

**SENATE . . . . . No. 97**

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**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 passage of the accompanying bill:

An Act to promote livable communities and zoning reform act.

PETITION OF:

NAME:

Marc R. Pacheco

DISTRICT/ADDRESS:

First Plymouth and Bristol

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00151 OF 2007-2008.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand and Nine  
\_\_\_\_\_

### 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:*

1           SECTION 1. (a) the land and waters within the Commonwealth possess distinct natural,  
2 scientific, historical, scenic, cultural, architectural, archeological, recreational, economic, agricultural and  
3 other values

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

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

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

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

14 Section 2.(a) State principles and goals

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

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

19 (3) state policies and spending decisions should not encourage or subsidize sprawl.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56           Section 4. (a) There shall be a council for a sustainable commonwealth, known in this chapter as  
57 the council, to be chaired by the governor or his designee. The council shall consist of the following  
58 voting members: the director of housing and community development or her designee, the secretary of  
59 environmental affairs or his designee, the secretary of transportation and construction or his designee, the  
60 secretary of administration and finance or his designee and the director of economic development or his  
61 designee. The council shall also include the following non-voting members, who shall serve in an  
62 advisory capacity: the chairman of the Massachusetts Water Resources Authority or his designee, the  
63 chairman of the Massachusetts Bay Transit Authority or his designee, the secretary of the commonwealth  
64 acting as chairman of the Massachusetts historical commission or his designee, two chairs of regional  
65 planning agencies nominated by the governor, a municipal planning representative appointed by the  
66 governor and a professional planner appointed by the governor.

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

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

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

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

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

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

82 Section 5. (a) By March 15 of every odd year, each agency shall develop a five-year agency  
83 sustainable development plan, known in this chapter as an agency plan that is consistent with the state  
84 goals, principles and policies outlined in section 2 and that meets the following criteria:

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

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

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

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

100 Section 6. (a) the executive office of environmental affairs, the department of economic  
101 development, the department of housing and community development, and the executive office of  
102 transportation and construction, when awarding discretionary grants to municipalities, excluding any

103 grants made under chapter 90, shall give priority to municipalities that have adopted certified local  
104 sustainable development plans pursuant to chapter 41, section 81D as amended by this Act.

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

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

111 SECTION 3. Section 62A of chapter 30 of the General Laws, as appearing in the 2000 Official  
112 Edition, is hereby amended by adding the following paragraph:

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

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

122 SECTION 5. The governor shall, within three months of the effective date of this Act, issue a  
123 guidance document for use by agencies in preparing their annual reports under Section 4 of this act and  
124 shall, within six months following the submission of the agencies' reports and after consideration of any

125 comments received on such reports, submit to the council for a sustainable commonwealth a summary  
126 report and recommendations for the continued implementation of chapter 132C of the General Laws.

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

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

131 “Concentrated Development Center”, an area composed of concentrated mixed use  
132 development established by a municipality or collection of municipalities in conjunction  
133 with the regional planning commission.

134 “Council”, the council for a sustainable commonwealth created under chapter 132C.

135 “Regional planning commission”, regional or district planning commissions established  
136 under this chapter.

137 “Regional sustainable development plan”, a regional plan.

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

143 “Targeted Investment Area”, an area of a municipality or collection of municipalities  
144 designated by a regional planning commission, based on municipal recommendations,  
145 which is consistent with resource-efficient development and which shall receive priority  
146 for public funds.

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

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

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

162 (2) In developing regional plans, the regional planning commissions shall each employ an  
163 open, inclusive and broadly participatory process. The regional planning commissions shall  
164 undertake public notification and participation procedures that are designed to seek widespread  
165 public participation in the regional planning process, including, but not limited to input from the  
166 following: local planning boards and other officials and residents of each municipality within the  
167 planning district; business and industry representatives; environmental and public health groups;  
168 housing advocates and providers, advocates for the local watershed area or areas; representatives  
169 of conservation commissions; officials and/or residents of a neighboring planning region with an

170 interest, and representatives of the commonwealth's agencies and departments who have  
171 infrastructure or investments in the planning district.

