter 132C and its consistency with plans
125 created under section 81D of chapter 41 as amended by this act.

126 SECTION 4. The secretary, chairman or director of every agency subject to chapter
127 132C of the General Laws, within one year from the effective date of this act, and thereafter on
128 an annual basis, shall report on the status and effectiveness of their compliance with said chapter
129 132C. The reports shall be submitted to the governor, the clerks of the house of representatives
130 and the senate and the chairs of the joint committee on natural resources and agriculture, and
131 shall be made available by each agency for public review.

132 SECTION 5. The governor shall, within three months of the effective date of this Act,
133 issue a guidance document for use by agencies in preparing their annual reports under Section 4
134 of this act and shall, within six months following the submission of the agencies' reports and
135 after consideration of any comments received on such reports, submit to the council for a
136 sustainable commonwealth a summary report and recommendations for the continued
137 implementation of chapter 132C of the General Laws.

138 SECTION 6 Chapter 40B of the General Laws, as so appearing, is hereby amended by
139 striking out Section 5 and inserting in place thereof the following section:

140 Section 5. (a) For purposes of this section, the following words shall have the following
141 meanings:

142 "Concentrated Development Center", an area composed of concentrated mixed use
143 development established by a municipality or collection of municipalities in conjunction with the
144 regional planning commission.

145 "Council", the council for a sustainable commonwealth created under chapter 132C.

146 "Regional planning commission", regional or district planning commissions established
147 under this chapter.

148 "Regional sustainable development plan", a regional plan.

149 "Sustainable", purposefully designed to bring about efficient, safe, healthy, economically
150 vital communities that include a sufficient amount of affordable housing while simultaneously
151 maintaining or enhancing the environment, the natural resource base and the ongoing functioning

152 of natural ecosystems that are fundamental to sustaining life and prosperity for current as well as
153 future generations.

154 "Targeted Investment Area", an area of a municipality or collection of municipalities
155 designated by a regional planning commission, based on municipal recommendations, which is
156 consistent with resource-efficient development and which shall receive priority for public funds.

157 (b) (1) Each regional planning commission shall develop a regional sustainable
158 development plan. This may include the revision or modification of a plan previously created
159 under this chapter. Regional plans shall be revised or updated at least every 5 years. Regional
160 plans shall contain the elements of a complete local sustainable development plan as provided in
161 Chapter 41, Section 81D of the General Laws as amended by this Act. Each RPA shall adapt
162 said elements to the regional plan. Regional plans also shall adhere to the policies of the
163 commonwealth established by section 2 of chapter 132C.

164 (2) Regional plans shall consider all local sustainable development plans, created under
165 section 81D of chapter 41 as amended by this Act, of municipalities within the planning region,
166 which are in effect at the time the regional plan is being developed by the regional planning
167 commission. If any local plans within a region's planning district are inconsistent with one
168 another, the regional planning commission shall encourage the conflicting municipalities to
169 create consistent plans and make recommendations for bringing the plans into compliance with
170 one another.

171 (c) (1) The regional planning commissions may collectively establish uniform procedures
172 under this section.

173 (2) In developing regional plans, the regional planning commissions shall each employ
174 an open, inclusive and broadly participatory process. The regional planning commissions shall
175 undertake public notification and participation procedures that are designed to seek widespread
176 public participation in the regional planning process, including, but not limited to input from the
177 following: local planning boards and other officials and residents of each municipality within the
178 planning district; business and industry representatives; environmental and public health groups;
179 housing advocates and providers, advocates for the local watershed area or areas; representatives
180 of conservation commissions; officials and/or residents of a neighboring planning region with an
181 interest, and representatives of the commonwealth's agencies and departments who have
182 infrastructure or investments in the planning district.

183 (3) The executive committee of each regional planning commission shall review its
184 regional plan for compliance with this section and internal consistency before forwarding it to its
185 commission members for approval. If a regional plan is approved by a simple majority vote of
186 the regional planning commission's members, the plan shall be considered approved and there
187 shall be a rebuttable presumption that the plan is fully compliant with this section and internally
188 consistent. Once the regional plan is approved by a majority vote of the commission members,
189 the regional planning commission shall forward it to the council for sustainable commonwealth,
190 created under chapter 132C, to enable the commonwealth's agencies to develop capital spending
191 plans that are consistent with the regional plans.

192 (d) The regional planning commissions shall review all local sustainable development
193 plans in their jurisdictions under subsection (d) of section 81D of chapter 41 as amended by this
194 Act.

195 (e) The council shall develop minimum guidelines for regional urban initiative programs.
196 Each regional plan shall include an urban initiative planning component. Each regional planning
197 agency shall have the opportunity to expand and shape the urban initiative program to meet the
198 needs of its region.

199 (1) A fundamental element of the urban initiative program shall include identification
200 and designation of Targeted Investment Areas, based on municipal recommendations. Examples
201 include: infill development in areas with infrastructure capacity; re-development of brownfield
202 sites; and adaptive reuse of structures.

203 (2) The urban initiative program shall also require regional planning commissions to
204 work with their municipal jurisdictions to develop criteria for and identify and designate
205 Concentrated Development Centers. Such areas may vary in size and complexity depending on
206 the degree of urbanization in the region or the area proposing designation. Concentrated
207 Development Centers may be designated in the urban economic core, in urban growth areas, in
208 subregional areas, and in suburban and rural centers.

209 (f) The regional planning commissions shall develop initial regional sustainable
210 development plans under section 5 of chapter 40B of the General Laws no later than 18 months
211 after the effective date of this act. Under no circumstances shall the failure of a regional
212 planning commission to initiate or complete a regional plan prevent a municipality from
213 developing a local sustainable development plan under section 81D of chapter 41of the General
214 Laws as amended by this Act.

