

HOUSE No. 02119

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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 relative to affordable housing..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Donald Wong</i>	<i>9th Essex</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Sheila Harrington</i>	<i>1st Middlesex</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>

HOUSE No. 02119

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 2119) of Frost and others relative to affordable housing and group homes in the Commonwealth Joint Committee on Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 1228 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to affordable housing..

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

1 SECTION 1. Section 15 of chapter 19 of the General Laws, as appearing in the 2008 Official
2 Edition, is hereby amended by adding to the end thereof the following subsection:-- (k) to collect
3 and maintain information on the number of group home units in each community and report such
4 information, including the location of such group home units, to the department of housing and
5 community development on an annual basis. Such location shall be held by the department of
6 housing and community development subject to chapter 6 6A.

7 SECTION 2. Subsection (b) of section 15 of chapter 19B of the General Laws, as most recently
8 amended by chapter 239 of the acts of 2010, is hereby amended by adding to the end thereof the
9 following sentence:-- The department of mental retardation shall report the number of group

10 home units in each city or town on an annual basis to the department of housing and community
11 development. The department of mental retardation shall also report the location of such group
12 homes to the department of housing and community development.

13 SECTION 3. Section 3 of chapter 23B of the General Laws, as appearing in the 2008 Official
14 Edition , is hereby amended, in line 135, after the word “period.” by inserting following
15 paragraph :— (w) count the number of low or moderate income housing units, as defined by
16 chapter 40B and the accompanying department of housing and community development
17 regulations, in each city or town in the commonwealth on a biennial basis.

18 SECTION 4. Section 20 of chapter 40B of the General Laws, as so appearing, is hereby
19 amended by striking out section 20, in its entirety, and inserting in place thereof the following
20 sections:--

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

24 “Affordable Housing Threshold”, each city or town shall have a minimum affordable housing
25 threshold such that at least 10 percent of year round housing units meet the requirements for
26 inclusion on the subsidized housing inventory in a manner consistent with sections 20 through 23
27 of this chapter.

28 “Committee”, the housing appeals committee.

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

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

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

35 “Group Home Units”, community housing units or beds serving clients of the department of
36 mental retardation or the department of mental health which are located in a non-institutional
37 setting. Each such unit shall serve 1 client.

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

42 “Local Program”, a housing program established and administered by a city or town which has
43 been authorized and approved by the department.

44 “Low or moderate-income households”, individuals or families living in a housing unit with
45 combined incomes not higher than 80 percent of the median income for the metropolitan
46 statistical area, primary metropolitan statistical area, or the county in which the housing unit is
47 located, whichever is lower, as determined by the United States department of housing and urban
48 development or, in the absence of such a determination, by the department.

49 “Low or moderate-income housing”, any year round housing subsidized by the federal or state
50 government under any program, to produce housing which serves low or moderate-income
51 households as defined in this chapter.

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

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

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

67 Section 20A. Decisions and requirements by the zoning board of appeals shall be considered
68 consistent with local needs if they are reasonably in view of the regional need for low or
69 moderate income housing considered with the number of low and moderate income persons in
70 the city or town affected and the need to protect the health or safety of the occupants of the
71 proposed housing or of the residents of the city or town, to promote better site and building
72 design in relation to the surroundings, or to preserve open spaces, and such decisions and
73 requirements are applied as equally as possible to both subsidized and unsubsidized housing.

74 Decisions and requirements shall also be deemed consistent with local needs when imposed by a
75 board of zoning appeals after a comprehensive hearing in a city or town where

76 (1) Low or moderate-income housing exists which is at least ten percent of the housing units
77 reported in the most recent federal decennial census of the city or town;

78 (2) The development is large scale for the city or town in which it is proposed. A proposed
79 development shall be large scale if (A) in a city or town which has a total number of 7,500 or
80 more housing units as enumerated in the most recent federal decennial census, the application for
81 a comprehensive permit involves construction of more than 300 housing units or a number of
82 housing units equal to or greater than 2 percent of all housing units in the city or town,
83 whichever number is greater; or (B) in a city or town which has between 5,000 and 7,500
84 housing units exclusive, as so enumerated, the application for a comprehensive permit involves
85 construction of more than 250 housing units; or (C) in a city or town which has between 2,500
86 and 5,000 housing units inclusive, as so enumerated, the application for a comprehensive permit
87 involves construction of more than 200 housing units; or (D) in a city or town which has less
88 than 2,500 housing units, as so enumerated, the application for a comprehensive permit involves
89 construction of more than 150 housing units.

