

1           SECTION 1. Section 3 of chapter 23B of the General Laws, as appearing in the 2014  
2 Official Edition, is hereby amended by inserting after clause (v) the following subsection:-

3           (w) establish, conduct and maintain an annual program of education and training for  
4 members of local planning boards and zoning boards of appeals; provided, however that the  
5 department shall consult with the Massachusetts Federation of Planning and Appeals Boards,  
6 Inc. regarding development of the program; provided further, the department may contract with  
7 the Massachusetts Citizen Planner Training Collaborative at the University of Massachusetts to  
8 provide such education and training. The department may charge a reasonable fee to board  
9 members to participate in the program. To the extent practicable, the education and training  
10 programs shall be offered in various locations throughout the commonwealth.

11           SECTION 2. Said chapter 23B of the General Laws is hereby amended by adding the  
12 following section:-

13           Section 31. (a) The secretary of housing and economic development, in consultation with  
14 the secretary of energy and environmental affairs, the secretary of transportation and the attorney  
15 general following a public hearing and opportunity for stakeholder feedback, shall develop a  
16 municipal opt-in program to advance the state's economic, environmental and social well-being  
17 through enhanced planning for economic growth, land conservation, workforce housing creation  
18 and mobility. The program shall include guidelines and criteria to evaluate municipal  
19 applications. Applications meeting program guidelines and criteria shall receive status as a  
20 certified community. Certified communities shall be entitled to certain privileges and powers

21 and shall be required to provide certain incentives to benefit persons seeking local permits and  
22 local land use approvals.

23 (b) The department shall develop guidelines for a city or town to receive status as a  
24 certified community. The guidelines shall promote: (i) prompt and predictable permitting of  
25 commercial or industrial development within economic development districts that allow for an  
26 appropriate amount of development to proceed as of right and within a specific reasonable time;  
27 (ii) prompt and predictable permitting of residential development within residential development  
28 districts that allow for the appropriate amount of development to proceed as of right and within a  
29 specific reasonable time; (iii) open space residential design for certain zoning districts meeting  
30 minimum lot area thresholds for single-family residential development; (iv) low impact  
31 development techniques; (v) natural resource protection zoning in areas of significant natural or  
32 cultural resources; (vi) development agreement contracts between a municipality and a holder of  
33 development rights to express the conditions to which the development will be subject; (vii)  
34 consolidated hearings and permitting for large development projects; and (viii) joint applications  
35 from 2 or more contiguous municipalities who together meet the goals of the program and agree  
36 to the requirements of clauses (i) to (vii), inclusive.

37 (c) A city or town may apply to the department of housing and community development  
38 to become a certified community. A regional planning commission shall make itself available to  
39 a city or town during the application process to facilitate best practices. A regional planning  
40 commission, in consultation with stakeholders and after a public hearing, shall develop model  
41 by-laws, ordinances and rules and regulations which may be used or incorporated by  
42 communities within the planning commission region in its application to the department or the  
43 regional planning commission may make model by-laws, ordinances and rules and regulations

44 for a specific community within the region which may be used or incorporated by a city or town  
45 in its application to the department.

46 (d) The department shall develop criteria to evaluate a submission by a city or town to  
47 become a certified community. Applications from a city or town with the endorsement of a  
48 regional planning agency may be presumed to meet the criteria or the endorsement may be  
49 favorably factored into a determination by the department. If the department determines that it  
50 is unable to issue a certification, it shall provide the applicant with a written statement of the  
51 reasons for its determination and the applicant shall be allowed to reapply. A municipality's  
52 certification shall be for a period of up to 10 years and may be renewed at the discretion of the  
53 department.

54 (e) The department shall develop incentives based upon program goals and guidelines in  
55 certified communities. Incentives shall benefit both municipal applicants and persons seeking  
56 municipal approval for permits and development. Incentives shall be based upon the program  
57 guidelines and criteria.

58 (f) To advance economic, environmental and social well-being through enhanced  
59 planning for economic growth, land conservation, workforce housing creation and mobility, the  
60 commonwealth, when awarding discretionary funds for municipal infrastructure or other  
61 discretionary funds or grants administered through the executive office of housing and economic  
62 development, the executive office of energy and environmental affairs, the Massachusetts  
63 department of transportation and the executive office for administration and finance, shall give  
64 priority consideration to certified communities.

65 State agencies responsible for regulatory or capital spending programs that have a  
66 material effect on local land use and development shall take into account the land use goals,  
67 objectives and policies as set forth in master plans adopted under section 81D of chapter 41 in  
68 administering the programs in certified communities.

69 When awarding discretionary funds for municipal infrastructure and land preservation  
70 investments within communities for which there exists a regional plan under section 5 of chapter  
71 40B, under chapter 716 of the acts of 1989 or under chapter 831 of the acts of 1977, respectively,  
72 the commonwealth shall cause the awards to be consistent with the plan to the maximum extent  
73 feasible.

74 (g) The department of housing and community development may issue regulations  
75 necessary and appropriate for the implementation of this section.

76 SECTION 3. Section 1A of Chapter 40A of the General Laws, as appearing in the 2014  
77 Official Edition, is hereby amended by striking out the definition of “Permit granting authority”  
78 and inserting in place thereof the following 9 definitions:-

79 “Affordable housing”, a dwelling unit restricted for purchase or rent by a household with  
80 an income at or below 80 per cent of the area median income for the applicable metropolitan or  
81 non-metropolitan area, as determined by the United States Department of Housing and Urban  
82 Development; provided, however, that affordable housing shall be subject to an affordable  
83 housing restriction in accordance with sections 31 to 33, inclusive, of chapter 184 or, if ineligible  
84 under said sections 31 to 33, inclusive, of said chapter 184, restricted by other means as required  
85 in an ordinance or by-law.

86 “By-right” or “as of right”, development that may proceed under a zoning ordinance or  
87 by-law without the need for a special permit, variance, zoning amendment, waiver or other  
88 discretionary zoning approval; provided, however, that “by-right” or “as of right” development  
89 may be subject to site plan review under section 9D.

90 “Cluster development or open space residential development”, a class of residential  
91 development in which reduced dimensional requirements allow the developed areas to be  
92 concentrated in order to permanently preserve open land for natural, agricultural or cultural  
93 resources elsewhere on the plot.

94 “Development impact fee”, an assessment imposed by a zoning ordinance or by-law to  
95 offset the impacts of a development, in an amount roughly proportionate to the impact of the  
96 development, and in accordance with section 9E.

97 “Inclusionary housing”, an affordable housing unit or a housing unit restricted for  
98 purchase or rent by a household with an income at or below 120 per cent of the median family  
99 income determined by the United States Department of Housing and Urban Development for the  
100 applicable metropolitan or nonmetropolitan area; provided, however, that a municipality may set  
101 the income thresholds for inclusionary housing at a level at or below 120 per cent of median  
102 income.

103 “Inclusionary zoning”, zoning ordinances or by-laws that require the creation of  
104 affordable housing or inclusionary housing, in accordance with section 9F.

105 “Municipal affordable housing concessions”, measures adopted by a municipality to  
106 contribute to the economic feasibility of an inclusionary-zoned residential or mixed use  
107 development including, but not limited to, increases in the otherwise maximum allowable

108 density, floor-area ratio or height or reductions in otherwise applicable parking requirements,  
109 permitting fees and timeframes.

110 “Natural resource protection zoning”, zoning ordinances or by-laws enacted principally  
111 to protect natural resources by establishing higher underlying density divisors relative to other  
112 areas, a formulaic method to calculate development rights and compact patterns of development  
113 so that a significant majority of the land remains permanently undeveloped and available for  
114 agriculture, forestry, recreation, watershed management, carbon sequestration, wildlife habitat or  
115 other natural resource values.

116 “Permit granting authority”, the board of appeals or zoning administrator.

117 SECTION 3A. Said section 1A of said chapter 40A, as so appearing, is hereby further  
118 amended by inserting after the definition of “Special permit granting authority” the following  
119 definition:-

120 “Transfer of development rights”, the regulatory procedure whereby the owner of a  
121 parcel may convey development rights to the owner of another parcel and where the  
122 development rights so conveyed are extinguished on the first parcel and may be exercised on the  
123 second parcel in addition to the development rights already existing regarding that parcel.