215 (g) Regional planning commissions shall be responsible for developing a process to
216 review major developments affecting more than one community. Regional planning

217 commissions will establish a definition for major developments and procedures for comment and
218 review. The Planning Board of any municipality within a region can request that the regional
219 planning commission hold a public hearing on a major development. Any comments or
220 recommendations that result from the review will be shared with the Massachusetts
221 Environmental Policy Act (MEPA) office, if the project requires MEPA review, or with the
222 appropriate decisionmaking and permitting authorities.

223 SECTION 7. Chapter 41 of the General Laws, as so appearing, is hereby amended by
224 striking out section 81D and inserting in place thereof the following section:

225 Section 81D

226 (a) For purposes of this section, the following words shall have the following
227 meanings:

228 "Council", the council for a sustainable commonwealth created under chapter 132C.

229 "Land use regulations", regulations, administered in whole or in part by a municipality,
230 which materially affect the purposes of this section, including but not limited to: zoning,
231 subdivisions, wetlands, public health and transportation.

232 "Local sustainable development plan", a local plan.

233 "Regional planning commissions", organizations established under chapter 40B.

234 "Regional sustainable development plans " or "regional plans", plans developed under
235 section 5 of chapter 40B.

236 “Sustainable”, purposefully designed to bring about efficient, safe, healthy, economically
237 vital communities that include a sufficient amount of affordable housing, while simultaneously
238 maintaining and enhancing the environment, the natural resource base and the ongoing
239 functioning of natural ecosystems that are fundamental to sustaining life and prosperity for
240 current as well as future generations.

241 (b) (1) A planning board, established in a municipality under section 81A, shall develop,
242 in consultation with other elected and appointed municipal boards, a local sustainable
243 development plan of the municipality and, may, from time to time, extend or perfect such plan.
244 The local plan may be the revision or modification of a plan previously created pursuant to
245 section 81D. The local plan shall be revised or updated at least every 5 years.

246 (2) The local sustainable development plan shall be a plan that is designed to provide a
247 basis for decision-making regarding the long-term sustainable development of the municipality.
248 The local plans shall adhere to policies identified in section 2 of chapter 132C.

249 (3) The local plan may include text, maps, illustrations or other forms of
250 communication. The local plan shall include the following elements:

251 (i) A goals and policies statement which identifies the goals and policies of the
252 municipality to protect its natural resources and to provide for its sustainable growth and
253 development. Each community shall conduct an interactive process as described in subsection
254 (4) to determine municipal priorities and goals, to determine the best way to make development
255 in the municipality sustainable and to identify patterns of development that will be consistent
256 with these goals.

257 (ii) Land use plan element illustrating present land uses and designating the proposed
258 distribution, location, and inter-relationship of public and private land uses. This element shall
259 relate population density and building intensity to the capacity of land available and to planned
260 facilities and services. A land use plan map illustrating the land use policies of the municipality
261 shall be included.

262 (iii) Natural and cultural resources element which provides an inventory of the
263 significant natural, cultural, and historic resource areas of the municipality and policies and
264 strategies for the protection and management of such areas. This element shall also include any
265 strategies for protecting community character.

266 (iv) Watershed protection element which identifies ground and surface water
267 resources contained in whole or in part within a municipality, future needs, and threats, including
268 the impact of development on water supply, water quality, river and stream flow and wildlife
269 habitat.

270 (v) Housing element which identifies and analyzes existing and forecasted housing
271 needs and objectives including programs for the preservation, improvement and development of
272 housing, particularly housing that is affordable to residents of the municipality who are low and
273 moderate income as defined by the federal Department of Housing and Urban Development.
274 This element shall identify policies and strategies to provide a range of local affordable housing
275 opportunities and strategies to rezone areas to allow the development of multi-family housing.

276 (vi) Economic development element which identifies policies and strategies for the
277 expansion or stabilization of the local economic base and the promotion of employment
278 opportunities.

279 (vii) Open space and recreation element which provides an inventory of recreational
280 resources and open space areas of the municipality, and policies and strategies for the
281 management and protection of such resources and areas.

282 (viii) Services and facilities element which identifies and analyzes existing and
283 forecasted needs for facilities and services used by the public, including, but not limited to
284 facilities for: education, public safety, water and sewer services, energy demands and energy
285 conservation, and other utilities.

286 (ix) Transportation element which identifies existing and proposed intermodal
287 transportation systems including roads, mass transit, pedestrian, bicycle, and waterways, as well
288 as the impacts of such systems on land uses within the municipality.

289 (x) Implementation program element which defines and schedules the specific
290 municipal actions, including the identification of the anticipated costs and revenues, associated
291 with each element of the plan. Scheduled expansion or replacement of public facilities or
292 circulation system components and the anticipated costs and revenues associated with
293 accomplishments of such activities shall be detailed in this element. This element shall specify
294 the process by which the municipality's regulatory structure shall be amended so as to be
295 consistent with the plan.

296 (xi) Bylaw or ordinance element that shall outline appropriate land use regulations
297 consistent with the Plan and reasonably necessary to implement the elements of the Plan.

298 (4) In developing local plans, the municipalities shall each employ an open, inclusive
299 and broadly participatory process. The municipalities shall undertake public notification and
300 participation procedures that are designed to seek widespread public participation in the local

301 planning process, including but not limited to input from the following: local officials and
302 residents of the municipality, neighborhood representatives, business and industry
303 representatives in the community, environmental and public health groups, housing advocates
304 and providers, advocates for the local watershed area or areas; conservation commissions; the
305 appropriate regional planning commission, representatives of neighboring municipalities and
306 representatives of the commonwealth's agencies and departments that have infrastructure or
307 investments in the municipality.

