

SENATE No. 765

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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

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

An Act relative to land use.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	First Worcester
Brian A. Joyce	Norfolk, Bristol and Plymouth
Marc R. Pacheco	First Plymouth and Bristol
Patricia D. Jehlen	Second Middlesex
James B. Eldridge	Middlesex and Worcester
Kay Khan	11th Middlesex
John W. Scibak	2nd Hampshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO LAND USE.

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

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

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

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

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

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

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

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

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

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

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

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

32 Construction or operations under a special permit or site plan approval shall conform to any
33 subsequent amendment of the zoning ordinance or by-law or of any other local land use
34 regulations unless the use or construction is commenced within a period of two years after the
35 issuance of the permit and in cases involving construction, unless such construction is continued

36 through to completion as continuously and expeditiously as is reasonable. For the purpose of the
37 prior sentence, construction involving the redevelopment of previously disturbed land shall be
38 deemed to have commenced upon substantial investment in site preparation and/or infrastructure
39 construction, and construction of development intended to proceed in phases shall proceed
40 expeditiously, but not continuously, among phases.

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

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

59 substantially greater in extent from the development described in the declaration of development
60 intent.

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

62 (A) If a definitive plan, or a preliminary plan followed within seven months by a definitive plan,
63 is submitted to a planning board for approval under the subdivision control law and written
64 notice of such submission has been given to the city or town clerk on or before December 1,
65 2008 and before the effective date of the zoning ordinance or by-law, the land shown on such
66 plan shall be governed by the applicable provisions of the zoning ordinance or by-law, if any, in
67 effect at the time of the first such submission while such plan or plans are being processed under
68 the subdivision control law, and, if such definitive plan or an amendment thereof is finally
69 approved, for eight years from the date of the endorsement of such approval. Such period shall
70 be extended by a period equal to the time which a city or town imposes or has imposed upon it
71 by a state, a federal agency or a court, a moratorium on construction, the issuance of permits or
72 utility connections.

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

83 with the contents of the plans submitted for approval.

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

93 Within a municipality that is a certified plan community, if a declaration of development intent is
94 submitted to a planning board on or after the municipality's effective date, and written notice of such
95 submission has been given to the city or town clerk, the development described in such declaration shall
96 be governed by the applicable provisions of the zoning ordinance or by-law and all other local land use
97 regulations, if any, in effect at the time of such written notice of submission, for a vesting period that ends
98 either: (a) three years from the date of such written notice of submission, or (b) to the extent the land
99 shown on the plan has been previously been disturbed, and if there has been substantial investment in site
100 preparation and/or infrastructure construction within such three years, five years from the date of such
101 written notice of submission; provided that (i) the development described in such declaration shall be
102 subject to subsequent amendment of the zoning ordinance or by-law or of any other local land use
103 regulations, if the first notice thereof was posted prior to the date of such written notice of submission,
104 and (ii) the development described in such declaration shall be subject to subsequent amendment of the
105 zoning ordinance or by-law or of any other local land use regulations, unless a definitive plan, or a
106 preliminary plan followed within seven months by a definitive plan, is submitted to a planning board for
107 approval under the subdivision control law prior to such amendment, and, if such definitive plan or an

108 amendment thereof is thereafter finally approved. Whatever the length of such vesting period, it shall be
109 extended by a period equal to the time which a city or town imposes or has imposed upon it by a state, a
110 federal agency or a court, a moratorium on construction, the issuance of permits or utility connections.
111 The provisions of this paragraph shall not apply to development substantially different in use or
112 substantially greater in extent from the development described in the declaration of development intent.

113 **SECTION 8.** Said chapter 40A is hereby amended by inserting after section 7 the following
114 section:-

115 Section 7A. Site Plan Review

116 (a) As used in this section, "site plan review" shall mean review and approval under a municipality's
117 zoning ordinance or by-law, by an authority other than the zoning administrator, of a proposed use of land
118 or structures that does not require a special permit or a variance, whether to determine whether a proposed
119 use of land or structures is in compliance with the ordinance or by-law, to evaluate the proposed use of
120 land or structures, to consider site design alternatives or otherwise.