124 SECTION 4. Said chapter 40A is hereby further amended by inserting after section 1A  
125 the following section:-

126 Section 1B. (a) This chapter shall be construed to give full effect to the home rule  
127 authority of cities and towns. Nothing in this chapter shall be construed as limiting the  
128 constitutional authority of cities and towns unless expressly stated by this chapter. Wherever the

129 language of this chapter purports to authorize or enable, it shall be so construed only where such  
130 authority is not otherwise available to cities and towns under the constitution or laws of the  
131 commonwealth, and in all other cases such language shall be considered illustrative only.

132 (b) Nothing in this chapter shall limit the authority of the regional planning agencies  
133 under chapter 716 of the acts of 1989, chapter 561 of the acts of 1973 and chapter 831 of the acts  
134 of 1977 or of any municipality within Barnstable or Nantucket County or the county of Dukes  
135 County acting under said chapter 716, said chapter 561 and said chapter 831 including, but not  
136 limited to, the designation of districts of critical planning concern, the adoption of regulations for  
137 such districts, the review of developments of regional impact and the imposition development  
138 impact fees. If this chapter conflicts with these special acts and any regulations, ordinances,  
139 regional policy plans or decisions issued or adopted under these special acts, the latter shall  
140 control.

141 SECTION 5. Section 3 of said chapter 40A, as appearing in the 2014 Official Edition, is  
142 hereby amended by adding the following paragraph:-

143 No zoning ordinance or by-law shall prohibit or require a special permit for the use of  
144 land or structures for an accessory dwelling unit or the rental thereof in a single-family  
145 residential zoning district on a lot with 5,000 square feet or more or on a lot of sufficient area to  
146 meet the requirements of title 5 of the state environmental code established by section 13 of  
147 chapter 21A, if applicable, but such land or structures may be subject to reasonable regulations  
148 concerning dimensional setbacks and the bulk and height of structures. The zoning ordinance or  
149 by-law may require that the principal dwelling or the accessory dwelling unit be owner-occupied  
150 and may limit the total number of accessory dwelling units in the municipality to a percentage

151 not lower than 5 per cent of the total non-seasonal housing units in the municipality. Not more  
152 than 1 additional parking space shall be required for an accessory dwelling unit but, if parking is  
153 required for the principal dwelling, that parking shall either be retained or replaced. As used in  
154 this paragraph, “accessory dwelling unit” shall mean a self-contained housing unit, inclusive of  
155 sleeping, cooking and sanitary facilities, incorporated within the same structure as the principal  
156 dwelling or in a detached accessory structure and that: (i) is located on the same lot as the  
157 principal dwelling; (ii) maintains a separate entrance, either directly from the outside or through  
158 an entry hall or corridor shared with the principal dwelling; (iii) shall not be sold separately from  
159 the principal dwelling; and (iv) is not larger in floor area than 1/2 the floor area of the principal  
160 dwelling or 900 square feet, whichever is smaller. Nothing in this paragraph shall authorize an  
161 accessory dwelling unit to violate the building, fire, health or sanitary codes or wetlands laws,  
162 ordinances or by-laws.

163 SECTION 6. Said chapter 40A is hereby further amended by inserting after section 3 the  
164 following section:-

165 Section 3A. (1) (a) For the purposes of this section, the following words shall have the  
166 following meanings unless the context clearly requires otherwise:

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

168 “Eligible locations”, as defined in section 2 of chapter 40R.

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

172 “Lot”, an area of land with definite boundaries that are used or available for use as the  
173 site of a building.

174 “Multi-family housing”, a residential building with 3 or more dwelling units or 2 or  
175 more residential buildings on the same lot with more than 1 dwelling unit in each building.

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

178 (b) Zoning ordinances and by-laws shall provide at least 1 district of reasonable size in  
179 which multi-family housing is a permitted use as of right. For the purposes of this section,  
180 “district” shall: (i) include multi-family housing without age restrictions which is suitable for  
181 families with children; (ii) have a minimum gross density of 8 units per acre in rural towns and a  
182 minimum gross density of 15 units per acre in all other municipalities, subject to any further  
183 limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code  
184 established by section 13 of chapter 21A; provided, however, that multi-family housing districts  
185 shall align to the extent possible with existing or planned water, sewer and transportation  
186 infrastructure; and (iii) be in eligible locations.

187 A city or town may satisfy the requirement of this subsection by obtaining a  
188 determination from the department, acting directly or through a regional planning agency as its  
189 designee, that the multi-family provisions of its zoning ordinance or by-law are consistent with  
190 the department’s guidelines established pursuant to subsection (c). If a city or town obtains a  
191 determination from the department or regional planning agency under this section, the city or  
192 town may use the determination as verification of compliance when applying for discretionary

193 funding by state agency programs that have included a preference or priority for multi-family  
194 zoning pursuant to this section.

195 The department may waive or modify the requirements of this subsection for rural  
196 municipalities or if a determination is made that no eligible locations exist within a municipality.

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

199 (2) Zoning ordinances or by-laws shall provide for open space residential developments  
200 as of right. These ordinances or by-laws shall provide that open space residential developments  
201 shall be allowed either in a specific district within that district or in multiple districts through  
202 overlay zoning. These ordinances or by-laws shall provide that open space residential  
203 developments shall be permitted upon review and approval by a planning board pursuant to  
204 section 81K to 81GG, inclusive, of chapter 41 and in accordance with a planning board's rules  
205 and regulations governing subdivision control.

206 An open space residential development shall be permitted only on a plot of land of such  
207 minimum size as a zoning ordinance or by-law may specify which is divided into building lots  
208 with dimensional control, density, open land and use restrictions for such building lots varying  
209 from those otherwise permitted by the ordinance or by-law. Such open land, when added to the  
210 building lots, shall be at least equal in area to the land area required by the ordinance or by-law  
211 for the total number of units or buildings contemplated in the development.

212 A municipality may require either a yield plan or a calculation that deducts for roadways,  
213 wetlands and other site constraints in order to determine the yield of housing units in an open  
214 space residential development. The open land may be situated to promote and protect maximum

215 solar access within the development. The open land shall either be conveyed to the city or town  
216 and accepted by it for park or open space use or be conveyed to a nonprofit organization the  
217 principal purpose of which is the conservation of open space or be conveyed to a corporation or  
218 trust owned or to be owned by the owners of lots or residential units within the development. If  
219 the corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or  
220 residential units. Where the land is not conveyed to the city or town or other governmental  
221 agency as dedicated open space, a restriction under sections 31 to 33, inclusive, of chapter 184  
222 shall be recorded.

223 Allowance of open space residential development by right in accordance with this section  
224 shall not preclude establishment of zoning districts which provide for increases in the  
225 permissible density of population or intensity of a particular use within an open space residential  
226 development by special permit as provided in section 9.

227 The department of housing and community development and the executive office of  
228 energy and environmental affairs shall jointly publish guidelines which may be used to  
229 determine if a city or town has satisfied the requirements established in this subclause.

230 (3) If a zoning ordinance or by-law fails to comply with this section, the superior court or  
231 the land court may award appropriate declaratory and injunctive relief in a civil action brought  
232 by the attorney general on behalf of the department or by an aggrieved applicant for a local  
233 permit.

234 SECTION 7. Section 5 of said chapter 40A, as appearing in the 2014 Official Edition, is  
235 hereby amended striking out, in line 78, the word “No” and inserting in place thereof the  
236 following words:- Unless otherwise prescribed in a zoning ordinance or by-law, no.

237 SECTION 8. Said section 5 of said chapter 40A, as so appearing, is hereby further  
238 amended by inserting after the word “meeting” in line 82, the following words:- “; provided,  
239 however, that if a city or town has failed to meet the minimum requirements of clause (1) or (2)  
240 section 3A, a zoning ordinance or by-law that is consistent with these requirements shall be  
241 adopted by a vote of a simple majority of all members of the town council or of the city council  
242 where there is a commission form of government or a single branch or of each branch where  
243 there are 2 branches or by a vote of a simple majority of town meeting”.

244 SECTION 9. The fourth paragraph of said section 5 of said chapter 40A, as so appearing,  
245 is hereby amended by inserting after the first sentence the following sentence:- The report shall  
246 evaluate the consistency of the proposed ordinance or by-law or amendment thereto with a  
247 master plan under section 81D of chapter 41, if any, in effect.

248 SECTION 10. The fifth paragraph of said section 5 of said chapter 40A, as so appearing,  
249 is hereby amended by adding the following sentence:- Any change in the voting majority  
250 required to adopt a zoning ordinance, by-law or amendment shall be made by the voting majority  
251 then in effect and shall not become effective until 6 months have elapsed after the vote;  
252 provided, however, that a voting change shall be limited to a range between a simple majority  
253 and a 2/3 majority vote. A majority vote of less than 2/3 shall not be allowed for a specific  
254 zoning amendment if the amendment is the subject of a landowner protest.