308 (5) To the extent that one or more of the elements of the plan is already addressed in
309 another plan, such as an open space and recreation plan, such plan(s) may be included as a
310 component of the local plan in order to satisfy that particular element of the Plan.

311 (6) A municipality which has an established local sustainable development plan and
312 applies for a state grant from the commonwealth shall prepare and keep on file within the
313 municipality an economic development supplement; but the municipality shall not be required to
314 prepare the supplement if the municipality has a supplement on file . The supplement shall be at
315 least one page in length and shall contain the goals of the municipality with respect to industrial
316 or commercial development, affordable housing, and preservation of parks and open space.

317 (7) All local sustainable development plans shall be internally consistent in their
318 policies, forecasts and standards, shall be consistent with the applicable regional sustainable
319 development plan and shall consider the local sustainable development plans of neighboring
320 municipalities.

321 (8) A local plan shall not be in effect until the plan has been reviewed by the applicable
322 regional planning commission in accordance with subsection (c) and the plan has received local
323 approval in accordance with subsection (d).

324 (c) A municipality shall present its completed plan to the applicable regional planning
325 commission for review. The regional planning commission shall, within 60 days of receipt of the
326 plan, prepare and submit to the municipality a written review of the plan that shall certify
327 whether the plan satisfies all the goals and elements required by subsection (b), whether it is both
328 internally consistent and consistent with the applicable regional sustainable development plan,
329 and whether it has given consideration to the local sustainable development plans of neighboring
330 municipalities. The review shall identify any deficiency or omission with respect to each
331 required element and goal described in subsection (b). The review shall include, where
332 appropriate, recommendations as to how any omissions or deficiencies may be rectified. Upon
333 receipt of the regional planning commission's certification indicating satisfactory compliance
334 with this section, the planning board shall file the local plan with the office of the clerk of the
335 municipality.

336 (d) Upon receiving certification from the applicable regional planning commission, the
337 planning board shall present the local plan to the municipality's legislative body for approval
338 with an outline of changes needed in the municipalities zoning ordinances, land use regulations
339 or other municipal law to make the plan effective. Any additions to, modifications of, or
340 amendments to the local plan must be presented to and approved by the local legislative body in
341 the same manner. The local plan or local plan modifications shall, upon approval so described,
342 be made part of the public record and a copy of the plan or plan modifications shall be submitted
343 to the department of housing and community development and the executive office of

344 environmental affairs. The plan and any modifications to the plan shall be filed with the office
345 of the clerk of the municipality and made available to the public.

346 (e) Municipalities shall have five years to make substantial progress towards
347 implementation of their plans. If after five years from the date of certification, the applicable
348 regional planning commission deems that little or no progress has been made towards
349 implementation of the plan through changes in bylaws or ordinances, the plan will be decertified
350 and the regional planning commission shall notify the council of the decertification.

351 SECTION 8 (a) There is hereby established and set up on the books of the
352 commonwealth a Sustainable Development Grant Fund, into which shall be credited monies
353 contributed by the commonwealth including any appropriations or other monies authorized by
354 the general court and specifically designated to be credited to said fund. The fund shall be
355 administered by the council. Amounts credited to said fund shall be provided as grants to
356 municipalities and regional planning commissions for activities relating to the development and
357 preparation of local and regional sustainable development plans under this Act.

358 (b) The council shall adopt regulations establishing the grant program created under this
359 section of the act including, but not limited to: the factors to be used by the Council in
360 determining the amount of the grant funds that will be awarded to each municipality; an
361 application process for municipalities that choose to apply for grant funds; and provisions
362 governing the funding of regional planning commissions in the conducting of their
363 responsibilities under this Act.

364 (c) Factors to be used by the council in determining the amount of grant funds to be
365 provided to each municipality shall include, but not be limited to: complexity of the planning

366 issues confronting each municipality, the planning capacity of the municipality, and the capacity
367 of each municipality to fund the planning process. Regulations shall also create an incentive
368 program for multi-municipal planning.

369 (d) Provided further that chapters 236 and 246 of the acts and resolves of 2010 be
370 amended to authorize and direct the secretary of environmental affairs and the secretary of
371 transportation to appropriate existing funds not to exceed $35,000,000 for the purposes outlined
372 in this act. Of this amount, $5,500,000 will be for one time grants to be made to the regional
373 planning commissions established under chapter 40B of the General Laws to facilitate
374 compliance with section 5 of said chapter 40B as amended by this act, in accordance with the
375 following formula: base funding of $100,000 per year per regional planning commission, plus 70
376 cents per capita based upon the most recent U.S. Census data on population.

377 SECTION 9. Chapter 40A of the General Laws is hereby amended by inserting after
378 section 1 the following section:-

379 40A:2. General Purposes of Zoning Ordinances and Bylaws

380 (a) The purpose of the zoning ordinances and bylaws as amended by this act is to provide
381 guidance to municipalities in their regulation of land use, growth, and development through the
382 exercise of home rule powers conferred by article 89 of the Massachusetts constitution. Except
383 as hereinafter provided, cities and towns may adopt zoning ordinances and by-laws in
384 furtherance of the purposes contained in this section for the benefit of their present and future
385 inhabitants to the full extent of the powers of such cities and towns, whether such power is
386 independently authorized by the constitution of the Commonwealth or here by the general court
387 incident to power granted to it by the constitution. The Commonwealth shall limit these powers

388 only where necessary to ensure consistency in zoning and promote regional and statewide
389 interests as specifically provided herein.