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

128 (c) An ordinance or by-law requiring site plan review, whether adopted under this section or under the
129 municipality's home rule authority, shall comply with the provisions of this and all following subsections
130 of Section 7A. The ordinance or by-law shall establish the submission, review, and approval process for
131 applications, which may include the requirement of a public hearing held pursuant to the provisions in

132 section eleven of this chapter. Approval of a site plan shall require a simple majority vote of the
133 designated authority and shall be made within the time limits prescribed by ordinance or by-law, not to
134 exceed 90 days from the date of filing of the application. If no decision is issued within the time limit
135 prescribed, the site plan shall be deemed constructively approved as provided in section 9, paragraph 11
136 of this chapter. The submission and review process for a site plan submitted in connection with an
137 application for a special permit or variance shall be conducted with the review of such application in a
138 coordinated process.

139 (d) Site plan review may include only those conditions that are necessary: (i) to ensure substantial
140 compliance of the proposed use of land or structures with the requirements of the zoning ordinance or by-
141 law; or (ii) to mitigate any extraordinary adverse impacts of the project on adjacent properties or public
142 infrastructure. Site plan approval may not require the payment or performance of any off-site mitigation,
143 except that site plan approval may be subject to development impact fees imposed in accordance with the
144 provisions of Section 9D of this chapter. A site plan application may be denied only on the grounds that:
145 (i) the proposed use of land or structures project does not meet the conditions and requirements set forth
146 in the zoning ordinance or by-law; (ii) the applicant failed to submit information and fees required by the
147 zoning ordinance or by-law and necessary for an adequate and timely review of the design of the
148 proposed land or structures; or (iii) it is not possible to adequately mitigate extraordinary adverse project
149 impacts on adjacent properties or public infrastructure by means of suitable site design conditions.

150 (e) Zoning ordinances or by-laws shall provide that a site plan approval granted under this section shall
151 lapse within a specified period of time, not less than two years from the date of the filing of such approval
152 with the city or town clerk, if substantial use or construction has not yet begun, except as extended for
153 good cause by the approving authority. Such extension shall not include time required to pursue or await
154 the determination of an appeal under subsection (f) or Section 17. The aforesaid minimum period of two
155 years may, by ordinance or by-law, be increased to a longer period.

156 (f) Except where site plan review is required in connection with the issuance of a special permit or
157 variance, decisions made under site plan review, whether made pursuant to statutory or home rule
158 authority, may be appealed by a civil action in the nature of certiorari pursuant to Chapter 249, Section 4
159 of the General Laws, and not otherwise. Such civil action may be brought in the superior court or in the
160 land court and shall be commenced within twenty days after the filing of decision of the site plan review
161 approving authority with the city or town clerk. All issues in any proceeding under this section shall have
162 precedence over all other civil actions and proceedings. A complaint by a plaintiff challenging a site plan
163 approval under this section shall allege the specific reasons why the project fails to satisfy the
164 requirements of this section or the zoning ordinance or by-law or other applicable law and allege specific
165 facts establishing how the plaintiff is aggrieved by such decision. The approving authority's decision in
166 such a case shall be affirmed unless the court concludes the approving authority abused its discretion
167 under subsection (d) in approving the project.

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

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

173 Zoning ordinances or by-laws may authorize the transfer of development rights of land within a city or
174 town, or within two or more cities and towns that have adopted complementary ordinances or by-laws.
175 Such authorization may be by special permit or by other methods, including, but not limited to, the
176 applicable provisions of sections 81K to 81GG, inclusive, of chapter 41, and in accordance with a
177 planning board's rules and regulations governing subdivision control. Zoning ordinances or by-laws may
178 include incentives such as increases in density of population, intensity of use, amount of floor space or
179 percentage of lot coverage, that encourage the transfer of development rights in a manner that protect

180 open space, preserve farmland, promote housing for persons of low and moderate income or further other
181 community interests.