255 SECTION 11. Section 6 of said chapter 40A, as so appearing, is hereby amended by  
256 striking out, in lines 3 to 5, inclusive, the words “or to a building or special permit issued before  
257 the first publication of notice of the public hearing on such ordinance or by-law required by  
258 section five,”.

259 SECTION 12. Said section 6 of said chapter 40A, as so appearing, is hereby further  
260 amended by striking out, in lines 6 and 7, the words “to a building or special permit issued after  
261 the first notice of said public hearing.”.

262 SECTION 13. Said section 6 of said chapter 40A, as so appearing, is hereby further  
263 amended by striking out the second paragraph and inserting in place thereof the following  
264 paragraph:-

265 If a complete application for a building permit or special permit is duly submitted and  
266 received, including receipt of payment for any applicable fees, and written notice of the  
267 submission has been given to the city or town clerk before the first publication of notice of the  
268 public hearing on the ordinance or by-law as required by section 5, the permit shall be governed  
269 by the applicable provisions of the zoning ordinance or by-law, if any, in effect at the time of the  
270 first submission and receipt while any permit is being processed and, if the permit or an  
271 amendment of the permit is finally approved, for 2 years in the case of a building permit and 3  
272 years in the case of a special permit from the date of the granting of approval. The period of 2 or  
273 3 years shall be extended by a period equal to the time a city or town imposes or has imposed  
274 upon it by a state, a federal agency or a court, a moratorium on construction, the issuance of  
275 permits or utility connections.

276 SECTION 14. The fourth paragraph of said section 6 of said chapter 40A, as so  
277 appearing, is hereby amended by striking out the second sentence.

278 SECTION 15. Said section 6 of said chapter 40A, as so appearing, is hereby amended by  
279 striking out the fifth paragraph and inserting in place thereof the following paragraph:-

280           If a complete application for a definitive plan, or a preliminary plan followed within 7  
281 months by a definitive plan that is substantially similar to the preliminary plan, is duly submitted  
282 to a planning board for approval under the subdivision control law and written notice of the  
283 submission has been given to the city or town clerk before the public hearing on the ordinance or  
284 by-law required by section 5, the land on the plan shall be governed by the applicable provisions  
285 of the zoning ordinance or by-law, if any, in effect at the time of the first submission while any  
286 plan is being processed under the subdivision control law and, if the definitive plan or an  
287 amendment to the definitive plan is finally approved, for 8 years from the date of the  
288 endorsement of the approval; provided, however, that in the case of a minor subdivision in a city  
289 or town that has accepted section 81HH of chapter 41, the applicable provisions of the zoning  
290 ordinance or by-law shall govern for 4 years from the date of the endorsement of approval. The  
291 period of 8 or 4 years shall be extended by a period equal to the time which a city or town  
292 imposes or has imposed upon it by a state, a federal agency or a court, a moratorium on  
293 construction, the issuance of permits or utility connections.

294           SECTION 16. Section 9 of said chapter 40A, as so appearing, is hereby amended by  
295 striking out the third to ninth paragraphs, inclusive.

296           SECTION 17. The twelfth paragraph of said section 9 of said chapter 40A, as so  
297 appearing, is hereby amended by striking out the last sentence and inserting in place thereof the  
298 following 2 sentences:- Unless a greater majority is specified in the zoning ordinance or by-law,  
299 issuance of a special permit under this section shall require an affirmative vote of a simple  
300 majority of the special permit granting authority. A greater majority vote requirement specified  
301 in a zoning ordinance or by-law shall not exceed a vote of 2/3 of the special permit-granting  
302 authority in a board with more than 5 members or a vote of 4 members in a 5-member board.

303 SECTION 18. Said section 9 of said chapter 40A, as so appearing, is hereby further  
304 amended by striking out the fourteenth paragraph and inserting in place thereof the following 2  
305 paragraphs:-

306 A special permit granted under this section shall state that it shall lapse within a period of  
307 time specified by the special permit granting authority, which shall be not less than 3 years if a  
308 substantial use thereof has not sooner commenced except for good cause or, in the case of a  
309 permit for construction, if construction has not begun by the specified date except for good  
310 cause. The minimum period of 3 years may, by ordinance or by-law, be increased to a longer  
311 minimum period. The period of time before which a special permit shall lapse shall not include  
312 the time required to pursue or await the determination of an appeal from the grant thereof, as  
313 referenced in section 17.

314 Upon written application by the grantee of a special permit, the special permit-granting  
315 authority, in its discretion, and after notice and a public hearing, unless under local ordinance or  
316 by-law a public hearing is not required, vote by a majority to extend the time for the exercise of a  
317 special permit for a period of time not to exceed the original duration of the special permit. The  
318 application shall be filed not later than 65 days before the lapse of the special permit. If the  
319 permit granting authority does not grant the extension within 65 days of the date of application  
320 therefor, upon the lapse of the special permit, the special permit shall only be re-established  
321 pursuant to the requirements of this section.

322 SECTION 19. Said section 9 of said chapter 40A, as so appearing, is hereby further  
323 amended by inserting after the word “zoned”, in line 201, the following word:- principally.

324 SECTION 20. Said section 9 of said chapter 40A, as so appearing, is hereby further  
325 amended by inserting after the word “zoned”, in line 216, the following word:- principally.

326 SECTION 21. Said chapter 40A is hereby further amended by inserting after section 9C  
327 the following 4 sections:-

328 Section 9D. (a) As used in this section, “site plan” shall mean the submission made to a  
329 municipality that includes documents and drawings required by an ordinance or by-law showing  
330 the proposed on-site arrangement of buildings, structures, parking, pedestrian and vehicle  
331 circulation, utilities, grading and other site features and improvements existing or to be placed on  
332 a parcel of land in connection with the proposed use of land or structures.

333 (b) A zoning ordinance or by-law that requires site plan review for uses allowed by-right  
334 shall: (i) establish the different types, scales or categories of uses of land, structures or  
335 development subject to site plan review; (ii) specify the local boards or officials charged with  
336 reviewing and approving site plans which may differ for different types, scales or categories of  
337 uses of land or structures; (iii) set forth what shall be considered a complete application; (iv)  
338 establish the process for submission, review and approval for a site plan; (v) establish standards  
339 and criteria by which the project and its direct adverse impacts on that portion of properties and  
340 public infrastructure located within 300 feet of the parcel boundary shall be evaluated; and (vi)  
341 include provisions making the terms, conditions and content of the approved site plan  
342 enforceable by the municipality which may include the requirement of performance guarantees.

343 (c) Approval of a site plan under this section, if reviewed by a board, shall require not  
344 more than a simple majority vote of the full board and shall be made within the time limits  
345 prescribed by ordinance or by-law not to exceed 120 days from the filing of a complete

346 application. Procedures for the administrative review and approval of a site plan by staff or other  
347 municipal officials shall be as specified in the ordinance or by-law but the 120-day time limit for  
348 a decision shall not be increased unless granted in writing by the person seeking the site plan  
349 approval. If no decision is issued within the time limit prescribed and no written extension of the  
350 time limit has been granted by the person seeking the site plan review, the site plan shall be  
351 deemed constructively approved as provided in section 9; provided, however, that the petitioner  
352 shall comply with the constructive approval procedures under said section 9. Copies of the  
353 approved site plan submission shall be kept on file by the town or city clerk, the permit granting  
354 authority and the municipal building department.

355 (d) A site plan submitted for the use of specific land or structures allowed by-right shall  
356 not be denied unless: (i) the proposed site plan cannot be conditioned to meet the requirements  
357 set forth in the zoning ordinance or by-law; (ii) the applicant fails to submit the information and  
358 fees required by the zoning ordinance or by-law necessary for an adequate and timely review of  
359 the design of the proposed land or structures; or (iii) there is no feasible site design change or  
360 condition that would adequately mitigate any direct adverse impacts of the proposed  
361 improvements on that portion of properties and public infrastructure located within 300 feet of  
362 the parcel boundary.