90 (3) The city or town has made recent progress toward attaining its affordable housing threshold.
91 Recent progress toward its affordable housing threshold shall mean that the number of housing
92 units that have been created during the 12 months prior to the date of the comprehensive permit
93 application and that are eligible to be included on the subsidized housing inventory equal to or
94 greater than two percent of the city or town's total housing units as enumerated in the most
95 recent federal decennial census; or

96 (4) 12 months has not elapsed between the date of application for a comprehensive permit and
97 the date of the most recent pendency of a prior application for a variance, special permit,
98 subdivision or other approval related to construction on the same land if that prior application
99 included no provision for low or moderate income housing; provided that any such application
100 shall not be considered a prior application if it concerns only insubstantial changes to an existing
101 use;

102 (5) the city or town has adopted an affordable housing plan approved by the department pursuant
103 to which there is an increase in its number of low or moderate-income housing units eligible for
104 inclusion on the subsidized housing inventory by at least one-half of one percent of total units
105 every calendar year until housing needs are met pursuant to this chapter, subject to paragraphs
106 (a) and (b) below.

107 (a) The affordable housing plan shall be based upon a comprehensive housing needs assessment,
108 which shall include an analysis of the most recent federal decennial census data of the city or
109 town's demographics and housing stock, development constraints as well as of the city or town's
110 ability to mitigate them, and the city or town's infrastructure.

111 (b) The affordable housing plan shall address the matters set out in guidelines adopted by the
112 department, including:

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

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

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

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

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

129 (vi) the identification of specific sites or characteristics of sites for which the city or town will
130 encourage the filing of comprehensive permit applications pursuant to section 21 of this chapter;
131 and

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

134 (c) Upon submission to the department, the plan shall also be submitted to the regional planning
135 district established pursuant to this chapter or the cape cod commission established pursuant to
136 section 18 of chapter 716 of the laws of 1989 as amended, or the Martha's Vineyard commission
137 established pursuant to chapter 831 of the laws of 1977, within such district or commission area
138 such project is located or any other regional planning district hereafter established by the general
139 court, which shall have 30 days to comment to the department on the implications of the plan for

140 housing need, growth and development concerns, and other relevant matters. Within 90 days
141 after its submission to the department by a city or town's chief executive officer, the department
142 shall approve the plan if it meets the requirements specified herein, otherwise, it shall disapprove
143 the plan. The department shall notify the city or town of its decision to either approve or
144 disapprove a plan in writing. If the department disapproves a plan, the notification shall include a
145 statement of reasons for the disapproval. A city or town that originally submitted a plan that had
146 been disapproved may submit a new or revised plan to the department at any time. A city or
147 town may amend its plan from time to time if the department approves the amendment. If the
148 department fails to mail notice of approval or disapproval of a plan or plan amendment within
149 90 days after its receipt, the plan or plan amendments shall be deemed to be approved.

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

160 (e) An approved plan shall take effect for the purpose of the definition of consistent with local
161 needs in this section only when the department certifies that the city or town has approved
162 permits resulting in an initial annual increase in its low-or moderate-income housing units of at

163 least one-half of one percent of total housing units in accordance with its plan. It is the
164 responsibility of the city or town to request such certification from the department. Once the
165 department has made such a certification of initial compliance and subsequent annual
166 certifications of compliance:

167 (i) The board may, at its discretion, deny or approve with conditions any comprehensive permit
168 applications for the period of one year from any certification, and such denial or approval with
169 conditions shall be deemed consistent with local needs; or

170 (ii) The board may, at its discretion, deny or approve with conditions any comprehensive permit
171 applications for the period of two years from any certification, if, in the year it was certified, the
172 city or town has increased its low or moderate-income housing stock by at least 1 percent of total
173 housing units in a manner consistent with the plan; or

174 (iii) The board may, at its discretion, deny, or approve with conditions any comprehensive permit
175 applications for the period of three years from any certification, if, in the year it was certified, the
176 city or town has increased its low or moderate-income housing stock by at least one and one-half
177 percent of total housing units in a manner consistent with the plan.