390 (b) These zoning ordinances and bylaws are intended to advance the following public
391 purposes of the Commonwealth, each with equal priority and numbered for reference purposes
392 only. The general court recognizes that cities and towns may advance some or all of the
393 purposes listed below or may advance other purposes not listed below as they deem appropriate.

394 (1) Implementation of a plan adopted by the city or town under section 81D of chapter
395 41 as amended by this Act.

396 (2) Achievement of a balance of housing choices, types and opportunities for all
397 income levels and groups, to assure the health, safety and welfare of all citizens and their rights
398 to affordable, accessible, safe, and sanitary housing.

399 (3) Orderly and sustainable growth and development which recognizes:

400 (i) the goals and patterns of land use contained in a plan adopted by the city or town
401 under section 81D of chapter 41 as amended by this Act;

402 (ii) the natural characteristics of the land, including its suitability for use based on soil
403 characteristics, topography, and susceptibility to surface or groundwater pollution;

404 (iii) the values and dynamic nature of watersheds, coastal and freshwater ponds, the
405 shoreline, and freshwater and coastal wetlands;

406 (iv) the values of unique or valuable natural resources and features;

407 (v) the availability and capacity of existing and planned public and/or private services
408 and facilities;

409 (vi) the need to balance the “built” environment with the “natural” environment; and

410 (vii) the use of innovative development regulations and techniques such as
411 development agreements, impact fees, inter-municipal transfers of development rights,
412 agricultural zoning, inclusionary zoning, mediation and dispute resolution, and urban growth
413 boundaries.

414 (4) Control, protection or abatement of air, water, groundwater, noise and light
415 pollution, and soil erosion and sedimentation.

416 (5) Protection of the natural, historic, cultural, aesthetic, and scenic character of the city
417 or town or areas therein.

418 (6) Preservation and promotion of agricultural production, forestry, aquaculture, and
419 open space.

420 (7) Protection of the environment and natural resources, including but not limited to
421 farmland, forestland, water quality and quantity, shore lands, ridgelines, recreational resources,
422 open spaces, special habitats and ecosystems and other qualities of the environment and natural
423 resources set forth in article 97 of the Massachusetts constitution.

424 (8) Protection of public investment in transportation, water, storm water management
425 systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation,
426 public facilities, open space, and other public requirements.

427 (9) Improvement and expansion of existing infrastructure and construction of new
428 infrastructure in support of a plan adopted by the city or town under section 81D of chapter 41 as
429 amended by this Act and the purposes listed herein.

430 (10) An energy efficient, convenient and safe transportation infrastructure with as wide
431 a choice of modes as practical, including, wherever possible, maximal access to public transit
432 systems.

433 (11) Sustained or enhanced economic viability of the community and the region.

434 (12) Coordination of land uses with contiguous municipalities, other municipalities, the
435 state, and other agencies, as appropriate, especially with regard to resources and facilities that
436 extend beyond municipal boundaries or have a direct impact on that municipality.

437 (13) Accommodation of regional growth in a fair and equitable, but sustainable manner
438 among municipalities.

439 (14) Efficient, fair and timely review of development proposals, to clarify and expedite
440 the zoning approval process.

441 (15) Effective procedures for the administration of the zoning ordinance or bylaw,
442 including, but not limited to, variances, special permits, other locally-adopted zoning permits,
443 reviews or procedures, and, where adopted, procedures for modification.

444 (16) Protection of the public health, safety, and general welfare.

445 (17) A range of uses and intensities of use appropriate to the character of the city or
446 town and reflecting current and expected sustainable future needs.

447 (18) Safety from fire, flood, and other natural or man-made disasters.

448 (19) High level of quality in the design and development of private and public facilities.

449 (20) Conservation of the value of land and buildings.

450 (21) Conservation and enhancement of community amenities.

451 (22) Efficiency in energy usage and the reduction of pollution from energy generation,
452 including the promotion of renewable energy sources and associated technologies.

453 SECTION 10. Section 3 of chapter 40A of the General Laws, as appearing in the 2014
454 Official Edition, is hereby amended by inserting, after the word “the”, in line 25, the following
455 word:- minimum.

456 SECTION 11. Said section 3 of said chapter 40A, as so appearing, is hereby further
457 amended by striking out, in lines 26-34 inclusive, the words "nor shall any such ordinance or by-
458 law prohibit, regulate or restrict the use of land or structures for religious purposes or for
459 educational purposes on land owned or leased by the commonwealth or any of its agencies,
460 subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit
461 educational corporation; provided, however, that such land or structures may be subject to
462 reasonable regulations concerning the bulk and height of structures and determining yard sizes,
463 lot area, setbacks, open space, parking and building coverage requirements.".

464 SECTION 12. Said section 3 of said chapter 40A, as so appearing, is hereby further
465 amended by striking out the third paragraph and inserting in place thereof the following
466 paragraph:-.