172 (3) The executive committee of each regional planning commission shall review its  
173 regional plan for compliance with this section and internal consistency before forwarding it to its  
174 commission members for approval. If a regional plan is approved by a simple majority vote of  
175 the regional planning commission's members, the plan shall be considered approved and there  
176 shall be a rebuttable presumption that the plan is fully compliant with this section and internally  
177 consistent. Once the regional plan is approved by a majority vote of the commission members,  
178 the regional planning commission shall forward it to the council for sustainable commonwealth,  
179 created under chapter 132C, to enable the commonwealth's agencies to develop capital spending  
180 plans that are consistent with the regional plans.

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

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

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

191 (2) The urban initiative program shall also require regional planning commissions to work with  
192 their municipal jurisdictions to develop criteria for and identify and designate Concentrated Development

193 Centers. Such areas may vary in size and complexity depending on the degree of urbanization in the  
194 region or the area proposing designation. Concentrated Development Centers may be designated in the  
195 urban economic core, in urban growth areas, in subregional areas, and in suburban and rural centers.

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

201 (g) Regional planning commissions shall be responsible for developing a process to review major  
202 developments affecting more than one community. Regional planning commissions will establish a  
203 definition for major developments and procedures for comment and review. The Planning Board of any  
204 municipality within a region can request that the regional planning commission hold a public hearing on a  
205 major development. Any comments or recommendations that result from the review will be shared with  
206 the Massachusetts Environmental Policy Act (MEPA) office, if the project requires MEPA review, or  
207 with the appropriate decisionmaking and permitting authorities.

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

210 Section 81D

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

212 “Council”, the council for a sustainable commonwealth created under chapter 132C.

213 “Land use regulations”, regulations, administered in whole or in part by a municipality,  
214 which materially affect the purposes of this section, including but not limited to: zoning,  
215 subdivisions, wetlands, public health and transportation.

216 “Local sustainable development plan”, a local plan.

217 “Regional planning commissions”, organizations established under chapter 40B.

218 “Regional sustainable development plans ” or “regional plans”, plans developed under  
219 section 5 of chapter 40B.

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

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

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

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

235 (i) A goals and policies statement which identifies the goals and policies of the municipality to  
236 protect its natural resources and to provide for its sustainable growth and development. Each community  
237 shall conduct an interactive process as described in subsection (4) to determine municipal priorities and

238 goals, to determine the best way to make development in the municipality sustainable and to identify  
239 patterns of development that will be consistent with these goals.

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

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

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

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

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

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

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

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

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

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

276 (4) In developing local plans, the municipalities shall each employ an open, inclusive and broadly  
277 participatory process. The municipalities shall undertake public notification and participation procedures  
278 that are designed to seek widespread public participation in the local planning process, including but not  
279 limited to input from the following: local officials and residents of the municipality, neighborhood  
280 representatives, business and industry representatives in the community, environmental and public health  
281 groups, housing advocates and providers, advocates for the local watershed area or areas; conservation  
282 commissions; the appropriate regional planning commission, representatives of neighboring

283 municipalities and representatives of the commonwealth's agencies and departments that have  
284 infrastructure or investments in the municipality.

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

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

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

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

300 (c) A municipality shall present its completed plan to the applicable regional planning  
301 commission for review. The regional planning commission shall, within 60 days of receipt of the  
302 plan, prepare and submit to the municipality a written review of the plan that shall certify  
303 whether the plan satisfies all the goals and elements required by subsection (b), whether it is both  
304 internally consistent and consistent with the applicable regional sustainable development plan,  
305 and whether it has given consideration to the local sustainable development plans of neighboring

306 municipalities. The review shall identify any deficiency or omission with respect to each  
307 required element and goal described in subsection (b). The review shall include, where  
308 appropriate, recommendations as to how any omissions or deficiencies may be rectified. Upon  
309 receipt of the regional planning commission's certification indicating satisfactory compliance  
310 with this section, the planning board shall file the local plan with the office of the clerk of the  
311 municipality.

312 (d) Upon receiving certification from the applicable regional planning commission, the planning  
313 board shall present the local plan to the municipality's legislative body for approval with an outline of  
314 changes needed in the municipalities zoning ordinances, land use regulations or other municipal law to  
315 make the plan effective. Any additions to, modifications of, or amendments to the local plan must be  
316 presented to and approved by the local legislative body in the same manner. The local plan or local plan  
317 modifications shall, upon approval so described, be made part of the public record and a copy of the plan  
318 or plan modifications shall be submitted to the department of housing and community development and  
319 the executive office of environmental affairs. The plan and any modifications to the plan shall be filed  
320 with the office of the clerk of the municipality and made available to the public.