178 (6) the board has approved three or more comprehensive permits, at least three of which contain
179 20 or more housing units each within 12 months preceding the filing of an application for a
180 comprehensive permit and those permits have become final.

181 Section 20B. Comprehensive permit requirements shall include the following provisions:

182 (1) To submit an application for a comprehensive permit or to file or maintain an appeal before
183 the committee, the applicant and the project shall fulfill the following jurisdictional

184 requirements; provided however, notwithstanding the requirements outlined in paragraphs (a)
185 through (d), inclusive, the inclusion of commercial, recreational or other land uses which are in
186 conjunction with the housing development shall not preclude eligibility.

187 (a) The applicant shall be a public agency, a non-profit organization, or a limited dividend
188 organization. An applicant shall satisfy the limited dividend organization requirement if the
189 comprehensive permit contains a condition that the owner of the project shall execute a
190 regulatory agreement with a subsidizing agency which limits the owner's return on building or
191 operating the project to the amounts set by the subsidizing agency or program. Such regulatory
192 agreement shall be recorded or filed prior to the beginning of construction of the land records
193 with the registry of deeds or land court in the registry district or district office of the land court in
194 which the project is located.

195 (b) The project shall be fundable by a subsidizing agency under a low and moderate-income
196 housing subsidy program.

197 (c) The applicant shall control the site.

198 (d) The proposed development shall contain no less than 25 percent of its total housing units as
199 un its affordable to low or moderate income households, or in the alternative a proposed
200 development may contain no less than 20 percent of its total housing units as affordable to
201 households whose income does not exceed 50 percent of the area median income.

202 (2) Fundability shall be established by submission of a written determination of project eligibility
203 by a subsidizing agency as follows:

204 (a) a determination of project eligibility shall include:

- 205 (i) the name and address of the applicant;
- 206 (ii) the address of the site and site description;
- 207 (iii) the number and type (homeownership or rental) of housing units proposed;
- 208 (iv) the name of the housing program or programs under which project eligibility is
209 sought; and
- 210 (v) relevant details of the particular project if not mandated by the housing program,
211 including the percentage of units for low or moderate income households, income eligibility
212 standards, the duration of use restrictions requiring occupancy by low or moderate income
213 households, and the limited dividend status of the developer;
- 214 (b) a determination of project eligibility shall make the following findings:
- 215 (i) that the proposed project appears generally eligible under the requirements of the housing
216 program or programs, subject to final review of eligibility and to final approval;
- 217 (ii) that the subsidizing agency has performed an on-site inspection of the site and has reviewed
218 pertinent information submitted by the applicant;
- 219 (iii) that the proposed housing design and density are generally appropriate for the site on which
220 it is located, taking into account surrounding land uses, proximity to transportation, services and
221 public utilities, and design to minimize land use impacts;
- 222 (iv) that the proposed project appears financially feasible within the housing market in which it
223 will be situated, based on comparable rentals or sales figures;

224 (v) that an initial pro forma has been reviewed and the project appears financially feasible on the
225 basis of estimated development costs; and

226 (vi) that the developer of the proposed project meets the general eligibility standards of t he
227 housing program or programs.

228 (c) In addition to the foregoing, a subsidizing agency shall consider the following in making a
229 determination of project eligibility: overall density and size; environmental impact, including
230 watersheds and existing land uses; consistency with principles of smart growth; impact on
231 historical resources; the impact of other pending applications for housing development; and other
232 local concerns of the city or town where the project is located.

233 (d) Within 10 days of filing of its application for a determination of project eligibility with a
234 subsidizing agency for preliminary approval of a project, the applicant shall serve written notice
235 upon the director of the department.

236 (e) Within 10 days of filing the application for a determination of project eligibility the applicant
237 shall provide written notice and a copy of such application to the chief executive officer of the
238 involved city or town and to the members of the general court representing such city or town.