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

184 “Cluster development” means residential development in which reduced dimensional requirements allow
185 the developed areas to be concentrated in order to preserve open land elsewhere on the plot. Zoning
186 ordinances or by-laws may authorize cluster development for development proceeding as-of-right or
187 otherwise. Unless such open land is subject to a conservation restriction or agricultural preservation
188 restriction, such open land shall be required to either be conveyed to the city or town and accepted by it
189 for park or open space use, or be conveyed to a non-profit organization the principal purpose of which is
190 the conservation of open space, agricultural land, historic resources, or watersheds, or to be conveyed to a
191 corporation or trust owned or to be owned by the owners of lots or residential units within the plot. If such
192 a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential
193 units. In any case where such land is not conveyed to the city or town or a non-profit organization as
194 described above, a restriction shall be recorded providing that such land shall be preserved accordingly
195 and not be built for residential use or developed for accessory uses such as parking or roadway.

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

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

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

206 Section 9D. Development Impact Fee

207 (a) Authority

208 (1) In addition to its home rule authority to impose a development impact fee, a city or town may adopt
209 a local ordinance or by-law under this section that requires the payment of a development impact fee as a
210 condition of any permit or approval otherwise required for any proposed development within the scope of
211 this section, and having development impacts as defined in the ordinance or by-law. The development
212 impact fee may be imposed only on construction, enlargement, expansion, substantial rehabilitation, or
213 change of use of a development. The development impact fee shall be used solely for the purposes of
214 defraying the costs of capital infrastructure facilities to be provided or paid for by the city or town and
215 which are caused by and necessary to support or compensate for the proposed development. Such capital
216 infrastructure facilities may include the costs related to the provision of equipment, facilities, or studies
217 associated with the following: water supply; sewers; storm water management and treatment; pollution
218 abatement; solid waste processing and disposal; traffic mitigation; roadways, transit, bicycle and
219 pedestrian facilities, and other public transportation facilities; and affordable housing; costs related to
220 facilities such as schools, public safety facilities, and municipal offices shall be excluded.

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

227 (b) Limitations

228 (1) No development impact fee under this section shall be imposed upon any dwelling unit,
229 regardless of how created or permitted, which is subject to a restriction on sale price or rent under the
230 provisions of G.L. c. 184 as amended ensuring that the unit will remain affordable for a period of at least
231 30 years to households at or below the area median income as most recently defined by the United States
232 Department of Housing and Urban Development or successor agency, or any other dwelling unit
233 permitted under G.L. c. 40B.

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

237 (c) Requirements

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

250 (2) A development impact fee shall have a rational nexus to, and shall be roughly proportionate to, the
251 impacts created by the development as determined by the study described in (c)(1) above evaluating said

252 impacts, and it shall be applied to affected development projects in a consistent manner.

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

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

257 (d) Administration

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

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

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

268 (4) Any funds not expended or encumbered by the end of the calendar quarter immediately following 5
269 years from the date the development impact fee was paid shall, upon request of the applicant or its
270 assigns, be returned with interest provided that an application for a refund prescribed in the ordinance or
271 by-law has been submitted within one 180 calendar days prior to the expiration of the 5 year period. If no
272 application for refund is received by the city or town within said period, any funds not expended or
273 encumbered by the end of the calendar quarter shall then revert to and become part of the general fund
274 under section 53 of chapter 44. In the event of any disagreement relative to who shall receive the refund,

275 the city or town may retain said development impact fee pending instructions given in writing by the
276 parties involved or by a court of competent jurisdiction.

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

279 “Certified plan community” shall have the meaning set forth in Section [2] of Chapter 41.

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

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

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

296 “Subdivision” shall mean the division of a tract of land into two or more lots and shall include
297 resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or