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

326 SECTION 8 (a) There is hereby established and set up on the books of the commonwealth a  
327 Sustainable Development Grant Fund, into which shall be credited monies contributed by the  
328 commonwealth including any appropriations or other monies authorized by the general court and  
329 specifically designated to be credited to said fund. The fund shall be administered by the council.

330 Amounts credited to said fund shall be provided as grants to municipalities and regional planning  
331 commissions for activities relating to the development and preparation of local and regional sustainable  
332 development plans under this Act.

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

338 (c) Factors to be used by the council in determining the amount of grant funds to be provided to  
339 each municipality shall include, but not be limited to: complexity of the planning issues confronting each  
340 municipality, the planning capacity of the municipality, and the capacity of each municipality to fund the  
341 planning process. Regulations shall also create an incentive program for multi-municipal planning.

342 (d) Provided further that chapters 236 and 246 of the acts and resolves of 2002 be amended to  
343 authorize and direct the secretary of environmental affairs and the secretary of transportation to  
344 appropriate existing funds not to exceed \$35,000,000 for the purposes outlined in this act. Of this  
345 amount, \$5,500,000 will be for one time grants to be made to the regional planning commissions  
346 established under chapter 40B of the General Laws to facilitate compliance with section 5 of said chapter  
347 40B as amended by this act, in accordance with the following formula: base funding of \$100,000 per year  
348 per regional planning commission, plus 70 cents per capita based upon the most recent U.S. Census data  
349 on population.

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

352 40A:2. General Purposes of Zoning Ordinances and Bylaws

353 (a) The purpose of the zoning ordinances and bylaws as amended by this act is to provide guidance  
354 to municipalities in their regulation of land use, growth, and development through the exercise of  
355 home rule powers conferred by article 89 of the Massachusetts constitution. Except as hereinafter  
356 provided, cities and towns may adopt zoning ordinances and by-laws in furtherance of the  
357 purposes contained in this section for the benefit of their present and future inhabitants to the full  
358 extent of the powers of such cities and towns, whether such power is independently authorized by  
359 the constitution of the Commonwealth or here by the general court incident to power granted to it  
360 by the constitution. The Commonwealth shall limit these powers only where necessary to ensure  
361 consistency in zoning and promote regional and statewide interests as specifically provided  
362 herein.

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

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

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

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

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

- 376 (ii) the natural characteristics of the land, including its suitability for use based  
377 on soil characteristics, topography, and susceptibility to surface or  
378 groundwater pollution;
- 379 (iii) the values and dynamic nature of watersheds, coastal and freshwater  
380 ponds, the shoreline, and freshwater and coastal wetlands;
- 381 (iv) the values of unique or valuable natural resources and features;
- 382 (v) the availability and capacity of existing and planned public and/or private  
383 services and facilities;
- 384 (vi) the need to balance the “built” environment with the “natural”  
385 environment; and
- 386 (vii) the use of innovative development regulations and techniques such as  
387 development agreements, impact fees, inter-municipal transfers of  
388 development rights, agricultural zoning, inclusionary zoning, mediation  
389 and dispute resolution, and urban growth boundaries.
- 390 (4) Control, protection or abatement of air, water, groundwater, noise and light  
391 pollution, and soil erosion and sedimentation.
- 392 (5) Protection of the natural, historic, cultural, aesthetic, and scenic character of the  
393 city or town or areas therein.
- 394 (6) Preservation and promotion of agricultural production, forestry, aquaculture, and  
395 open space.
- 396 (7) Protection of the environment and natural resources, including but not limited to  
397 farmland, forestland, water quality and quantity, shore lands, ridgelines,  
398 recreational resources, open spaces, special habitats and ecosystems and other

399 qualities of the environment and natural resources set forth in article 97 of the  
400 Massachusetts constitution.

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

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

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

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

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

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

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

419 (15) Effective procedures for the administration of the zoning ordinance or bylaw,  
420 including, but not limited to, variances, special permits, other locally-adopted

421 zoning permits, reviews or procedures, and, where adopted, procedures for  
422 modification.

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

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

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

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

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

430 (21) Conservation and enhancement of community amenities.

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

433 SECTION 10. Section 3 of chapter 40A of the General Laws, as appearing in the 2000  
434 Official Edition, is hereby amended by inserting, after the word "the", in line 25, the following  
435 word:- minimum.