467 Zoning ordinances or bylaws shall not prohibit the use of land or structures thereon for:
468 a) educational purposes on land owned or leased by the Commonwealth or any of its agencies,
469 subdivisions or bodies politic or by a nonprofit educational corporation; b) religious purposes by
470 a religious sect or denomination; c) the purposes of operating a child care facility or d) the
471 purposes of operating a community residential program. As used in this section the following
472 words shall have the following meanings: a) "educational purposes" means public and nonprofit
473 private primary, secondary and higher educational purposes; b) "child care facility" means a day
474 care center or school age child care program, as those terms are defined in section 9 of chapter
475 28A; c) “community residential program” means a residential facility licensed by the
476 Commonwealth to provide care or shelter or supervision or education to a maximum of eight (8)
477 individuals with a mental or physical disability or to victims of crime, of physical or mental
478 abuse, or of neglect in a small-scale residential setting with on-site or off-site supervision. The
479 land or structures used for such purposes may, however, be subject to reasonable regulations
480 regarding the bulk and height of structures, yard sizes, frontage, lot area, building coverage
481 requirements, setbacks, floor area ratio, parking, access and egress, lighting, drainage,
482 landscaping, buffering and open space, and similar matters. Compliance with such regulations
483 may be determined as provided by ordinance or bylaw in each city or town, including through
484 site plan review under which reasonable conditions, safeguards, and limitations to mitigate the
485 impact of a specific use of land or structures on the neighborhood may be imposed pursuant to
486 section 7A of this chapter. In addition, the application of such regulations to particular land or
487 structures used for such purposes may be waived in whole or in part by special permit, and
488 reasonable conditions may be imposed as part of the special permit. The waiver may be granted
489 if the special permit granting authority finds, based upon the evidence presented by the person

490 seeking the waiver, that the waiver will not result in substantially more detriment to the
491 neighborhood than the use of the particular land or structures for such purposes without the
492 waiver."

493 SECTION 13. Section 5 of said chapter 40A, as so appearing, is hereby amended by
494 inserting, after the tenth paragraph, the following paragraphs:-

495 A zoning ordinance or bylaw adopted or amended under this chapter shall not be
496 inconsistent with a plan prepared by the city or town under section 81D of chapter 41 as
497 amended by this Act. Said ordinances or bylaws shall provide that in the instance of uncertainty
498 in the construction or application of any section therein, the ordinance or by-law shall be
499 construed in a manner that will further the implementation of, and not be contrary to, the goals,
500 policies and applicable elements of said plan. This paragraph shall not become effective until
501 five years after it is enacted in the General Laws.

502 SECTION 14. Chapter 40A of the General Laws is hereby amended by striking out
503 section 6 and inserting in place thereof the following section:-.

504 40A:6. Applicability of Zoning Ordinances and Bylaws

505 40A:6A. Nonconforming Lots, Structures and Uses

506 (a) Residential Lot Exemption

507 Increases in lot area, frontage, width or depth, or building setback requirements of a
508 zoning ordinance or bylaw shall not apply to a lot for single- or two-family residential use which
509 immediately prior to the effective date of the zoning amendment that rendered the lot
510 nonconforming:

511 (1) was shown or described as a separate lot on a recorded plan or deed or on an
512 assessors map or plat and has access to and frontage on an existing public way, or if not, to a way
513 of sufficient width, grade and construction to provide safe access to such lot as the planning
514 board or its designee may determine; and

515 (2) conformed to the then existing lot area, frontage and lot width or depth
516 requirements; and

517 (3) had at least five thousand square feet of area and fifty feet of frontage in the case of
518 a single-family residential use and at least seventy-five thousand square feet of area and seventy-
519 five feet of frontage in the case of two-family residential use; and

520 (4) was not held in common ownership with any adjoining land. For the purposes of
521 this section, common ownership shall include lots held by separate legal entities, persons or
522 trusts under common control or with common beneficial interests.

523 (b) Lawfully Nonconforming Structures and Uses

524 (1) For the purposes of this section, a lawfully nonconforming structure or use shall be
525 a structure or use lawfully in existence at the time of the effective date of the zoning amendment
526 rendering such structure or use nonconforming.

527 (2) Adoption or amendment of a zoning ordinance or bylaw shall not apply to lawfully
528 nonconforming structures or uses and shall not apply to structures and uses lawfully begun prior
529 to the first publication of notice of the public hearing on the adoption or amendment of the
530 relevant zoning ordinance or bylaw required by section five.

531 (3) A zoning ordinance or bylaw may provide that, if a nonconforming use or structure
532 is abandoned for a period of two years or more, it may not be reestablished. Abandonment shall
533 consist of some overt act, or failure to act, which would lead one to believe that the owner
534 neither claims or retains any interest in continuing the nonconforming use or structure, unless the
535 owner can demonstrate an intent not to abandon it. An involuntary interruption of a
536 nonconforming structure or use, such as by fire and natural catastrophe, does not establish the
537 intent to abandon. However, if a nonconforming structure or use is halted, unused or vacated for
538 a period of two years, the owner shall be presumed to have abandoned it.

539 (4) This subsection 6A(b) shall not apply to establishments which display live nudity
540 for their patrons, as defined in section nine A, adult bookstores, adult motion picture theaters,
541 adult paraphernalia shops, or adult video stores subject to the provisions of section nine A.

542 (c) Alteration, Reconstruction, Extension or Structural Change of Lawfully
543 Nonconforming Structures and Uses

544 (1) A zoning ordinance or bylaw shall not prohibit the alteration, reconstruction,
545 extension, or structural change to a lawfully nonconforming single- or two-family residential
546 structure, provided there is no increase in the degree of nonconformity of the structure.

547 (2) A zoning ordinance or bylaw may permit, as of right or by special permit, lawfully
548 nonconforming structures or uses to be altered, reconstructed, extended or structurally changed
549 provided that such actions shall not increase the degree of nonconformity of the structure or use.

550 (3) A zoning ordinance or bylaw may permit, by special permit, lawfully
551 nonconforming structures or uses to be altered, reconstructed, extended or structurally changed
552 in a manner that increases the degree of nonconformity of the structure or use, provided that the

553 permit granting authority finds that such actions shall not be substantially more detrimental to the
554 neighborhood than the lawfully nonconforming structure or use.

555 (4) A zoning ordinance or bylaw may regulate nonconforming structures differently
556 than nonconforming uses.