298 the land or territory subdivided; provided, however, unless a municipality is a certified plan
299 community and has in effect minor subdivision review procedures, that the division of a tract of
300 land into two or more lots shall not be deemed to constitute a subdivision within the meaning of
301 the subdivision control law if, at the time when it is made, every lot within the tract so divided
302 has frontage on (a) a public way or a way which the clerk of the city or town certifies is
303 maintained and used as a public way, or (b) a way shown on a plan theretofore approved and
304 endorsed in accordance with the subdivision control law, or (c) a way in existence when the
305 subdivision control law became effective in the city or town in which the land lies, having, in the
306 opinion of the planning board, sufficient width, suitable grades and adequate construction to
307 provide for the needs of vehicular traffic in relation to the proposed use of the land abutting
308 thereon or served thereby, and for the installation of municipal services to serve such land and
309 the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as
310 is then required by zoning or other ordinance or by-law, if any, of said city or town for erection
311 of a building on such lot, and if no distance is so required, such frontage shall be of at least
312 twenty feet. If a municipality is a certified plan community and has in effect minor subdivision
313 review procedures, then any division of a tract of land into two or more lots, including
314 resubdivision, shall be deemed to constitute a subdivision within the meaning of the subdivision
315 control law, except as provided in the following sentence. Conveyances or other instruments
316 adding to, taking away from, or changing the size and shape of, lots in such a manner as not to
317 leave any lot so affected without the frontage above set forth, or the division of a tract of land on
318 which two or more buildings were standing when the subdivision control law went into effect in
319 the city or town in which the land lies into separate lots on each of which one of such buildings
320 remains standing, shall not constitute a subdivision. Within a certified plan community that has

321 adopted minor subdivision review procedures as of the municipality's effective date, a tract of
322 land that was divided into two or more lots pursuant to Chapter 41, Section 81P of the General
323 Laws prior to the municipality's effective date, but after December 1, 2008, shall be deemed a
324 subdivision within the meaning of the subdivision control law with respect to the lots so created
325 for which a building permit has not been issued by the municipality prior to the municipality's
326 effective date.

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

329 Section 81Q. After a public hearing, notice of the time and place of which, and of the subject matter,
330 sufficient for identification, shall be published in a newspaper of general circulation in the city or town
331 once in each of two successive weeks, the first publication to be not less than fourteen days before the day
332 of the hearing or if there is no such newspaper in such city or town then by posting such notice in a
333 conspicuous place in the city or town hall for a period of not less than fourteen days before the day of
334 such hearing, a planning board shall adopt, and, in the same manner, may, from time to time, amend,
335 reasonable rules and regulations relative to subdivision control not inconsistent with the subdivision
336 control law or with any other provisions of a statute or of any valid ordinance or by-law of the city or
337 town. Such rules and regulations may prescribe the size, form, contents, style and number of copies of
338 plans and the procedure for the submission and approval thereof, and shall be such as to enable the person
339 submitting the plan to comply with the requirements of the register of deeds for the recording of the same,
340 and to assure the board of a copy for its files; and shall set forth the requirements of the board with
341 respect to the location, construction, width and grades of the proposed ways shown on a plan and the
342 installation of municipal services therein, which requirements shall be established in such manner as to
343 carry out the purposes of the subdivision control law as set forth in section eighty-one M. Such rules and
344 regulations shall not require referral of a subdivision plan to any other board or person prior to its

345 submission to the planning board. In establishing such requirements regarding ways, due regard shall be
346 paid to the prospective character of different subdivisions, whether open residence, dense residence,
347 business or industrial, and the prospective amount of travel upon the various ways therein, and to
348 adjustment of the requirements accordingly; provided, however, that in no case shall a city or town
349 establish rules or regulations regarding the laying out, construction, alteration, or maintenance of ways
350 within a particular subdivision which exceed the standards and criteria commonly applied by that city or
351 town to the laying out, construction, alteration, or maintenance of its publicly financed ways located in
352 similarly zoned districts within such city or town. Without limiting the foregoing, there shall be a
353 rebuttable presumption that such requirements are unlawfully excessive, to the extent that the
354 requirements for subdivisions within zoning districts having a minimum lot size of 40,000 square feet
355 exceed the standards and criteria previously applied by that city or town to the laying out, construction,
356 alteration, or maintenance of ways within previously approved subdivisions within zoning districts having
357 a minimum lot size of 20,000 square feet or less. Such rules and regulations may set forth a requirement
358 that a turnaround be provided at the end of the approved portion of a way which does not connect with
359 another way. Any easement in any turnaround shown on a plan approved under the subdivision control
360 law which arises after January first, nineteen hundred and sixty, other than an easement appurtenant to a
361 lot abutting the turnaround, shall terminate upon the approval and recording of a plan showing extension
362 of said way, except in such portion of said turnaround as is included in said extension, and the recording
363 of a certificate by the planning board of the construction of such extension. Such rules and regulations
364 may set forth a requirement that underground distribution systems be provided for any and all utility
365 services, including electrical and telephone services, as may be specified in such rules and regulations,
366 and may set forth a requirement that poles and any associated overhead structures, of a design approved
367 by the planning board, be provided for use for police and fire alarm boxes and any similar municipal
368 equipment and for use for street lighting. The rules and regulations may encourage the use of solar energy
369 systems and protect to the extent feasible the access to direct sunlight of solar energy systems. Such rules
370 and regulations may include standards for the orientation of new streets, lots and buildings; building set

