

SENATE No. 83

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Dorcena Forry

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 relative to smart growth multifamily housing production.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|-----------------------------|-----------------------------------|-----------------|
| <i>Linda Dorcena Forry</i> | <i>First Suffolk</i> | |
| <i>Kevin G. Honan</i> | <i>17th Suffolk</i> | |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>2/2/2017</i> |
| <i>Barbara A. L'Italien</i> | <i>Second Essex and Middlesex</i> | <i>2/2/2017</i> |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | <i>2/2/2017</i> |
| <i>Daniel Cullinane</i> | <i>12th Suffolk</i> | <i>2/3/2017</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> | <i>2/3/2017</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> | <i>2/3/2017</i> |

SENATE No. 83

By Ms. Forry, a petition (accompanied by bill, Senate, No. 83) of Linda Dorcena Forry, Kevin G. Honan, James B. Eldridge, Barbara A. L'Italien and other members of the General Court for legislation relative to smart growth multifamily housing production. Community Development and Small Businesses.

The Commonwealth of Massachusetts

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

An Act relative to smart growth multifamily housing production.

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. Chapter 40A of the General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by adding the following sections:-

3 Section 3A.

4 (a) For purposes of this section, unless the context clearly requires otherwise, the
5 following words shall have the following meanings:

6 "As of right", development may proceed under a zoning ordinance or by-law without the
7 need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning
8 approval.

9 "Eligible locations", (1) areas near transit stations, including rapid transit, commuter rail
10 and bus and ferry terminals; (2) areas of concentrated development, including town and city
11 centers, other existing commercial districts in cities and towns, and existing rural village centers;

12 or (3) areas that by virtue of their infrastructure, transportation access, existing underutilized
13 facilities, and/or location make highly suitable locations for residential multi-family housing.

14 “Gross density”, is a units-per-acre density measurement that includes in the calculation,
15 land occupied by public rights-of-way, recreational, civic, commercial and other non-residential
16 uses.

17 "Lot", shall mean an area of land with definite boundaries, used, or available for use, as
18 the site of one or more buildings.

19 "Multi-family housing”,(i) A residential building with three or more dwelling units; or (ii)
20 Two or more residential buildings on the same lot with more than one dwelling unit in each
21 building.

22 “Rural town”, a municipality with a population density of less than 500 persons per
23 square mile as determined by the most recent decennial federal census.

24 “The department”, Department of Housing and Community Development.

25 (b) Within three years of the effective date of this section, zoning ordinances and bylaws
26 shall provide one or more districts in which multi-family housing is a permitted use as of right.

27 For the purposes of this section, districts shall satisfy the following minimum requirements:

28 1. Include multi-family housing without age restrictions, which is suitable for
29 families with children;

30 2. accommodate a reasonable share of the regional need for multi-family housing;

31 3. a minimum gross density of eight units per acre in rural towns subject to any
32 further limitations imposed by the state Wetlands Protection Act pursuant to section 40 of
33 chapter 131 of the General Laws and Title 5 of the State Environmental Code pursuant to section
34 13 of chapter 21A of the General Laws. All other municipalities shall have a minimum gross
35 density of fifteen units per acre.

36 4. be in eligible locations.

37 A city or town may elect to satisfy the requirement of subsection (b) of this section by
38 obtaining a determination from the department, acting directly or through a regional planning
39 agency as its designee, that the multi-family provisions of its zoning ordinance or bylaw are
40 consistent with the department’s guidelines. If a city or town obtains a determination from the
41 department under this section, the city or town may use the determination as verification of
42 compliance when applying for discretionary funding by state agency programs that have
43 included a preference or priority for multi-family zoning pursuant to this section.

44 (c) The department shall publish guidelines which may be used to determine if a city or
45 town has satisfied the requirements established in subsection (b) of this section.

46 SECTION 2. Section 5 of Chapter 40A, as so appearing, is hereby amended by inserting
47 after the words “town meeting;” in line 82 the following;-

48 “provided, however, if a city or town has failed to meet the minimum requirements of
49 subsection (b) of section 3A of Chapter 40A, any zoning ordinance or by-law that is consistent
50 with the requirements of section 3A of chapter 40A shall be adopted by a vote of a simple
51 majority of all members of the town council, or of the city council where there is a commission

- 52 form of government or a single branch, or of each branch where there are two branches, or by a
- 53 vote of a simple majority of a town meeting;”