363 (e) A site plan approved under this section may include reasonable conditions,  
364 safeguards and limitations to mitigate the direct adverse impacts of the project on that portion of  
365 properties and public infrastructure located within 300 feet of the parcel boundary. Conditions  
366 may be approved that are directly related to standards and criteria described in the site plan  
367 review ordinance or by-law; provided, however, that such conditions shall not conflict with or  
368 waive any other applicable requirement of the zoning ordinance or by-law. The record of the

369 decision shall state the reasons for any conditions imposed. If conditions are adopted pursuant to  
370 this subsection, the site plan shall be revised to include those conditions before the development  
371 permit is issued.

372 (f) Site plan review may not require payment for or performance of any off-site  
373 mitigation except when the site plan approval is subject to development impact fees imposed in  
374 accordance with section 9E or when a site plan is required in connection with the issuance of a  
375 special permit, variance or any other discretionary zoning approval.

376 (g) Except where site plan review is required in connection with the issuance of a special  
377 permit, variance or other discretionary zoning approval, decisions made under this section may  
378 be appealed pursuant to section 4 of chapter 249. Such civil action may be brought in the  
379 superior court or in the land court and shall be commenced within 20 days after the filing of the  
380 decision of the site plan review approving authority with the city or town clerk. Notice of such  
381 appeal must be given to the city or town clerk so as to be received within 20 days. A complaint  
382 by a plaintiff challenging a site plan approval under this section shall allege the specific reasons  
383 why the project failed to satisfy the requirements of this section, the zoning ordinance or by-law  
384 or other applicable law and shall allege specific facts establishing how the plaintiff is aggrieved  
385 by such decision. A complaint by an applicant for site plan review challenging the denial or  
386 conditioned approval of a site plan shall similarly allege the specific reasons why the project  
387 properly satisfied the requirements of this section, the zoning ordinance or by-law or other  
388 applicable law.

389 (h) A site plan, or any extension, modification or renewal thereof, shall not take effect  
390 until a notice of site plan approval, identifying the permit granting authority and the date upon

391 which approval was granted, is recorded in the registry of deeds for the county or district in  
392 which the land is located and indexed in the grantor index under the name of the owner of record  
393 or is recorded and noted on the owner's certificate of title.

394 (i) Zoning ordinances or by-laws shall provide that a site plan approval for a use allowed  
395 by-right shall lapse within a specified period of time, not less than 2 years from the date of the  
396 filing of the approval with the city or town clerk, if a building permit has not been obtained or  
397 substantial use or construction has not yet begun except where extended for good cause by the  
398 permit-granting authority either with or without a public hearing, as provided in the zoning  
399 ordinance or by-law. Such period of time shall not include the time required to pursue or await  
400 the determination of an appeal and shall be measured from the date of the dismissal of the appeal  
401 or the entry of final judgment in favor of the applicant.

402 (j) Where an ordinance or by-law provides that a variance, special permit or other  
403 discretionary zoning approval shall also require site plan review, the review of the site plan shall  
404 be integrated into the processing of the variance, special permit or other discretionary zoning  
405 approval and shall not be made the subject of a separate proceeding, hearing or decision. In such  
406 a case, the content requirements and approval criteria for a site plan as specified in the zoning  
407 ordinance or by-law shall be followed but this section shall not otherwise apply.

408 Section 9E. (a) A local ordinance or by-law that requires the payment of a development  
409 impact fee for a permit or approval shall comply with this section. A development impact fee  
410 shall have a rational nexus to, and shall be roughly proportionate to, the impacts created by the  
411 development. A development impact fee shall reasonably benefit the proposed development and  
412 shall be used solely for the purposes of defraying the costs of off-site public capital facilities

413 necessary to support or compensate for the proposed development. Development impact fees  
414 shall be applied in a consistent manner pursuant to a proportionate share development impact fee  
415 study conducted in accordance with subsection (f).

416 (b) The development impact fee shall be imposed only on construction, enlargement,  
417 expansion, substantial rehabilitation or change of use that results in a net increase of demand or  
418 service. Impact fees shall be limited to mitigating the impact of the development on the  
419 following capital facilities: (i) water supply, treatment and distribution, both potable and for  
420 suppression of fires; (ii) wastewater treatment and sanitary sewerage; (iii) drainage, storm water  
421 management and treatment; (iv) solid waste; (v) roads, intersections, traffic improvements,  
422 public transportation, pedestrian ways and bicycle paths; and (vi) parks and recreational  
423 facilities. Impact fees may be expended on such facilities for the payment of debt service or for  
424 studies with a rational nexus to the development, including master plans made in accordance  
425 with section 81D of chapter 41 and proportionate share impact fee studies under section 9F. A  
426 development impact fee shall not be assessed or expended for personnel costs, normal operation  
427 and maintenance costs or to remedy deficiencies in existing facilities; provided, however, that an  
428 impact fee may be assessed for mitigation on a facility with a preexisting deficiency to the extent  
429 that the preexisting deficiency is exacerbated and not solely to remedy the preexisting deficiency.

430 (c) No development impact fee shall be imposed on a farming or agricultural use  
431 recognized in section 1A of chapter 128 or on a dwelling unit with an affordable housing  
432 restriction, as defined by section 31 of chapter 184, of not less than 30 years. To the extent that a  
433 development contains a nonexclusively farming or agricultural use or nonexclusively affordable  
434 housing restricted unit, and the per cent of farming or agricultural use or affordable housing

435 restricted units is not trivial, the by-law or ordinance shall prorate or eliminate the development  
436 impact fee.

437 Development impact fees shall be proportionately reduced to the extent that a  
438 municipality imposes other fees or requirements, otherwise imposed by law, for mitigation of  
439 development including, but not limited to, fees imposed under chapter 40C and section 40 of  
440 chapter 131. No fee shall be assessed more than once for the same impact. If, and to the extent  
441 that, a municipality receives state or federal funds for mitigation of the development impacts or  
442 other grants or contributions for mitigation of development impacts, those funds shall be  
443 accounted for in the development impact fee or applied to the development impact fee  
444 proportional share development impact study.

445 (d) A development impact fee assessed under this section shall be due and payable not  
446 earlier than the issuance of the building permit upon commencement of construction, which may  
447 include site preparation work. The fee shall be deposited in a separate, segregated, interest-  
448 bearing account in the city or town in which the proposed development is located and no  
449 development impact fee shall be paid to the general treasury or used as general expenses of the  
450 city or town.

451 Any funds not expended or encumbered by the end of the calendar quarter immediately  
452 following 6 years from the date the development impact fee was paid shall be returned with  
453 interest. If disagreement exists relative to who shall receive the unexpended or unencumbered  
454 fees, the city or town may retain the development impact fee pending instructions given in  
455 writing by the parties involved or by a court of competent jurisdiction.

456 (e) A zoning ordinance or by-law may provide that the applicant or developer may  
457 construct the public capital facility or a portion thereof for which the development impact fee  
458 was assessed or may enter into any other mutual agreement in lieu of paying the development  
459 impact fee; provided, however, that the applicant or developer shall not be required to construct  
460 the public capital facility or a portion thereof or enter into an alternative agreement if instead the  
461 applicant or developer chooses to pay the assessed development impact fee.

462 (f) No development impact fee shall be assessed unless it is assessed pursuant to a valid  
463 proportionate-share development impact fee study. A proportionate-share development impact  
464 fee study shall establish the proportionate share development impact fee for capital facilities and  
465 detail the methodology used to set the fee. The scope of the study may be jurisdiction-wide or  
466 limited to a geographic area or category of public capital facilities that development impact fees  
467 may be intended to address. A municipality may rely upon credible and professionally  
468 recognized methodologies for the study. The study shall be updated not less than every 10 years  
469 to reflect actual development activity, actual costs of infrastructure improvements completed or  
470 underway, plan changes or amendments to the zoning ordinance or by-law. The study shall  
471 identify any preexisting deficiencies in the public capital facilities and shall set forth a feasible  
472 implementation plan for how those deficiencies shall be remedied. A proportionate share  
473 development impact fee study shall not be valid and no development impact fees shall be  
474 assessed if 10 years have passed since the study's creation or its most recent update.

475 An ordinance or by-law may waive or reduce the development impact fee for  
476 development that furthers a public purpose as determined in a master plan adopted by the city or  
477 town under section 81D of chapter 41 or other formally approved plan designed to set goals for  
478 the development of land within the city or town.

479 Notwithstanding this section, a city or town authorized to impose development impact  
480 fees pursuant to a special act shall comply with the standards set forth in the special act.

481 Section 9F. (a) A zoning ordinance or by-law may require the applicant for a residential  
482 or mixed use development to provide inclusionary housing units in return for municipal  
483 affordable housing concessions. In establishing any such ordinance or by-law, the city or town  
484 shall consider the likely impacts of development on the affordable housing assets of the  
485 municipality, the ability of the community to meet local and regional housing needs and the  
486 economic feasibility of development.