371 back requirements from property lines; limitations on the type, height and placement, of vegetation; and
372 restrictive covenants protecting solar access not inconsistent with existing local ordinances or by-laws.
373 Except in so far as it may require compliance with the requirements of existing ordinances or by-laws, no
374 rule or regulation shall relate to the size, shape, width, frontage or use of lots within a subdivision, or to
375 the buildings which may be constructed thereon, or other subject matters addressed thereby, or shall be
376 inconsistent with the regulations and requirements of any other municipal board acting within its
377 jurisdiction. No rule or regulation shall require, and no planning board shall impose, as a condition for the
378 approval of a plan of a subdivision, that any of the land within said subdivision be dedicated to the public
379 use, or conveyed or released to the commonwealth or to the county, city or town in which the subdivision
380 is located, for use as a public way, public park or playground, or for any other public purpose, without
381 just compensation to the owner thereof. The rules and regulations may, however, provide that not more
382 than one building designed or available for use for dwelling purposes shall be erected or placed or
383 converted to use as such on any lot in a subdivision, or elsewhere in the city or town, without the consent
384 of the planning board, and that such consent may be conditional upon the providing of adequate ways
385 furnishing access to each site for such building, in the same manner as otherwise required for lots within a
386 subdivision. No rule or regulation shall require, and no planning board shall impose, as a condition for the
387 approval of a plan of a subdivision, the payment or performance of off-site mitigation, except for the
388 imposition of a development impact fee under Chapter 40A, Section 9D. A true copy of the rules and
389 regulations, with their most recent amendments, shall be kept on file available for inspection in the office
390 of the planning board of the city or town by which they were adopted, and in the office of the clerk of
391 such city or town. A copy certified by such clerk of any such rules and regulations, or any amendment
392 thereof, adopted after the first day of January, nineteen hundred and fifty-four shall be transmitted
393 forthwith by such planning board to the register of deeds and recorder of the land court. Once a definitive
394 plan has been submitted to a planning board, and written notice has been given to the city or town clerk
395 pursuant to section eighty-one T and until final action has been taken thereon by the planning board or the
396 time for such action prescribed by section eighty-one U has elapsed, the rules and regulations governing

397 such plan shall be those in effect relative to subdivision control at the time of the submission of such plan.
398 When a preliminary plan referred to in section eighty-one S has been submitted to a planning board, and
399 written notice of the submission of such plan has been given to the city or town clerk, such preliminary
400 plan and the definitive plan evolved therefrom shall be governed by the rules and regulations relative to
401 subdivision control in effect at the time of the submission of the preliminary plan, provided that the
402 definitive plan is duly submitted within seven months from the date on which the preliminary plan was
403 submitted.

404 **SECTION 17.** Said chapter 41 is hereby amended by striking out the first paragraph of section
405 81BB, as so appearing, and inserting in place thereof the following paragraph:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

441 Section 2. Definitions

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

444 “As of right” shall mean that development may proceed under zoning and other local land use regulations
445 without the need for a special permit, variance, amendment, waiver or other discretionary approval. As of
446 right development may be subject to site plan review, as defined in Section 7A of Chapter 40A. If a
447 municipality has issued, at the time of the municipality’s effective date, a special permit that in itself
448 allows new housing units equal to one-half or more of the municipality’s housing target number, and if
449 such special permit remains in effect for at least two years after the municipality’s effective date, then
450 residential development under such special permit which otherwise qualifies hereunder shall also be
451 deemed as of right.