239 The applicant shall also provide written notice of the application to the planning board, board of
240 health, conservation commission, water and sewer district, fire and police. Within 30 days after
241 such notice, the chief executive officer or designee of the chief executive officer may schedule
242 and hold a meeting at a location within the involved city or town. The meeting shall be chaired
243 by the city or town's chief executive officer or designee and shall be attended by the applicant or
244 its representative. Representatives from local boards are encouraged to attend the meeting and
245 provide written comment. The purpose of the meeting is to allow the applicant and the city or

246 town representatives to informally discuss the preliminary proposal so that the parties involved
247 can develop an understanding of the proposal and to respond to concerns raised in an effort to
248 achieve an outcome that meets the needs of the involved city or town as well as the applicant. In
249 addition, a representative from a public or quasi-public housing agency, or a regional planning
250 agency within the regional planning district or its designee knowledgeable with respect to
251 chapter 40B may provide technical assistance on topics including, but not limited to, site design
252 and density, open space, marketing, use restrictions, allowable costs and profit limitations.
253 Following the close of the meeting, the chief executive officer of the city or town, local boards,
254 and the regional planning district may issue written comments within 14 days to the subsidizing
255 agency.

256 (f) Within 10 days of receipt of a written determination of project eligibility from the subsidizing
257 agency, the applicant shall serve a copy of that determination upon the director of the
258 department.

259 (g) An applicant which has obtained a determination of project eligibility shall be presumed to be
260 eligible to submit an application for comprehensive permit or to file or maintain an appeal before
261 the committee. Nothing set forth in this section shall be deemed to confer upon any city or town,
262 or any of its boards, committees, commissions or officials, or upon any other person the right to
263 appeal or judicial review in any form the determination of project eligibility by the subsidizing
264 agency, it being intended that the rights of appeal conferred by sections 21 and 22 of this chapter
265 shall be the exclusive remedy for any party aggrieved by the issuance or denial of any
266 comprehensive permit hereunder.

267 (h) If project funding is provided through a non-governmental entity, a public or quasi-public
268 entity authorized by the department shall make the determination of project eligibility. The
269 designated entity that issued the project eligibility determination shall administer the project
270 thereafter as specified in program guide lines issued by the department.

271 (3) A showing that the applicant, or any entity 50 percent or more of which is owned by the
272 applicant, owns a 50 percent or greater interest, legal or equitable, in the proposed site, or holds
273 any option or contract to purchase the proposed site, shall be considered by the board or the
274 housing appeals committee to be conclusive evidence of the applicant's interest in the site.

275 (4) No determination of project eligibility shall be issued for a project sooner than 45 days after
276 the filing of its application with the subsidizing agency for preliminary approval of the project. A
277 determination of project eligibility shall be for a particular financing program or programs. An
278 applicant may proceed under alternative financing programs if the application to the board or
279 appeal to the committee so indicates and if full information concerning the project under the
280 alternative financing arrangements is provided.

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

285 (6) In order to appeal to the committee, an applicant shall have applied to the board for a
286 comprehensive permit in accordance with section 21 of this chapter and shall have been denied
287 such permit or shall have been granted such permit with conditions which it alleges make the
288 building or operation of such housing uneconomic.

289 (7) A city or town may record progress towards its affordable housing threshold as documented
290 in the subsidized housing inventory in the following manner:

291 (a) If at least 25 percent of housing units within a development are restricted to serve low or
292 moderate-income households, 100 percent of housing units within the development shall be
293 eligible to be included toward the city or town's affordable housing threshold. If fewer than 25
294 percent of housing units within a development are restricted to serve low or moderate-income
295 households, only those units which serve low or moderate-income households shall be eligible to
296 be included toward the city or town's affordable housing threshold; or

297 (b) if at least 20 percent of housing units within a development are restricted to serve households
298 with household income at or below 50 percent of area median income, 100 percent of housing
299 units within the development shall be eligible to be included toward the city or town's affordable
300 housing threshold. If fewer than 25 percent of housing units within a development are restricted
301 to serve low or moderate-income households, only such restricted units shall be eligible to be
302 included toward the city or town's affordable housing threshold.