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

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

447 Zoning ordinances or bylaws shall not prohibit the use of land or structures thereon for: a)  
448 educational purposes on land owned or leased by the Commonwealth or any of its agencies,  
449 subdivisions or bodies politic or by a nonprofit educational corporation; b) religious purposes by  
450 a religious sect or denomination; c) the purposes of operating a child care facility or d) the  
451 purposes of operating a community residential program. As used in this section the following  
452 words shall have the following meanings: a) "educational purposes" means public and nonprofit  
453 private primary, secondary and higher educational purposes; b) "child care facility" means a day  
454 care center or school age child care program, as those terms are defined in section 9 of chapter  
455 28A; c) "community residential program" means a residential facility licensed by the  
456 Commonwealth to provide care or shelter or supervision or education to a maximum of eight (8)  
457 individuals with a mental or physical disability or to victims of crime, of physical or mental  
458 abuse, or of neglect in a small-scale residential setting with on-site or off-site supervision. The  
459 land or structures used for such purposes may, however, be subject to reasonable regulations  
460 regarding the bulk and height of structures, yard sizes, frontage, lot area, building coverage  
461 requirements, setbacks, floor area ratio, parking, access and egress, lighting, drainage,  
462 landscaping, buffering and open space, and similar matters. Compliance with such regulations  
463 may be determined as provided by ordinance or bylaw in each city or town, including through  
464 site plan review under which reasonable conditions, safeguards, and limitations to mitigate the  
465 impact of a specific use of land or structures on the neighborhood may be imposed pursuant to  
466 section 7A of this chapter. In addition, the application of such regulations to particular land or

467 structures used for such purposes may be waived in whole or in part by special permit, and  
468 reasonable conditions may be imposed as part of the special permit. The waiver may be granted  
469 if the special permit granting authority finds, based upon the evidence presented by the person  
470 seeking the waiver, that the waiver will not result in substantially more detriment to the  
471 neighborhood than the use of the particular land or structures for such purposes without the  
472 waiver.”

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

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

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

483 40A:6. Applicability of Zoning Ordinances and Bylaws

484 40A:6A. Nonconforming Lots, Structures and Uses

485 (a) Residential Lot Exemption

486 Increases in lot area, frontage, width or depth, or building setback requirements of a zoning

487 ordinance or bylaw shall not apply to a lot for single- or two-family residential use which

488 immediately prior to the effective date of the zoning amendment that rendered the lot  
489 nonconforming:

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

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

496 (3) had at least five thousand square feet of area and fifty feet of frontage in the case  
497 of a single-family residential use and at least seventy-five thousand square feet of  
498 area and seventy-five feet of frontage in the case of two-family residential use;  
499 and

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

503 (b) Lawfully Nonconforming Structures and Uses

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

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

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

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

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

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

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

533 (3) A zoning ordinance or bylaw may permit, by special permit, lawfully nonconforming  
534 structures or uses to be altered, reconstructed, extended or structurally changed in a

535 manner that increases the degree of nonconformity of the structure or use, provided that  
536 the permit granting authority finds that such actions shall not be substantially more  
537 detrimental to the neighborhood than the lawfully nonconforming structure or use.

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

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

#### 543 40A:6B. Vested Rights: Effective Date of Zoning Amendments

##### 544 (a) Building Permits and Special Permits

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

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

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

##### 555 (b) Subdivision Plans

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

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

~~601~~ General Provisions

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

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

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

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

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

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

577 40A:7. Site Plan Review

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

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

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

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

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

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

597 (4) establish the submission and review process for applications not governed by the  
598 procedures for review of discretionary zoning approval under subsection (c)(3)  
599 above, which may include the requirement of a public hearing held pursuant to  
600 the provisions in section 11 of this chapter. A decision under this subsection (4)

601 shall require a vote by no more than a majority of the full board and shall be  
602 made within the time limits prescribed in the ordinance or bylaw, not to exceed  
603 the time limits for special permits contained in section 9 of this chapter. If no  
604 decision is issued within the prescribed time limit, the applicant shall be entitled  
605 to constructive approval of the site plan submitted as provided in section 9,  
606 paragraph (12) of this chapter;

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

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

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

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

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

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

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

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

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

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

638 SECTION 16. Section 9 of chapter 40A of the General Laws is hereby amended by  
639 striking out the fourth paragraph, inserted by section 1 of chapter 197 of the acts of 2002, and  
640 inserting in place thereof the following paragraph:-