452 “Certified plan community” shall mean a community for which a community land use plan and
453 implementing regulations have been certified by the applicable regional planning agency, adopted by the
454 municipality, and remain in effect.

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

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

464 “Eligible location” shall mean an area that by virtue of its physical and regulatory suitability for
465 development, the adequacy of transportation and other infrastructure and the compatibility of proximate

466 land uses is, in the determination of the regional planning agency, a suitable location for development of
467 the type contemplated by a community land use plan. Any area that would qualify as an “eligible
468 location” under Chapter 40R of the General Laws shall automatically qualify as an “eligible location” for
469 a residential development district.

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

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

477 “Interagency Planning Board” shall mean a board comprised of the secretary of housing and economic
478 development, the secretary of energy and environmental affairs, and the state permit ombudsman, or their
479 designees, together with a representative designated by the Massachusetts Association of Regional
480 Planning Agencies (the “regional representative”) and a representative designated by the Massachusetts
481 Association of Planning Directors (the “municipal representative”). The state permit ombudsman shall
482 serve as the chair of the board. The board, acting without the participation of the regional representative
483 and the municipal representative, shall have the power to promulgate regulations to effect the purposes of
484 this act.

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

489 “Municipality’s effective date” shall mean the date upon which a municipality has adopted certified
490 implementing regulations pursuant to a certified community land use plan.

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

501 “Other local land use regulations” shall mean all local legislative, regulatory, or other actions which are
502 more restrictive than state requirements, if any, including subdivision and board of health rules, local
503 wetlands ordinances or by-laws, and other local ordinances, by-laws, codes, and regulations.

504 “Plan” shall mean a community land use plan prepared by the planning board in accordance with Section
505 3.

506 “Planning board” shall mean a municipal planning board established or authorized pursuant to Chapter
507 41, Section 81A of the General Laws.

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

513 “Regional planning agency” shall mean the regional or district planning commission established pursuant
514 to Chapter 40B of the General Laws for the region within which a municipality is located. The term shall
515 also mean the Martha’s Vineyard Commission, as described in Chapter 831 of the Acts of 1977, and the
516 Cape Cod Commission, as described in Chapter 716 of the Acts of 1989, the Franklin Council of
517 Governments, as described in Chapter 151 of the Acts of 1996, and the Northern Middlesex Council of
518 Governments, as described in Chapter 420 of the Acts of 1989.

519 “Residential development district” shall mean a zoning district that: (i) permits or allows residential use at
520 a density of not less than four (4) units per acre of developable land for single-family residential use and
521 not less than twelve (12) units per acre of developable land for multi-family residential use, or permits or
522 allows mixed use including residential use at such density, (ii) is in an eligible location, and (iii) does not
523 impose other requirements that add unreasonable costs or otherwise unreasonably impair the economic
524 feasibility of residential development at such density. A zoning district that permits or allows mixed use
525 may qualify as both an economic development district and a residential development district, if the
526 standards for both districts are met. The implementing regulations for any residential development
527 district that permits or allows mixed use shall contain adequate provisions to ensure that any
528 contemplated contribution towards the housing target number to be provided by such district will be
529 achieved.

530 Section 3. Elements of community land use plan

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

535 The plan shall contain:

- 536 (a) an overall statement of the land use goals and objectives of the municipality for its future growth
537 and development, including specific reference to each of the five areas;
- 538 (b) a description of the zoning and other land use regulation policies that will be used to implement
539 those goals and objectives, including with respect to each of the five areas;
- 540 (c) an assessment of the infrastructure improvements needed to support the implementation policies
541 and strategies identified in (b);
- 542 (d) an assessment of the plan's consistency with any applicable existing regional plan or planning
543 guidance;
- 544 (e) an overall assessment of the plan's consistency with the Commonwealth's land use objectives set
545 forth in Section 1;
- 546 (f) an assessment of the plan's specific compliance with the minimum standards for consistency set
547 forth in Section 5 below; and
- 548 (g) a description of the manner and degree of public participation and involvement in the preparation
549 of the plan.