487 (b) An inclusionary housing ordinance or by-law shall provide municipal affordable  
488 housing concessions which shall be applied among affected developments in a reasonable and  
489 consistent manner.

490 (c) In lieu of constructing the required inclusionary housing units onsite, the ordinance or  
491 by-law may provide for the construction of such units off-site, the dedication of land for that  
492 purpose or the payment of funds to a separate account created by the city or town sufficient for  
493 and dedicated to inclusionary housing if the applicant demonstrates to the satisfaction of the local  
494 approving authority that the units cannot be otherwise provided onsite or that an alternative  
495 proposal better meets the needs of the city or town with respect to the provision of inclusionary  
496 housing. Off-site units, land dedication or payment in lieu of units, in the opinion of the board or  
497 official designated by ordinance or by-law to administer this section and in consideration of local  
498 needs, shall provide inclusionary housing benefits substantially equivalent to the provision of  
499 onsite units.

500 (d) A city or town may establish a separate dedicated account for the deposit of funds  
501 received under this section, including a Municipal Affordable Housing Trust Fund account under  
502 section 55C of chapter 44 or other dedicated accounts of similar purpose. These funds shall be  
503 deposited with the treasurer and disbursed for inclusionary housing in accordance with the  
504 ordinances, by-laws or regulations of the city or town. If the application of this section results in  
505 less than a full dwelling unit, the board may accept a prorated payment of funds in lieu of unit  
506 creation.

507 (e) The inclusionary housing units shall be subject to an affordable housing restriction for  
508 not less than 30 years, in accordance with sections 31 to 33, inclusive, of chapter 184 or, if  
509 ineligible under said sections 31 to 33, inclusive, of said chapter 184, restricted by other means  
510 as required in an ordinance or by-law.

511 (f) The ordinance or by-law may require some or all of the inclusionary housing units to  
512 be low-income or moderate-income housing as defined in sections 20 to 23, inclusive, of chapter  
513 40B, and shall be eligible for inclusion on the local subsidized housing inventory subject to and  
514 in accordance with applicable regulations and guidelines of the department of housing and  
515 community development. Nothing in this section shall require the department to include  
516 affordable units created under this section on the subsidized housing inventory.

517 Section 9G. No ordinance or by-law shall prohibit an owner of land or structures who  
518 has applied or intends to apply for a building permit, any permit or approval required under this  
519 chapter, an approval under sections 81K to 81GG, inclusive, of chapter 41 or a comprehensive  
520 permit under sections 20 to 23, inclusive, of chapter 40B from requesting of the public official or

521 local board charged with acting on the application to undertake a land use dispute avoidance  
522 process.

523 If the applicant and the public official or local board agree to a land use dispute  
524 avoidance process, the mediator or facilitator for the dispute avoidance process may convene  
525 meetings or conduct interviews that shall be confidential and privileged from discovery in  
526 accordance with section 23C of chapter 233. The mediator or facilitator shall have the  
527 protections provided under said section 23C of said chapter 233. To the extent that public bodies  
528 are participants, their deliberations may be held in executive session to the extent permitted by  
529 clause 9 of subsection (a) of section 21 of chapter 30A.

530 The applicant and the public official or local board shall, by an agreement in writing filed  
531 with the city or town clerk, stipulate and agree to extend any otherwise applicable time  
532 requirements of state or local law. Whether a resolution results, the applicant may proceed with  
533 the application without prejudice for having participated in a conflict evaluation or resolution  
534 effort and the application process shall proceed in due course as otherwise provided by law,  
535 ordinance or by-law.

536 SECTION 22. Said chapter 40A is hereby further amended by striking out section 10, as  
537 appearing in the 2014 Official Edition, and inserting in place thereof the following section:-

538 Section 10. Where literal enforcement of the zoning ordinance or by-law would result in  
539 practical difficulty, financial or otherwise, to the petitioner, upon appeal or upon petition with  
540 respect to particular land or structures, the permit-granting authority may grant a variance from  
541 the terms of the applicable zoning ordinance or by-law following a public hearing for which  
542 notice has been given by publication and posting as provided in section 11 and by mailing notice

543 to all interested parties. The practical difficulty necessitating the variance shall relate to the  
544 physical characteristics including, but not limited to, soil conditions, shape or topography or  
545 location of the site or of the structures thereon.

546 In making its determination, the permit-granting authority shall take into consideration  
547 the benefit to the applicant if the variance is granted as well as the detriments to the health, safety  
548 and welfare of the neighborhood or community if the variance is granted. In order to grant a  
549 variance, the permit-granting authority shall make all of the following findings: (i) the benefit  
550 sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue,  
551 other than a variance; (ii) the variance will not have a disproportionately adverse effect on  
552 nearby properties, the character of the neighborhood or the environment; (iii) the variance will  
553 not nullify or substantially derogate from the intent or purpose of the ordinance or by-law or a  
554 master plan under section 81D of chapter 41 if a master plan is in effect; and (iv) the claimed  
555 difficulty relating to the property in question is unique and does not also apply to a substantial  
556 portion of the district or neighborhood. The permit-granting authority may also take into  
557 consideration the extent to which the claimed difficulty is self-created and may base a denial  
558 solely upon a finding that the claimed difficulty is self-created. In the granting of variances, the  
559 permit-granting authority shall grant the minimum variance that it deems necessary to relieve the  
560 difficulty.

561 The permit-granting authority may impose conditions, safeguards and limitations both of  
562 time and of use, including the continued existence of any particular structures, but excluding any  
563 condition, safeguards or limitation based upon the continued ownership of the land or structures  
564 to which the variance pertains by the applicant, petitioner or an owner.

565           Except where local ordinances or by-laws expressly permit variances for use, no variance  
566 may authorize a use or activity not otherwise permitted in the district in which the land or  
567 structure is located. No variance may authorize a use or activity not otherwise permitted in the  
568 district in which the land or structure is located unless the permit-granting authority specifically  
569 finds that owing to circumstances relating to the soil conditions, shape or topography of the land  
570 or structures and especially affecting such land or structures but not affecting generally the  
571 zoning district in which it is located, a literal enforcement of the ordinance or by-law would  
572 involve substantial hardship, financial or otherwise, to the petitioner or appellant and that  
573 desirable relief may be granted without detriment to the public good and without nullifying or  
574 substantially derogating from the intent or purpose of such ordinance or by-law. Variances for  
575 use shall be subject to all of this section and any more stringent criteria contained in an ordinance  
576 or by-law. Variances for use properly granted prior to January 1, 1976 but limited in time, may  
577 be extended on the same terms and conditions that were in effect for that variance upon the  
578 effective date.

579           Once exercised, variances shall run with the land but a use variance may run with the  
580 land only if determined by the permit-granting authority acting pursuant to an ordinance or by-  
581 law enabling such a determination.

582           If the rights authorized by a variance are not exercised within 2 years after the date of the  
583 grant of the variance, the variance shall lapse; provided, however, that upon written application  
584 by the grantee of the variance, the permit-granting authority may extend, without a public  
585 hearing unless so required by a zoning ordinance or by-law, the time to exercise such rights for  
586 up to 1 year. The application shall be filed not later than 65 days before the lapse of the  
587 variance. If the permit-granting authority does not grant the extension before the lapse of the

588 variance then, upon the lapse of the variance the variance may be reestablished only after notice  
589 and a new hearing pursuant to this section.

590 SECTION 23. Section 11 of said chapter 40A, as so appearing, is hereby amended by  
591 inserting after the word “town” , in line 15, the following words:- , the board of health of the city  
592 or town.

593 SECTION 24. Section 17 of said chapter 40A, as so appearing, is hereby amended by  
594 inserting after the sixth paragraph the following paragraph:-

595 The court, in its discretion, may require non-municipal plaintiffs in an action under this  
596 section to post a surety or cash bond in an amount not to exceed \$15,000 to secure the payment  
597 of costs in appeals of decisions approving special permits, variances and site plans where the  
598 court finds that the harm to the defendants or to the public interest resulting from the delays of  
599 appeal outweighs the burden of the surety or cash bond on the plaintiffs. When making a  
600 decision regarding surety or cash bond requirements, the court may consider the relative merits  
601 of the appeal and the relative financial means of the appellant and the defendants.