557 (5) A zoning ordinance or bylaw may vary by zoning district(s) the requirements for the
558 alteration, reconstruction, extension or structural change for all lawfully nonconforming
559 structures and uses, except single- and two-family residential structures.

560 40A:6B. Vested Rights: Effective Date of Zoning Amendments

561 (a) Building Permits and Special Permits

562 (1) Adoption or amendment of a zoning ordinance or bylaw shall not apply to a
563 building permit issued or special permit granted prior to the first publication of notice of the
564 public hearing on the adoption or amendment of the relevant zoning ordinance or bylaw required
565 by section five.

566 (2) The provisions of subsection 6B(a)(1) shall not apply to building permits unless
567 construction under the permit is commenced within six months after issuance and is carried
568 through to completion as continuously and expeditiously as is reasonable.

569 (3) The provisions of subsection 6B (a)(1) shall not apply to special permits unless the
570 use or construction authorized under such permit is commenced within two years.

571 (b) Subdivision Plans

572 (1) Adoption or amendment of a zoning ordinance or bylaw shall not apply to a
573 definitive subdivision plan approved prior to the first publication of notice of the public hearing
574 on the adoption or amendment of the relevant zoning ordinance or bylaw required by section
575 five.

576 (2) The provisions of subsection 6B(b)(1) shall apply for a period of three years.

577 (c) General Provisions

578 (1) The time requirements of this section 6B shall be extended for a period of time
579 equal to the duration of:

580 (i) any extensions granted by the applicable local board or authority;

581 (ii)the period of an appeal from the decision of any applicable local board or authority
582 taken under applicable provisions of law on a building permit, special permit or definitive
583 subdivision plan; and

584 (iii) any moratoria upon permitting or construction imposed by any government entity.

585 (2) The record owner of the land shall have the right, at any time, by an instrument duly
586 recorded in the registry of deeds for the district in which the land lies, a copy of which shall be
587 filed with the building inspector and town clerk, to waive the provisions of this section 6B, in
588 which case the zoning ordinance or bylaw then or thereafter in effect shall apply.

589 SECTION 15. Chapter 40A of the General Laws is hereby amended by inserting after
590 section 7 the following section:-

591 40A:7. Site Plan Review

592 (a) As used in this section, a "site plan" is a submission made to a municipality that
593 includes documents and drawings required by an ordinance or bylaw and used by the
594 municipality to determine whether a proposed use of land or structures is in compliance with
595 applicable local ordinances or bylaws, to evaluate the effects of the proposed use of land or
596 structures on the neighborhood and/or community, and to evaluate and propose site design
597 modifications that will lessen those impacts.

598 (b) A city or town may adopt a local ordinance or bylaw requiring the submission, review
599 and approval of a site plan before authorization is granted for the use of land or structures
600 governed by a zoning ordinance or bylaw.

601 (c) Such ordinance or bylaw for site plan review shall:

602 (1) establish which uses of land or structures are subject to site plan review;

603 (2) specify the local board or official charged with reviewing and approving site plans,
604 which may differ for different types, scales, or categories of uses of land or structures;

605 (3) establish the submission and review process for a site plan which is submitted in
606 connection with an application for a variance, special permit, or other discretionary zoning
607 approval. This submission and review may be conducted as part of the review of the application
608 for discretionary approval or may be a separate review process under subsection (c)(4) below;

609 (4) establish the submission and review process for applications not governed by the
610 procedures for review of discretionary zoning approval under subsection (c)(3) above, which
611 may include the requirement of a public hearing held pursuant to the provisions in section 11 of
612 this chapter. A decision under this subsection (4) shall require a vote by no more than a majority

613 of the full board and shall be made within the time limits prescribed in the ordinance or bylaw,
614 not to exceed the time limits for special permits contained in section 9 of this chapter. If no
615 decision is issued within the prescribed time limit, the applicant shall be entitled to constructive
616 approval of the site plan submitted as provided in section 9, paragraph (12) of this chapter;

617 (5) establish standards by which the use of land or structures and its impact on the
618 neighborhood shall be evaluated; and

619 (6) contain provisions that make the terms, conditions, and content of the site plan once
620 approved enforceable by the municipality, which may include the requirement of performance
621 guarantees.

622 (d) The local board or official charged with review of site plans may adopt, and from
623 time to time amend, after a public hearing, rules to implement the local site plan ordinance or
624 bylaw adopted under this section. Notice of the proposed rules and of the location, date and time
625 of the public hearing shall be filed with the city or town clerk and published in a newspaper of
626 general circulation in the city or town at least 14 days before the public hearing.

627 (e) A site plan submitted for the use of specific land or structures provided in subsection
628 (c)(4) shall be approved if the site plan:

629 (1) meets the procedural and submission requirements of the site plan review process
630 applicable to the specific land or structures;

631 (2) complies with the regulations applicable to such land or structures in the local
632 zoning ordinance or bylaw; and

633 (3) meets such standards as the local zoning ordinance or bylaw provides by which the
634 use of land or structures and its impact on the neighborhood shall be evaluated.

635 (f) A site plan approved hereunder may include reasonable conditions, safeguards and
636 limitations to mitigate the impacts of a specific use of land or structures on the neighborhood.

637 (g) Decisions made under site plan review may be appealed as specified in the ordinance
638 or by law, which may include direct judicial review pursuant to section 17 of this chapter.

639 (h) Zoning ordinances or bylaws shall provide that a site plan approval granted under this
640 section shall lapse within a specified period of time, not more than two years from the date of the
641 filing of such approval with the city or town clerk, so long as substantial use or construction has
642 not yet begun, except as extended for good cause by the approving authority designated pursuant
643 to (c)(2) above. Such time shall not include time required to pursue or await the determination of
644 an appeal pursuant to subsection (g) above.