303 (8) A city or town may record progress towards its homeownership threshold as documented in
304 the subsidized housing inventory in the following manner:

305 (a) if at least 25 percent of housing units within a development are restricted to serve low or
306 moderate-income households, 2 times the actual number of such restricted units, not to exceed
307 the total number of homeownership units authorized by the permit, shall be eligible to be
308 included toward the city or town's affordable housing threshold; or

309 (b) if at least 20 percent of housing units within a development serve households earning at or
310 below 50 percent of area median income, 2 times the actual number of units serving such

311 households, not to exceed the total number of homeownership units authorized by the permit
312 shall be included toward the city or town's affordable housing threshold. If fewer than 25 percent
313 of housing units within a development are restricted to serve low or moderate-income
314 households, only such units which are restricted to serve low or moderate-income households
315 shall be eligible to be included toward the city or town's affordable housing threshold;

316 (9) Community preservation act housing units shall mean any community housing, as defined in
317 chapter 44B which is restricted to occupancy by persons of low or moderate income households;
318 provided further, that such housing payment exclusive of utilities shall not exceed 30 percent of
319 monthly income of a household at or below 80 percent of area median income, adjusted for
320 household size, shall be eligible to be included toward the city or town's affordable housing
321 threshold.

322 (10) Accessory apartment units shall mean any accessory apartment which is approved pursuant
323 to a city or town's ordinance or bylaw and is occupied by persons of low or moderate income,
324 shall be eligible to be included toward the city or town's affordable housing threshold; provided
325 further, that such rental payment exclusive of utilities shall not exceed 30 percent of monthly
326 income of a household earning at or below 80 percent of area median income, adjusted for
327 household size. Each such accessory apartment unit shall be subject to a use restriction, which
328 may be revocable upon the sale of the principal residence. Each city or town shall certify
329 annually the number of such accessory apartments within its borders.

330 (11) Group home units shall mean all group home units in each city or town as reported annually
331 by the department of mental health and the department of mental retardation to the department
332 shall be eligible to be included toward the city or town's affordable housing threshold.

333 (12) Local housing units shall mean housing units created under a local program or subsidy or
334 which qualify as local initiative units pursuant to regulations promulgated by the department and
335 restricted to serve low or moderate income households as defined in this chapter shall be eligible
336 to be included toward the city or town's affordable housing threshold as documented on the
337 subsidized housing inventory.

338 (13) Urban center housing tax increment financing units shall mean low or moderate income
339 housing created pursuant to section 60 of chapter 40; provided further, that such housing
340 payment exclusive of utilities shall not exceed 30 percent of monthly household income of a
341 household earning at or below 80 percent of area median income shall be eligible to be included
342 toward the city or town's affordable housing threshold.

343 (14) In instances where housing units were developed to serve low or moderate income
344 households and the use restriction has expired as a result of refinancing or operation of law or
345 otherwise, the department shall have the discretion to count such units pursuant to guidelines
346 promulgated by the department toward a city or town's affordable housing threshold as recorded
347 in the subsidized housing inventory.

348 (15) One hundred percent of year round units of manufactured housing, as defined by section
349 32Q of chapter 140, shall be eligible to be included toward a city's or town's affordable housing
350 threshold.

351 (16) Any accessory apartment which is approved pursuant to a city or town's ordinance or by
352 law which is occupied by a family member pursuant to department of housing and community
353 development regulations shall be eligible to be included toward the city or town's affordable
354 housing threshold. Each in-law apartment unit shall be subject to a use restriction, which may be

355 revocable upon sale of the principal residence. Each city or town shall certify annually the
356 number of such accessory apartments within its borders.

357 (17) The department shall maintain an inventory of low or moderate income housing units. Such
358 inventory shall be published biennially; provided that such inventory shall be updated for a
359 specific city or town upon request by such city or town. Housing units authorized by a
360 comprehensive permit or special permit shall be eligible to be included toward a city or town's
361 affordable housing threshold as recorded on the subsidized housing inventory when the
362 comprehensive permit or special permit becomes final; provided that housing units for which
363 building permits have not been issued within 1 year of the date when the comprehensive permit
364 or special permit became final shall no longer be eligible to be counted toward the city or town's
365 affordable housing threshold until the building permits have been issued. The department may
366 for good cause waive such time requirement. Low or moderate income housing units not
367 authorized pursuant to a comprehensive permit or special permit shall be eligible to be counted
368 toward the city or town's affordable housing threshold when a building or occupancy permit is
369 issued.