602 SECTION 25. Said chapter 41 is hereby further amended by striking out section 81D, as  
603 so appearing, and inserting in place thereof the following section:-

604 Section 81D. (a) A planning board established in a city or town shall make a master plan  
605 for the city or town in accordance with this section. The plan shall take effect upon adoption by  
606 the legislative body as provided herein. The planning board shall, from time to time, not to  
607 exceed 10 years from the date of adoption, conduct a comprehensive review of the plan and may  
608 extend, revise or remake the plan subject to approval as provided in this section. The plan, once

609 adopted, shall be the official master plan of the city or town and shall replace any previously  
610 adopted master plan.

611 (b) The plan shall be a comprehensive framework, through text, maps and illustrations  
612 that provides a basis for decision-making about land use and the long-term physical development  
613 of the municipality. The plan shall be internally consistent in its policies, forecasts and standards  
614 and may support and provide a rationale for the municipality's zoning ordinance or by-laws,  
615 subdivision regulations and other land use laws, regulations, policies and capital expenditures.

616 (c) The plan shall include the elements required by this section and may include any  
617 optional subjects at the discretion of the municipality. The plan shall address the following  
618 elements:

619 (i) goals and objectives statement of the municipality for its future growth, development,  
620 redevelopment, conservation and preservation; provided, however, that each community shall  
621 conduct a public participation process to determine community values, establish goals and  
622 identify patterns of development, redevelopment, conservation and preservation consistent with  
623 these goals; and provided further, that at a minimum, the goals and objectives statement shall  
624 address the elements required to be included in the plan;

625 (ii) a housing element that shall include: (A) an inventory of local demographic  
626 characteristics, an assessment and forecast of housing needs and a statement of local housing  
627 policies; (B) an analysis of housing units by type of structure, affordable housing and subsidized  
628 housing, housing available for rental, special needs housing and housing for the elderly; (C) an  
629 assessment of existing local policies, programs, laws or regulations that encourage the  
630 preservation, improvement and development of housing; and (D) an evaluation of zoning and

631 other land use policies designed to meet local housing needs including, but not limited to, the  
632 affordable housing needs of low, moderate and median income households and the accessible  
633 housing needs of people with disabilities and special needs; provided, however, that a current  
634 housing production plan consistent with sections 20 to 23, inclusive, of chapter 40B or any  
635 regulations thereto may fulfill the evaluation requirement of this clause;

636 (iii) a natural resources and energy management element that shall include: (A)  
637 identification of the significant natural and energy resources of the municipality; (B)  
638 identification of protected and unprotected wetlands and water resources, lands critical to  
639 sustaining surface and groundwater quality and quantity, environmentally sensitive lands, critical  
640 wildlife habitat and biodiversity, agricultural lands and forests, protection of wildlife habitat,  
641 water resources, vistas and key landscapes, outdoor recreation facilities and farm and forestry  
642 land; provided, however, that in cities and towns with agricultural commissions created by the  
643 legislative or executive body of the city or town, those elements of the plan dealing with  
644 agricultural topics shall be prepared jointly by the agricultural commission and the planning  
645 board; (C) an examination of local laws, regulations, policies and strategies to address needs for  
646 the protection, restoration and sustainable management of natural resources; and (D) an energy  
647 component that explores locally feasible land use strategies to maximize energy efficiency and  
648 renewable energy opportunities, support land, energy, water and materials conservation  
649 strategies, local clean power generation, distributed generation technologies and innovative  
650 industries and addresses global climate change by reducing greenhouse gas emissions and the  
651 consumption of fossil fuels;

652 (iv) a land use and zoning element that includes: (A) an identification of historic  
653 settlement patterns and present land uses and designation of the proposed distribution, location

654 and interrelationship of public and private land uses; (B) land use policies and related maps  
655 which shall be based upon a land use suitability analysis identifying areas most suitable for  
656 development and related transportation infrastructure and facilities; (C) growth and development  
657 areas that support the revitalization of city and town centers and neighborhoods by promoting  
658 development that is compact and walkable, conserves land, protects historic resources, integrates  
659 uses and coordinates the provision of housing with the location of jobs, transit and services and  
660 new infrastructure; (D) an identification of areas for economic development and job creation,  
661 related public and private transportation and pedestrian connections and encourages the creation  
662 or extension of pedestrian-accessible districts and neighborhoods that mix commercial, civic,  
663 cultural, educational and recreational activities with open space and housing; (E) consideration  
664 of the relationship between proposed development intensity and the capacity of land and existing  
665 and planned public facilities and infrastructure; and (F) a land use map illustrating the land use  
666 policies and desired future development patterns of the municipality and a proposed zoning map;  
667 and

668 (v) an implementation program element that defines and prioritizes the actions necessary  
669 to achieve the goals and objectives of the master plan; provided, however, that the  
670 implementation program shall specify the recommended course of action by which the  
671 municipality's regulatory structures, including zoning and subdivision control regulations, may  
672 need to be amended in order to be consistent with the master plan.

673 (d) In addition to elements required by this section, the master plan may include,  
674 depending on community characteristics, any of the following elements:

675 (i) an economic development element that includes: (A) an inventory and analysis of the  
676 local economic base; (B) an assessment of opportunities and barriers to economic development;  
677 (C) an assessment of opportunities and barriers to agriculture, including all branches of farming  
678 and forestry; and (D) an assessment of opportunities and barriers to self-employment and home-  
679 based occupations;

680 (ii) a cultural resources element that identifies the significant cultural, scenic and historic  
681 structures, sites and landscapes of the municipality, including archaeological resources and  
682 policies and strategies to protect and manage the community's cultural resources;

683 (iii) an open space protection and recreation element that inventories recreational  
684 facilities and open space areas of the municipality and policies and strategies for the  
685 management, protection and enhancement of those facilities and areas as essential public health  
686 infrastructure; provided, however, that an open space and recreational plan approved by the  
687 division of conservation services shall constitute the open space protection and recreation  
688 element under this subsection;

689 (iv) an infrastructure and capital facilities element to identify and analyze existing and  
690 forecasted needs for infrastructure and facilities used by the public; provided, however, that the  
691 element shall detail scheduled expansion or replacement of public facilities, infrastructure  
692 components or circulation system components and the anticipated costs and revenues associated  
693 with those activities;

694 (v) a transportation element including: (A) an inventory of existing and proposed  
695 circulation, parking and transportation systems; (B) an assessment of opportunities and barriers  
696 to increasing access to transportation options, including land and water-based public transit,

697 bicycling, walking, and transportation services for populations with disabilities; and (C)  
698 identification of strategic investment options for transportation infrastructure to encourage smart  
699 growth, maximize mobility, conserve fuel and improve air quality and to facilitate the location of  
700 new development where a variety of transportation modes can be made available;

701 (vi) a water management element that shall include: (A) an inventory of current and  
702 potential municipal sources of water supply, including capacity and safe yield and an assessment  
703 of water demand including types of water users, changes in water consumption over time and  
704 water billing rate structure; (B) an assessment of the adequacy of existing and proposed water  
705 supplies to meet projected demands, water quality and treatment issues, existing measures for  
706 water supply protection, water conservation drought management and emergency  
707 interconnections; (C) an assessment of the ability of stormwater regulations and practices to  
708 limit off-site stormwater runoff to levels substantially similar to natural hydrology through  
709 decentralized management practices and the protection of onsite natural features; (D) an analysis  
710 of municipal need and capacity for wastewater disposal, including the suitability of sites and  
711 water bodies for the discharge of treated wastewater; and (E) recommended strategies for water  
712 supply provision and protection, water conservation, wastewater disposal, stormwater  
713 management, drought management and emergency interconnections and needed improvements  
714 to meet future water resource needs; and.

715 (vii) a public health element that shall include: (A) an inventory of conditions and assets  
716 in the natural and built environment which contribute to or constitute a barrier to health,  
717 including a description of conditions with a disproportionate impact on residents based on  
718 geography, ethnicity, income, immigration status or other characteristics; (B) an assessment of  
719 opportunities and barriers to increasing access to conditions and assets in the natural or built

720 environment that contribute to health; and (C) recommendations of available implementation  
721 policies and strategies, including zoning and other local laws and regulations, affecting health  
722 needs related to the natural or built environment.

723 Any elements included in a master plan shall include a self assessment against similar  
724 subject matter in a regional plan adopted by the regional planning agency under section 5 of  
725 chapter 40B in effect, if any, or under any special act.

