

**SENATE . . . . . No. 92**

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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 adoption of the accompanying bill:

An Act to promote livable communities and zoning reform act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/2/2017</i>

**SENATE . . . . . No. 92**

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By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 92) of Marc R. Pacheco, James B. Eldridge and Michael D. Brady for legislation to promote livable communities and zoning reform act. Community Development and Small Businesses.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 116 OF 2015-2016.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

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,  
3 agricultural and other values

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

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

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

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

15 SECTION 2.(a) State principles and goals

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

225 Section 81D

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 447 (18) Safety from fire, flood, and other natural or man-made disasters.
- 448 (19) High level of quality in the design and development of private and public facilities.
- 449 (20) Conservation of the value of land and buildings.
- 450 (21) Conservation and enhancement of community amenities.
- 451 (22) Efficiency in energy usage and the reduction of pollution from energy generation,  
452 including the promotion of renewable energy sources and associated technologies.

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

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

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



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

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

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

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

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

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

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

506 (a) Residential Lot Exemption

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

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

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

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

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

523 (b) Lawfully Nonconforming Structures and Uses

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

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

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

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

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

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

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

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

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

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

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

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

561 (a) Building Permits and Special Permits

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

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

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

571 (b) Subdivision Plans

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

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

577 (c) General Provisions

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

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

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

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

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

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

591 40A:7. Site Plan Review

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

659 40A:9D. Development Impact Fees

660 (a) Authority

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

665 (b) Administration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

730 41:81P. Alternative Approvals for Minor Subdivisions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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