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

552 The planning board shall hold at least one public hearing, with two weeks prior notice, for public review
553 of and comment upon the plan, before the plan is submitted to the regional planning agency for
554 certification. After the public hearing, the planning board may recommend to the chief executive officer
555 of the municipality that the plan be submitted to the regional planning agency for certification.

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

557 The chief executive officer of the municipality may, if such action is recommended by the planning
558 board, submit the plan to the regional planning agency for certification. Within 90 days after receiving a
559 submission, the regional planning agency shall determine whether the plan is (a) complete and (b)
560 consistent with the Commonwealth's land use objectives. A plan shall be determined to be complete if it
561 contains all the elements required in Section 3. A plan shall be determined to be consistent with the
562 Commonwealth's land use objectives if it satisfies the minimum standards for consistency in accordance
563 with Section 5. If the regional planning agency determines that the plan is complete and consistent with
564 the Commonwealth's land use objectives, then the agency shall issue a written certification to that effect.
565 If the regional planning agency determines that it is unable to issue such a certification, then the agency
566 shall provide the municipality with a written statement of the reasons for its determination. A
567 municipality may re-submit for certification at any time a modified plan that addresses the issues set forth
568 in the agency's statement of reasons. If the regional planning agency does not issue a certification or
569 provide a statement of reasons within 90 days after receiving a plan (including a re-submitted plan), then
570 the plan shall be deemed certified.

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

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

574 A regional planning agency shall determine that a plan is consistent with the Commonwealth's land use
575 objectives if the plan meets certain minimum standards in the following five areas: economic
576 development, housing, open space protection, water management, and energy management. The
577 minimum standards for consistency shall be set forth in regulations duly promulgated by the Interagency
578 Planning Board. Notwithstanding the foregoing, for plans submitted for certification within the first five
579 years of the effective date of passage of this act, a determination of consistency with the

580 Commonwealth's land use objectives shall be mandatory if the following minimum standards have been
581 satisfied:

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

586 B. The plan establishes prompt and predictable permitting of residential development within one or
587 more residential development districts that can collectively accommodate, in the determination of the
588 regional planning agency, a number of new housing units (excluding new housing units which are
589 restricted, through zoning or other legal means, as to the number of bedrooms or as to the age of their
590 residents) equal to the housing target number. For the initial certification of a plan, a municipality's
591 housing target number shall be reduced by the number of new housing units for which building permits
592 were issued within two years prior to the municipality's effective date, to the extent such building permits
593 were issued within residential development districts for which there was prompt and predictable
594 permitting at the time of building permit issuance. This standard may be waived or modified upon a
595 determination by the regional planning agency that the lack of adequate water supply and/or wastewater
596 infrastructure within the municipality prevents full compliance with this standard, provided that the
597 municipality may be required to instead participate in any regional housing plan established by the
598 regional planning agency.

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

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

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

609 Section 6. Certification and adoption of implementing regulations

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

615 (b) The chief executive officer of the municipality may submit the implementing regulations to the
616 regional planning agency for certification. Within 90 days of receiving a submission, the regional
617 planning agency shall determine whether the implementing regulations are consistent with the certified
618 plan. The implementing regulations shall be deemed consistent with the certified plan if they effectuate
619 the minimum standards for consistency with the Commonwealth's land use objectives established or
620 required by the certified plan. If the regional planning agency determines that the implementing
621 regulations are consistent with the certified plan, then the agency shall issue a written certification to that
622 effect. If the regional planning agency determines that it is unable to issue such a certification, then the
623 agency shall provide the municipality with a written statement of the reasons for its determination. A
624 municipality may re-submit for certification at any time modified implementing regulations that address
625 the issues set forth in the agency's statement of reasons. If the regional planning agency does not issue a
626 certification or provide a statement of reasons within 90 days after receiving implementing regulations

627 (including re-submitted implementing regulations), then the implementing regulations shall be deemed
628 certified. The municipality shall have the option of submitting its implementing regulations together with
629 its submission of its community land use plan pursuant to Section 4, in which case the regional planning
630 agency shall review both the plan and the implementing regulations within the same 90 day period.