645 SECTION 16. Section 9 of chapter 40A of the General Laws is hereby amended by
646 striking out the fourth paragraph, inserted by section 1 of chapter 197 of the acts of 2014, and
647 inserting in place thereof the following paragraph:-

648 Zoning ordinances or bylaws may provide for the authorization of the transfer of
649 development rights of land within or between districts. Such authorization may be by special
650 permit or by other methods, including but not limited to the applicable provisions of sections
651 81K to 81GG, inclusive, of chapter 41 and in accordance with a planning board's rules and
652 regulations governing subdivision control.

653 SECTION 17. Section 1A of chapter 40A of the General Laws, as appearing in the 2014
654 Official Edition, is hereby amended by inserting the following definition:-

655 "Development impact fees" a contribution paid to a city or town by the applicant
656 undertaking a development for the purpose of offsetting the impacts related to the development.

657 SECTION 18. Chapter 40A of the General Laws is hereby amended by inserting after
658 section 9C the following section:-

659 40A:9D. Development Impact Fees

660 (a) Authority

661 Cities and towns may adopt ordinances and bylaws establishing and governing the
662 procedure by which they may calculate, assess and impose development impact fees on proposed
663 developments, including procedures to allow waiver or reduction of development impact fees for
664 affordable housing developments.

665 (b) Administration

666 (1) Any development impact fee assessed under this section shall be paid to and held in
667 a separate account in the city or town in which the proposed development is located. In the event
668 that the proposed development is located in more than one municipality, the impact fee shall be
669 apportioned among the municipalities in accordance with the land area or other equitable unit
670 measure of the impacts of the proposed development in each city or town having adopted an
671 ordinance or bylaw under this section.

672 (2) Any development impact fee imposed or permitted under this section shall comply
673 with the following:

674 (i) The fee shall be rationally related and reasonably proportional to an impact
675 directly or indirectly created by the development.

676 (ii) The purposes for which the fee is expended shall reasonably benefit the proposed
677 development.

678 (iii) The fee shall be expended for the creation or improvement of capital facilities in
679 accordance with a municipal plan, including, but not limited to, the creation or improvement of
680 streets, sewers, water supplies, pollution abatement, parks, schools and similar capital facilities.

681 (3) Nothing in this section shall prevent a municipality from imposing fees or
682 conditions which it may otherwise impose under applicable laws and constitutional provisions.

683 SECTION 19. Section 17 of chapter 40A of the General Laws, as appearing in the 2014
684 Official Edition, is hereby amended by inserting after the seventh paragraph the following
685 paragraph:-

686 Mediation of land use appeals: After the filing of an appeal hereunder, the parties may
687 agree to mediate the decision that was appealed. In all events, the parties shall file a statement
688 advising the court in which such appeal was filed that the dispute has been considered for
689 mediation, and if they agree to mediation, such mediation shall begin within within 60 days of
690 the date such statement was filed, or such other period as the parties may agree or the court may
691 allow upon application by any party. Such mediation shall conclude not more than 180 days of
692 such filing, provided that such period may be extended for an additional 180 days upon mutual
693 agreement of the parties, or for such additional period as the court may allow upon application
694 by any party. Mediators may be chosen from a list to be provided by the court in which the
695 appeal was filed or by a mediator selected by the parties and approved by the court upon

696 application. The mediator shall be compensated by the parties as they may agree, or under terms
697 approved by the court as a cost of such appeal as hereinafter provided. During such mediation,
698 however, any appeal otherwise pending is stayed. A party may withdraw from mediation at any
699 time after written notification to the other parties and to the court in which such appeal was filed,
700 but shall remain responsible for that party's share of the costs of mediation until the time of
701 withdrawal. The mediator shall have the protections provided under section 23C of Chapter 233,
702 and to the extent that public agencies are participants in such mediations, their deliberations shall
703 not be subject to the provisions of Chapter 39, Section 29B. At the conclusion of such mediation,
704 the mediator shall file with the court a statement describing whether the parties have come to
705 agreement or not. If unresolved, the appeal will then go forward, and if the matter has been
706 resolved, the appeal will be dismissed with prejudice. The cost of mediation will be distributed
707 among the parties as costs of the appeal as the parties may agree and if not, as the court in which
708 such appeal was filed may determine. Mediation hereunder shall not be the only method of
709 resolving a zoning appeal.

710 SECTION 20. Section 81L of chapter 41 of the General Laws, as appearing in the 2014
711 Official Edition, is hereby amended by striking out, in lines 52-78 inclusive, the definition of
712 "Subdivision" and inserting in place thereof the following definition:-

713 "Subdivision" shall mean the division of a tract of land into one or more lots and shall
714 include resubdivision. When appropriate to the context, subdivision shall include the process of
715 subdivision or the land or territory subdivided. Except as provided in this chapter, any
716 adjustments to existing lot lines of a recorded lot by any means shall be considered a subdivision.
717 Lot area and frontage shall be of at least such dimension as is then required by zoning or other
718 ordinance or bylaw, if any, of said city or town for erection of a building on such lot. If no such

719 dimensions are so required, such area shall be at least five thousand square feet and such
720 frontage shall be at least fifty feet.

721 SECTION 21. Section 81O of said chapter 41, as so appearing, is hereby amended by
722 striking out the second sentence in the first paragraph and inserting in place thereof the following
723 sentence:- After the approval of a plan the location and width of ways, or the number, shape, and
724 size of the lots shown thereon shall not be changed unless the plan is amended accordingly under
725 section eighty-one W, except that the planning board may adopt alternate rules and regulations
726 pursuant to sections eighty-one P and eighty-one Q of this chapter defining and regulating
727 changes to the number, shape, and size of the lots shown thereon as minor subdivisions.