726 (e) A master plan shall only be made, extended, revised or remade by a simple majority  
727 vote of the planning board after a public hearing, notice of which shall be posted and published  
728 in the manner prescribed for zoning amendments under section 5 of chapter 40A. Following any  
729 vote of the planning board, the planning board shall transmit the plan to the chief executive  
730 officer of the city or town and the plan shall be an agenda item or warrant article on a subsequent  
731 legislative session of the city or town. Adoption of the plan or the extension, revision or remake  
732 of the plan shall be by a simple majority vote of the legislative body of the city or town;  
733 provided, however, that no vote of the legislative body to alter the plan or amendment as  
734 proposed by the planning board shall be other than by a 2/3 majority. The planning board, upon  
735 adoption by the legislative body of a plan or report or any change or amendment to a plan or  
736 report produced under this section, shall furnish a copy of the plan or report or any change or  
737 amendment to the department of housing and community development.

738 (f) A municipality in Barnstable County or the county of Dukes County may adopt a local  
739 comprehensive plan pursuant to chapter 716 of the acts of 1989 or chapter 831 of the acts of  
740 1977 and the regulations and regional policy plans adopted thereunder. The regional planning  
741 agency shall review the local comprehensive plan solely for consistency with the governing

742 special act and any applicable regulations and regional policy plans; provided, however, that the  
743 time requirements of this section shall not apply to the review of local comprehensive plans. An  
744 adopted local comprehensive plan certified by the regional planning agency as consistent with  
745 this section shall be deemed a master plan in compliance with this section and shall entitle the  
746 municipality to any statutory benefits of having an adopted master plan.

747 SECTION 26. Section 81L of said chapter 41, as so appearing, is hereby amended by  
748 inserting after the word “thereon”, in line 72, the following words:- ; provided, however, that the  
749 division may be deemed a minor subdivision if the city or town has adopted a minor subdivision  
750 ordinance or by-law.

751 SECTION 27. Said section 81L of said chapter 41, as so appearing, is hereby further  
752 amended by striking out the definition of the word “Lot” and inserting in place thereof the  
753 following 2 definitions:-

754 “Lot”, an area of land in 1-ownership, with defined boundaries, used or available for use  
755 as the site of 1 or more buildings.

756 “Minor subdivision”, in accordance with section 81HH, the division of a lot, tract or  
757 parcel of land into 2 or more lots, tracts or parcels where, at the time when it is made, every lot  
758 within the lot, tract or parcel so divided has frontage on: (i) a public way or a way which the  
759 clerk of the city or town certifies is maintained and used as a public way; (ii) a way shown on a  
760 plan approved and endorsed in accordance with the subdivision control law; or (iii) a way in  
761 existence when the subdivision control law became effective in the city or town in which the  
762 land lies having, in the opinion of the planning board, sufficient width, suitable grades and  
763 adequate construction to provide for the needs of vehicular traffic in relation to the proposed use

764 of the land abutting thereon or served thereby and for the installation of municipal services to  
765 serve the land and the buildings erected or to be erected thereon; provided, however, that the  
766 frontage shall be of at least the distance as is then required by the zoning ordinance or by-law, if  
767 any, of the city or town for erection of a building on the lot and, if no distance is so required, the  
768 frontage shall be of at least 20 feet.

769 SECTION 28. Section 81O of said chapter 41, as so appearing, is hereby amended by  
770 inserting after the word “effect”, in line 2, the following words:- and a minor subdivision  
771 ordinance or by-law is not in effect.

772 SECTION 29. Said section 81O of said chapter 41, as so appearing, is hereby further  
773 amended by inserting after the word “feet”, in line 17, the following words:- , unless the city or  
774 town has adopted a minor subdivision ordinance or by-law, in which case it shall be approved  
775 accordingly.

776 SECTION 30. Section 81Q of said chapter 41, as so appearing, is hereby amended by  
777 inserting after the fourth sentence the following sentence:- Design and dimensional requirements  
778 for total travel lane widths not greater than 24 feet shall be presumed not to be excessive.

779 SECTION 31. Section 81U of said chapter 41, as so appearing, is hereby amended by  
780 striking out, in line 187, the words “for a period of not more than three years”.

781 SECTION 32. Section 81X of said chapter 41, as so appearing, is hereby amended by  
782 striking out the fourth paragraph and inserting in place thereof the following 2 paragraphs:-

783 Notwithstanding any other provision of this section, the register of deeds shall accept for  
784 recording and the land court shall accept with a petition for registration or confirmation of title,

785 any plan bearing a professional opinion by a registered professional land surveyor that the  
786 property lines shown are the lines dividing existing ownerships and the lines of streets and ways  
787 shown are those of public or private streets or ways already established and that no new lines for  
788 division of existing ownership or for new ways are shown.

789 The register of deeds and the land court shall accept for recording and the land court shall  
790 accept with a petition for registration any plan showing a change in the line of any lot, tract or  
791 parcel bearing a professional opinion by a registered professional land surveyor and a certificate  
792 by the person or board charged with the enforcement of the zoning ordinance or by-law of the  
793 city or town that the property lines shown: (i) do not create an additional building lot; (ii) do not  
794 create, add to or alter the lines of a street or way; (iii) do not render an existing legal lot or  
795 structure illegal; (iv) do not render an existing nonconforming lot or structure more  
796 nonconforming; and (v) are not subject to alternative local rules and regulations for minor  
797 subdivisions under section 81HH. A request for such a certificate shall be acted upon within 21  
798 days and shall not be withheld unless a finding is made that the plan violates any of the aforesaid  
799 criteria and the finding is stated in writing to the person making the request. Failure to so act  
800 within 21 days shall be deemed an approval of the lot line change. All plans, if approved and as  
801 recorded, shall be filed with the planning board and the board of assessors of the city or town.  
802 The recording of such a plan shall not relieve any owner from compliance with the subdivision  
803 control law or any other applicable law.

804 SECTION 33. Paragraph 1 of section 81BB of said chapter 41, as so appearing, is hereby  
805 amended by striking out the second and third sentences and inserting in place thereof the  
806 following 4 sentences:- Such civil action shall be in the nature of certiorari pursuant to section 4  
807 of chapter 249. A complaint by a plaintiff challenging a subdivision or minor subdivision

808 approval under this section shall allege the specific reasons why the subdivision or minor  
809 subdivision fails to satisfy the requirements of the board's rules and regulations or other  
810 applicable law and allege specific facts establishing how the plaintiff is aggrieved by the  
811 decision. A complaint by an applicant challenging a subdivision or minor subdivision denial or  
812 conditioned approval under this section shall similarly allege the specific reasons why the  
813 subdivision or minor subdivision properly satisfies the requirements of the board's rules and  
814 regulations or other applicable law. The fourth to seventh paragraphs, inclusive, of section 17 of  
815 chapter 40A shall govern the allowance of costs and the requirement of a surety or cash bond for  
816 actions under this section.

817 SECTION 34. Said chapter 41 is hereby further amended by inserting after section  
818 81GG the following section:-

819 Section 81HH. (a) Notwithstanding any general or special law to the contrary, a city or  
820 town may, by 2/3 vote, to adopt an ordinance or by-law indicating the city's or town's intent to  
821 regulate a minor subdivision consistent with this section.

822 (b) A minor subdivision shall, except as provided for in this section, be controlled by the  
823 subdivision control law. An applicant for a minor subdivision may create up to 6 lots; provided,  
824 however, that a local legislative body by a simple majority vote may increase the maximum  
825 number of additional lots created in an application for a minor subdivision to a number greater  
826 than 6.

827 (c) No application for a minor subdivision shall be: (i) subject to a public hearing if every  
828 lot within the lot has frontage on an existing way; (ii) subject to the requirements of section 81S;  
829 (iii) subject to requirements for the location of a way; (iv) subject to a requirement that total

830 travelled lanes' widths shall be greater than 22 feet in a residential minor subdivision; (v) subject  
831 to a procedural or substantive requirement more stringent than those specified in this chapter or  
832 contained in a city or town's local rules and regulations otherwise applicable to subdivisions; and  
833 (vi) denied unless such denial is approved by a vote of 2/3 of the members of the planning board.

834 (d) For a minor subdivision on an existing way, the planning board shall take final action  
835 and file with the city or town clerk a certificate of such action within 55 days. Failure to take  
836 final action and file with the city or town clerk a certificate of such action within 55 days shall be  
837 deemed an approval of a minor subdivision on an existing way.