631 (c) Following certification by the regional planning agency, the implementing regulations may be
632 adopted by the municipality by a simple majority vote of its legislative body. On the date of receipt by the
633 regional planning agency of proof of adoption of the certified implementing regulations pursuant to a
634 certified plan, a municipality shall be deemed a “certified plan community”. Such date shall be deemed
635 the “municipality’s effective date”.

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

637 (a) Following the municipality’s effective date, local zoning ordinances or by-laws, subdivision rules
638 and regulations, and other local land use regulations (other than certified implementing regulations) which
639 are determined to be inconsistent with the certified plan or the certified implementing regulations shall be
640 deemed invalid. Such a determination may be sought and obtained through any means otherwise
641 available by statute for the determination of the validity of such land use regulations. Any material
642 amendment to a certified plan or certified implementing regulations that has not been prepared, certified
643 and adopted in accordance with the provisions hereof shall be presumed to be inconsistent with the
644 certified plan.

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

650 (c) Following the municipality’s effective date, a zoning ordinance or by-law that requires a minimum

651 lot area of two acres or more for single-family residential development upon farmland, forest land or
652 other land of environmental resource value shall not be declared exclusionary or otherwise against public
653 policy.

654 (d) If at any time more than two years after the municipality's effective date the total number of
655 housing units for which building permits have been applied for within the residential development
656 districts since the municipality's effective date is greater than the housing target number (adjusted pro rata
657 for the number of years since the municipality's effective date), but the total number of housing units for
658 which building permits have been issued within the residential development districts is less than the pro
659 rata housing target number, then the provisions of this subsection shall be in effect. During such time
660 period, any applications for building permits or other local land use permits for residential development
661 within such residential development districts shall deemed constructively approved if not acted upon
662 within 180 days after receipt of permit applications. In addition, an application received under this section
663 shall be subject only to those conditions that are necessary to ensure substantial compliance of the
664 proposed development project with applicable laws and regulations; and it may be denied only on the
665 grounds that: (i) the proposed development project does not substantially comply with applicable laws
666 and regulations, or (ii) the applicant failed to submit information and fees required by applicable laws and
667 regulations and necessary for an adequate and timely review of the development project. The foregoing
668 provisions shall no longer be in effect once the total number of housing units for which building permits
669 have been issued within such residential development districts equals or exceed the pro rata housing
670 target number.

671 Section 8. Review of certification by regional planning agency

672 Any certification or determination of non-certification by a regional planning agency with respect to a
673 plan or implementing regulations or a material amendment of either is subject to review by the
674 Interagency Planning Board. The Interagency Planning Board may, upon the request of the subject

675 municipality or upon its own motion, review any such decision in an informal, non-adjudicatory
676 proceeding, may request information from any third party and may modify or reverse such decision if the
677 same does not comply with the provisions hereof.

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

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

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

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

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

697 Section 10. Priority for Infrastructure Funding

698 The executive office of housing and economic development, the executive office of energy and
699 environmental affairs, the executive office of transportation, and the executive office of administration
700 and finance shall, when awarding discretionary funds for local infrastructure improvements, give priority
701 consideration to infrastructure improvements identified in the certified plans of certified plan
702 communities.

703 Section 11. Consideration under State Programs

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

708 **SECTION 19.** Item 7002-0013 in chapter 182 of the Acts of 2008, as so appearing, is hereby
709 amended by adding the following:- “provided, that not more than \$1,000,000 shall be expended for
710 technical assistance grants to municipalities for the preparation of plans and implementing regulations,
711 and grants are to be administered by the Interagency Planning Board; provided further, that not more than
712 \$500,000 shall be expended for technical assistance grants to regional planning agencies for the
713 certification of plans and implementing regulations and the preparation of guidelines, and such grants are
714 to be administered by the Interagency Planning Board; and provided further, priority for the municipal
715 grants administered by the Interagency Planning Board shall be given to those municipalities identified by
716 the applicable regional planning agencies as being most likely to prepare and adopt certified plans and
717 implementing regulations, if provided with financial assistance”