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

646 SECTION 17. Section 1A of chapter 40A of the General Laws, as appearing in the 2000  
647 Official Edition, is hereby amended by inserting the following definition:-

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

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

652 40A:9D. Development Impact Fees

653 (a) Authority

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

658 (b) Administration

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

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

- 668 (i) The fee shall be rationally related and reasonably proportional to an  
669 impact directly or indirectly created by the development.
- 670 (ii) The purposes for which the fee is expended shall reasonably benefit the  
671 proposed development.
- 672 (iii) The fee shall be expended for the creation or improvement of capital  
673 facilities in accordance with a municipal plan, including, but not limited  
674 to, the creation or improvement of streets, sewers, water supplies,  
675 pollution abatement, parks, schools and similar capital facilities.
- 676 (3) Nothing in this section shall prevent a municipality from imposing fees or  
677 conditions which it may otherwise impose under applicable laws and  
678 constitutional provisions.

679 SECTION 19. Section 17 of chapter 40A of the General Laws, as appearing in the 2000  
680 Official Edition, is hereby amended by inserting after the seventh paragraph the following  
681 paragraph:-

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

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

704 SECTION 20. Section 81L of chapter 41 of the General Laws, as appearing in the 2000 Official  
705 Edition, is hereby amended by striking out, in lines 52-78 inclusive, the definition of "Subdivision" and  
706 inserting in place thereof the following definition:-

707 "Subdivision" shall mean the division of a tract of land into one or more lots and shall include  
708 resubdivision. When appropriate to the context, subdivision shall include the process of subdivision or  
709 the land or territory subdivided. Except as provided in this chapter, any adjustments to existing lot lines  
710 of a recorded lot by any means shall be considered a subdivision. Lot area and frontage shall be of at  
711 least such dimension as is then required by zoning or other ordinance or bylaw, if any, of said city or town  
712 for erection of a building on such lot. If no such dimensions are so required, such area shall be at least  
713 five thousand square feet and such frontage shall be at least fifty feet.

714 SECTION 21. Section 81O of said chapter 41, as so appearing, is hereby amended by striking out  
715 the second sentence in the first paragraph and inserting in place thereof the following sentence:- After the

716 approval of a plan the location and width of ways, or the number, shape, and size of the lots shown  
717 thereon shall not be changed unless the plan is amended accordingly under section eighty-one W, except  
718 that the planning board may adopt alternate rules and regulations pursuant to sections eighty-one P and  
719 eighty-one Q of this chapter defining and regulating changes to the number, shape, and size of the lots  
720 shown thereon as minor subdivisions.

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

723 41:81P. Alternative Approvals for Minor Subdivisions

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

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

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

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

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

739 Notwithstanding the foregoing provisions of this section, the register of deeds shall accept for recording  
740 and the land court shall accept with a petition for registration or confirmation of title any plan bearing a  
741 certificate by a registered land surveyor that 1) the property lines shown are the lines dividing existing  
742 ownerships, and the lines of streets and ways shown are those of public or private streets or ways already  
743 established, and that no new lines for division of existing ownership or for new ways are shown, or 2)  
744 unless subject to section eighty-one O of this chapter or subject to alternate rules and regulations pursuant  
745 to section eighty-one P and eighty-one Q of this chapter, the property lines shown do not create a new lot  
746 or render an existing lot nonconforming or more nonconforming. The recording of such plan shall not  
747 relieve any owner from compliance with the provisions of the subdivision control law or of any other  
748 applicable provision of law.

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

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

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

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

760 Notwithstanding anything to the contrary in this section, a planning board may adopt a rule or regulation  
761 that a plan for a residential subdivision show a lot or lots that shall be reserved for the required  
762 construction by the applicant of dwelling units affordable to persons whose household income does not

763 exceed a percentage of the area median income, as such income is determined by the federal Department  
764 of Housing and Urban Development. Such requirements shall not exceed fifteen percent of the dwelling  
765 units within the subdivision. In lieu of the construction of the required affordable dwelling units within a  
766 subdivision, a planning board rule or regulation may allow for the construction of such units off-site, the  
767 dedication of land for such purpose, or the payment of sufficient funds to a separate account created by  
768 the city or town for such purpose. Cities and towns are hereby empowered to establish said separate  
769 accounts to be administered by the treasurer of the city or town.

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

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

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

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

790