370 Section 20C. The Massachusetts housing partnership fund board, as established by section 35 of
371 chapter 405 of the acts of 1985, or its designee, shall make technical assistance available to local
372 zoning boards of appeal to assist in their review of applications for comprehensive permits. No
373 subsidizing agency shall issue a determination of project eligibility or site approval unless a fee
374 to defray the costs of such technical assistance program has been collected from the applicant
375 and remitted to the Massachusetts housing partnership fund board in accordance with a fee
376 schedule adopted by the department.

377 Section 20D. The department shall promulgate regulations and establish programs, policies,
378 guidelines and necessary fee schedules to implement sections 20 to 23, inclusive, of this chapter.
379 The department shall make available planning and housing development information and
380 technical assistance to assist cities and towns in reaching their affordable housing threshold as
381 defined in this chapter.

382 Section 20E. A city or town, pursuant to sections 20 through 23 inclusive of chapter 40B, with a
383 pending comprehensive permit for an application of development of housing, that shares a
384 contiguous border to an adjacent city or town may propose to enter into an agreement with such
385 city or town to share infrastructure and service costs associated with such development. Pursuant
386 to such agreement, if such infrastructure and service costs are shared by a city or town, both
387 cities and towns may share in counting such units towards their affordable housing threshold
388 pursuant to sections 20 through 23 inclusive of chapter 40B; provided further, that no such unit
389 shall be counted more than once. Any such proposed agreement shall be subject to approval by
390 the department of housing and community development, which shall set forth guidelines for such
391 agreements. Provided further, such cities and towns may provide for a joint application to each
392 city or town for a comprehensive permit application and provide for a joint hearing process for
393 consideration of such joint application by such local zoning boards.

394 SECTION 5. Section 23 of said chapter 40B, as so appearing, is hereby amended, in line 8, by
395 inserting after the word “needs.” the following sentence:— “The committee shall receive
396 evidence of and shall consider the following matters: (1) a city or town’s master plan,
397 comprehensive plan or community development plan, and (2) the results of the city or town’s
398 efforts to implement such plans.”

399 SECTION 6. Notwithstanding any general or special law to the contrary, the department of
400 housing and community development in consultation with the commonwealth development
401 coordinating council shall create a pilot program under which 3 housing regions may be
402 established to address regional housing needs of cities and towns within a region. Such cities or
403 towns in a region may agree to meet affordable housing thresholds established under sections 20
404 through 23 inclusive of chapter 40B in one region. The department and the commonwealth
405 development coordinating council shall establish criteria for such housing region to include but
406 not be limited to the following:

407 (1) only contiguous communities that have not exceeded 10 percent toward their affordable
408 housing thresholds on the subsidized housing inventory maintained by the department pursuant
409 to sections 20 through 23 inclusive of chapter 40B shall be eligible to participate in such region;

410 (2) contiguous communities shall enter into an inter-municipal agreement and develop a joint
411 housing plan for the region consistent with development goals established by the department.

412 Such plan shall:

413 (a) address how the communities will share the infrastructure or service costs and benefits of
414 low- and moderate-income housing development, and how credit for such affordable housing
415 development will be reflected on the subsidized housing inventory for each city or town within
416 the region.

417 (b) address how contiguous cities or towns will achieve their housing goals. The total housing
418 goals in the region shall be at a minimum, the sum of the goals established by section 20 of
419 chapter 40B of each city or town participating in the plan.

420 The authority granted by this section shall cease on June 30, 2007, and the department shall
421 report the results of said pilot program to the joint committee on housing and the clerks of the
422 house of representatives and senate.

423 SECTION 7. Notwithstanding any general or special law to the contrary, no application for a
424 comprehensive permit filed pursuant to sections 20 through 23 of chapter 40B before the
425 effective date of this act shall be denied as a result of changes to the General Laws pursuant to
426 this act.