838 (e) For a minor subdivision on a new way, the planning board shall take final action and  
839 file with the city or town clerk a certificate of such final action within 85 days. Failure to take  
840 final action and file such certificate within 85 days shall be deemed an approval of a minor  
841 subdivision on a new way.

842 (f) Nothing in this section shall prohibit a city or town, subject to ratification by the local  
843 legislative body by a simple-majority vote, from: (i) defining "minor subdivision" more broadly;  
844 (ii) lessening or eliminating a requirement otherwise applicable to subdivisions; or (iii) creating a  
845 means by which the planning board may, by agreement with the applicant, accept payments from  
846 the applicant in lieu of otherwise required improvements to an existing way; provided, however,  
847 that those improvements shall be completed by the city or town in a reasonable period of time.

848 (g) Notwithstanding any provision of this section, the owner of a parcel of land that is in  
849 forest, agricultural or horticultural use and that has for at least the prior 2 years from the date of  
850 application satisfied the statutory requirements for tax classification under chapter 61 or 61A,  
851 may, in a 365-day period, submit to the planning board a plan of lots showing a division of the

852 parcel to create therefrom up to 2 additional lots as if the city or town had not adopted a minor  
853 subdivision by-law or ordinance. The plan shall be accompanied by sufficient evidence upon  
854 which the planning board shall find that the statutory requirements for tax classification of the  
855 original parcel, other than the filing of an application, have been verified and that the number of  
856 division lots created from the original parcel, including the lots shown on the plan, does not  
857 cumulatively exceeded 6 lots. In any case where that area of the original parcel remaining after  
858 any division under this paragraph would be insufficient to qualify the remaining original parcel  
859 for tax classification, division lots created under this paragraph shall not exceed 2 acres or the  
860 area required by the applicable zoning ordinance or by-law by more than 50 per cent, whichever  
861 is greater. Where a division lot exceeds 2 acres or exceeds the area required by the applicable  
862 zoning ordinance or by-law by more than 50 per cent, whichever is greater, the aggregate area of  
863 all division lots shall not exceed 10 per cent of the total area of the original parcel as it existed on  
864 the date of first application under this paragraph. Division lots created under this paragraph shall  
865 be subject to the vested rights protections for minor subdivisions under the fifth paragraph of  
866 section 6 of chapter 40A. Nothing in this paragraph shall prevent further division of any lots or  
867 parcels under this chapter. Nothing in this paragraph shall be construed as a requirement to  
868 retain the remainder parcel as open space to determine roll-back taxes under said chapter 61 or  
869 61A. As used in this paragraph, an “original parcel” shall constitute the area of land bounded by  
870 the parcel at the time of first application under this paragraph regardless of how later divided or  
871 reconfigured. For the purposes of this paragraph, “original parcel” shall mean any parcel of land  
872 that is in forest, agricultural or horticultural use and that has for at least 2 years prior to the date  
873 of application satisfied the statutory requirements for tax classification under said chapter 61 or  
874 chapter 61A, “division lots” shall mean the 2 additional lots divided from the original parcel

875 subject to the frontage requirements defined in section 81L under minor subdivisions and which  
876 may be approved as if the city or town had not adopted a minor subdivision by-law or ordinance  
877 and “remainder parcel” shall mean the area of the original parcel remaining after any division  
878 under this paragraph.

879 SECTION 35. Section 3A of chapter 185 of the General Laws, as so appearing, is hereby  
880 amended by striking out the third and fourth paragraphs and inserting in place thereof the  
881 following 2 paragraphs:-

882 The permit session shall have original jurisdiction, concurrently with the superior court  
883 department, over civil actions in whole or part: (1) based on or arising out of the appeal of any  
884 municipal, regional, or state permit, order, certificate or approval, or the denial thereof,  
885 concerning the use or development of real property for residential, commercial, or industrial  
886 purposes (or any combination thereof), including without limitation appeals of such permits,  
887 orders, certificates or approvals, or denials thereof, arising under or based on or relating to  
888 chapter 21, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40A to 40C, inclusive,  
889 40R, 41, 43D, 91, 131, 131A, or sections 4 and 5 of chapter 249, or chapter 665 of the acts of  
890 1956; or any local bylaw or ordinance; (2) seeking equitable or declaratory relief designed to  
891 secure or protect the issuance of any municipal, regional, or state permit or approval concerning  
892 the use or development of real property, or challenging the interpretation or application of any  
893 municipal, regional, or state rule, regulation, statute, law, by-law, or ordinance concerning any  
894 permit or approval; (3) claims under section 6F of chapter 231, or for malicious prosecution,  
895 abuse of process, intentional or negligent interference with advantageous relations, or intentional  
896 or negligent interference with contractual relations arising out of, based upon, or relating to the  
897 appeal of any municipal, regional, state permit or approval concerning the use or development of

898 real property; and (4) any other claims between persons holding any right, title, or interest in land  
899 and any municipal, regional or state board, authority, commission, or public official based on or  
900 arising out of any action taken with respect to any permit or approval concerning the use or  
901 development of real property but in all such cases of claims (1) to (4), inclusive, only if (a) the  
902 action does not contain any claim of right to a jury trial, and (b) the underlying project or  
903 development, in the case of a development that is residential or a mix of residential and  
904 commercial components, involves either 25 or more dwelling units or the construction or  
905 alteration of 25,000 square feet or more of gross floor area or both or, in the case of a  
906 commercial or industrial development, involves the construction or alteration of 25,000 square  
907 feet or more of gross floor area.

908 Notwithstanding any other general or special law to the contrary, any action not  
909 commenced in the permit session, but within the jurisdiction of the permit session as provided in  
910 this section, shall be transferred to the permit session upon the filing by any party of a notice  
911 demonstrating compliance with the jurisdictional requirements of this section filed with the court  
912 where the action was originally commenced with a copy to the chief justice of the land court.  
913 Unless the court where the action was originally commenced receives notice within 10 days from  
914 the land court that the case to be transferred does not meet the jurisdictional requirements of this  
915 section, the original court shall transfer the case file to the land court permit session within 20  
916 days after its receipt of the notice of transfer from the party. In the event the court receives  
917 notice of noncompliance with jurisdictional requirements, the court where the action was  
918 originally commenced shall decide the matter on motion filed by the party claiming  
919 noncompliance. If a party to an action commenced in or transferred to the permit session claims  
920 a valid right to a jury trial, then the action shall be transferred to the superior court for a jury trial.

921 SECTION 36. Section 4 of chapter 249 of the General Laws, as so appearing, is hereby  
922 amended by striking out the second sentence and inserting in its place thereof the following  
923 sentence:- Except as otherwise provided by law, such action shall be commenced within 60 days  
924 after the proceeding complained of.

925 SECTION 37. A city or town that had adopted a zoning ordinance or by-law requiring a  
926 form of inclusionary zoning before the effective date of this act shall, within 3 years after that  
927 effective date, revise the ordinance or by-law to conform to section 9F of chapter 40A of the  
928 General Laws. Following 3 years after the effective date of this act, any provision of such a  
929 preexisting inclusionary zoning ordinance or by-law that does not conform to said section 9F of  
930 said chapter 40A shall only apply to the extent and in a manner consistent with said section 9F of  
931 said chapter 40A.

932 SECTION 38. A master plan adopted pursuant to section 81D of chapter 41 of the  
933 General Laws and in effect on or before the effective date of this act may continue in full force  
934 and effect, including minor amendments to update or perfect the plan; provided, however, that  
935 the plan shall be revised to conform to said section 81D of said chapter 41 within 10 years after  
936 the effective date of this act.

937 SECTION 39. Any city or town that had adopted a zoning ordinance or by-law requiring  
938 site plan review before the effective date of this act shall, within 3 years after that date, revise the  
939 ordinance or by-law to conform to section 9D of chapter 40A of the General Laws. Following 3  
940 years after the effective date of this act, any provision of a preexisting site plan review ordinance  
941 or by-law that does not conform to said section 9D of said chapter 40A shall only apply to the  
942 extent and manner consistent with said section 9D of said chapter 40A.

943 SECTION 40. Any variance granted prior to the effective date of this act shall be  
944 governed by the terms of the variance and shall run with the land unless a condition, safeguard or  
945 limitation contained therein prescribes otherwise.

946 SECTION 41. Section 5 shall apply to local approvals submitted on or after July 1, 2017.

947 SECTION 42. Section 9E of chapter 40A, as inserted by section 21, shall take effect on  
948 January 1, 2018.

949 SECTION 43. Sections 6 and 8 shall take effect on July 1, 2019.

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