728 SECTION 22. Said chapter 41, as so appearing, is hereby amended by striking out
729 section 81P and inserting in place thereof the following section:-

730 41:81P. Alternative Approvals for Minor Subdivisions

731 Under section eighty-one Q, a planning board may adopt rules and regulations defining
732 and regulating minor subdivisions in a more expeditious manner than would apply to other
733 subdivisions. Such rules and regulations may establish reduced procedural requirements, review
734 periods, fee schedules, performance guarantees, and construction and design standards than
735 would otherwise apply.

736 SECTION 23. Section 81T of said chapter 41, as so appearing, is hereby amended by
737 striking out, in lines 2-3 inclusive, the following words:- “or for a determination that approval is
738 not required”.

739 SECTION 24. Section 81X of said chapter 41, as so appearing, is hereby amended by
740 striking out, in lines 12-13 inclusive, the following words:- “such plan bears the endorsement of
741 the planning board that approval of such plan is not required, as provided in section eighty-one P,
742 or (3)”.

743 SECTION 25. Section 81X of said chapter 41, as so appearing, is hereby further amended
744 by striking out, in lines 17-20 inclusive, the following words:- “or that it is a plan submitted
745 pursuant to section eighty-one P and that it has been determined by failure of the planning board
746 to act thereon within the prescribed time that approval is not required,”.

747 SECTION 26. Section 81X of said chapter 41, as so appearing, is hereby further amended
748 by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

749 Not withstanding the foregoing provisions of this section, the register of deeds shall
750 accept for recording and the land court shall accept with a petition for registration or
751 confirmation of title any plan bearing a certificate by a registered land surveyor that 1) the
752 property lines shown are the lines dividing existing ownerships, and the lines of streets and ways
753 shown are those of public or private streets or ways already established, and that no new lines for
754 division of existing ownership or for new ways are shown, or 2) unless subject to section eighty-
755 one 0 of this chapter or subject to alternate rules and regulations pursuant to section eighty-one P
756 and eighty-one Q of this chapter, the property lines shown do not create a new lot or render an
757 existing lot nonconforming or more nonconforming. The recording of such plan shall not relieve
758 any owner from compliance with the provisions of the subdivision control law or of any other
759 applicable provision of law.

760 SECTION 27. Section 81M of said chapter 41, as so appearing, is hereby amended by
761 inserting, after the word “systems”, in the third sentence, the words:- , and for a plan adopted by
762 the city or town under section 81-D of this chapter.

763 SECTION 28. Section 81O of said chapter 41, as so appearing, is hereby amended by
764 striking out the second paragraph and inserting in place thereof the following paragraph:-

765 A plan shall be deemed submitted under this section at the next regularly-scheduled
766 meeting of the planning board provided it is 1) sent by registered mail or delivered to the
767 planning board and received by said board seven days prior to said meeting, and 2) determined to
768 be complete by the board or their designee at said meeting in accordance with the planning
769 board’s rules and regulations.

770 SECTION 29. Section 81Q of said chapter 41, as so appearing, is hereby amended by
771 inserting after the first paragraph the following paragraphs:-

772 Notwithstanding anything to the contrary in this section, a planning board may adopt a
773 rule or regulation that a plan for a residential subdivision show a lot or lots that shall be reserved
774 for the required construction by the applicant of dwelling units affordable to persons whose
775 household income does not exceed a percentage of the area median income, as such income is
776 determined by the federal Department of Housing and Urban Development. Such requirements
777 shall not exceed fifteen percent of the dwelling units within the subdivision. In lieu of the
778 construction of the required affordable dwelling units within a subdivision, a planning board rule
779 or regulation may allow for the construction of such units off-site, the dedication of land for such
780 purpose, or the payment of sufficient funds to a separate account created by the city or town for

781 such purpose. Cities and towns are hereby empowered to establish said separate accounts to be
782 administered by the treasurer of the city or town.

783 Rules and regulations adopted or amended under this chapter shall not be inconsistent
784 with a plan prepared under section 81D of chapter 41 as amended by this Act. Said rules and
785 regulations shall provide that in the instance of uncertainty in the construction or application of
786 any section therein, the rules and regulations shall be construed in a manner that will further the
787 implementation of, and not be contrary to, the goals, policies and applicable elements of said
788 plan. This paragraph shall not become effective until five years after it is enacted in the General
789 Laws.

790 SECTION 30. Section 81Q of said chapter 41, as so appearing, is hereby amended by
791 striking out, in lines 62-69 inclusive, the words "No rule or regulation shall require, and no
792 planning board shall impose, as a condition of approval of a subdivision, that any of the land
793 within said subdivision be dedicated to the public use, or conveyed or released to the
794 commonwealth or to the county, city or town in which the subdivision is located, for use as a
795 public way, public park or playground, or for any other public purpose, without just
796 compensation to the owner thereof." and inserting in place thereof the following words:- The
797 rules and regulations may require the plan to show a park or parks suitably located for
798 playground or recreation purposes or for providing light and air and not unreasonable in area in
799 relation to the area of land being subdivided and the prospective uses of such land.

800 SECTION 31. Section 81U of said chapter 41, as so appearing, is hereby amended by
801 striking out, in lines 174-175 inclusive, the words "for a period of not more than three years".

802 SECTION 32. Section 81U of said chapter 41, as so appearing, is hereby amended by
803 inserting, after the word “applicant”, in line 79, the words “, subject to the discretion and
804 approval of the planning board”.