

127 by special permit or by other methods, including, but not limited to, the applicable provisions of
128 sections 81K-81GG, inclusive, of chapter 41, and in accordance with a planning board's rules
129 and regulations governing subdivision control, and provided that prior to adoption, any inter-
130 municipal transfer of development rights ordinance or by-law shall be submitted to the
131 Department of Housing and Community Development to assess whether it is consistent with
132 federal and state fair housing laws, and provided that such ordinance or bylaw shall be deemed
133 consistent unless the Department makes a written finding of inconsistency within 30 days of
134 submission; and (E) to provide for cluster development or natural resource protection zoning,
135 which may proceed by right or by other methods, including, but not limited to, the applicable
136 provisions of sections 81K-81GG, inclusive, of chapter 41, and in accordance with a planning
137 board's rules and regulations governing subdivision control.

138 Rule of Construction: To the extent that the powers enumerated in this section are
139 construed to be inherent in the constitutional and existing statutory authority of cities and towns
140 and not pre-empted by other state laws, such enumeration is hereby deemed to be merely
141 confirmatory or illustrative.

142 Special Acts: Nothing in this chapter shall be construed as limiting the authority of the
143 regional planning agencies under St. 1989, c. 716, as amended, entitled "An Act Establishing the
144 Cape Cod Commission," and St. 1977, c. 831, as amended, entitled "An Act Further Regulating
145 the Protection of the Land and Waters of the Island of Martha's Vineyard," or any municipality
146 within Barnstable or Dukes county acting pursuant to these special acts, including but not limited
147 to the designation of districts of critical planning concern, the adoption of regulations for such
148 districts, the review of developments of regional impact, and the imposition development impact
149 fees. Where the provisions of this chapter conflict with these special acts and any regulations,
150 ordinances, regional policy plans, or decisions issued or adopted thereunder, the latter shall
151 control.

152 SECTION 4. Section 5 of said chapter 40A, as so appearing, is hereby amended by
153 inserting, at the beginning of the fifth paragraph, the following words:- Except where a different
154 majority vote has been prescribed in a zoning ordinance or by-law,

155 SECTION 5. Said section 5 of said chapter 40A, as so appearing, is hereby amended by
156 inserting, at the end of the fifth paragraph, the following sentence:- Any local change in the
157 majority vote required shall be limited to a range anywhere between a simple majority and a two-
158 thirds majority, shall be made by the vote majority then in effect, and shall not become effective
159 until six months have elapsed after such vote.

160 SECTION 6. Section 6 of said chapter 40A, as so appearing, is hereby amended by
161 striking out, in the first sentence of the first paragraph, the words "or to a building or special
162 permit issued before the first publication of notice of the public hearing on such ordinance or by-
163 law required by section five,".

164 SECTION 7. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
165 striking out, in the first sentence of the first paragraph, the words “to a building or special permit
166 issued after the first notice of said public hearing.”.

167 SECTION 8. Section 6 of said chapter 40A, as so appearing, is hereby amended by
168 striking out the second paragraph and inserting in place thereof the following paragraph:-

169 If a complete application for a building permit or special permit is duly submitted, and
170 written notice of such submission has been given to the city or town clerk before the first
171 publication of notice of the public hearing on such ordinance or by-law required by section five,
172 the permit shall be governed by the applicable provisions of the zoning ordinance or by-law, if
173 any, in effect at the time of the first such submission while such permit or permits are being
174 processed, and, if such permit or an amendment thereof is finally approved, for two years in the
175 case of a building permit and three years in the case of a special permit from the date of the
176 granting of such approval. Such period of two or three years shall be extended by a period equal
177 to the time which a city or town imposes or has imposed upon it by a state, a federal agency, or a
178 court, a moratorium on construction, the issuance of permits, or utility connections.

179 SECTION 9. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
180 striking out the second sentence in the fourth paragraph.

181 SECTION 10. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
182 striking out the fifth paragraph and inserting in place thereof the following paragraph:-

183 If a complete application for a definitive plan is duly submitted to a planning board for
184 approval under the subdivision control law, and written notice of such submission has been given
185 to the city or town clerk before the first publication of notice of the public hearing on such
186 ordinance or by-law required by section five, the plan shall be governed by the applicable
187 provisions of the zoning ordinance or by-law, if any, in effect at the time of the first such
188 submission while such plan or plans are being processed under the subdivision control law, and,
189 if such definitive plan or an amendment thereof is finally approved, for eight years from the date
190 of the endorsement of such approval. For the purposes of this section the term definitive
191 subdivision plan shall include a minor subdivision under section 81L and 81P of chapter 41,
192 provided the planning board has adopted rules and regulations for minor subdivisions under
193 section 81Q of said chapter. In such cases, the aforesaid provisions shall apply except that the
194 period of time shall be four years from the date of the endorsement of such approval. Such
195 period of eight or four years shall be extended by a period equal to the time which a city or town
196 imposes or has imposed upon it by a state, a federal agency, or a court, a moratorium on
197 construction, the issuance of permits, or utility connections.

198 SECTION 11. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
199 striking out the sixth paragraph.

200 SECTION 12. Said section 6 of said chapter 40A, as so appearing, is hereby amended by
201 striking out, in the second sentence of the seventh paragraph, the words “land shown on”.

202 SECTION 13. Section 9 of said chapter 40A, as so appearing, is hereby amended by
203 striking out the words “Special Permits” in the title and inserting in place thereof the following
204 words in the title:- Special Provisions

205 SECTION 14. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
206 striking out the third, fourth, fifth, sixth, seventh, eighth, and ninth paragraphs.

207 SECTION 15. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
208 inserting, after the second paragraph, the following paragraph:-

209 Zoning ordinances or by-laws providing for multi-family residential use in non-
210 residentially zoned areas shall require a special permit and findings by the special permit
211 granting authority that the public good would be served, that such non-residentially zoned area
212 would not be adversely affected by such a residential use, and that permitted uses in such a zone
213 are not noxious to a multi-family use.

214 SECTION 16. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
215 striking out the last sentence in the twelfth paragraph and inserting in place thereof the following
216 sentence:- Unless a greater majority is specified in the zoning ordinance or by-law, issuance of a
217 special permit under this section shall require an affirmative vote of a simple majority of the
218 special permit granting authority. A greater majority vote requirement shall not exceed a vote of
219 two-thirds of the special permit granting authority in the case of a board with more than five
220 members, a vote of at least four members of a five member board, or a unanimous vote of a three
221 member board.

222 SECTION 17. Said section 9 of said chapter 40A, as so appearing, is hereby amended by
223 striking out the fourteenth paragraph and inserting in place thereof the following paragraphs:-

224 A special permit granted under this section shall state that it will lapse within a period of
225 time specified by the special permit granting authority, not less than three years, if a substantial
226 use thereof has not sooner commenced except for good cause or, in the case of a permit for
227 construction, if construction has not begun by such date except for good cause. The aforesaid
228 minimum period of three years may, by ordinance or by-law, be increased to a longer minimum
229 period. The period of time before which a special permit shall lapse shall not include the time
230 required to pursue or await the determination of an appeal from the grant thereof referred to in
231 section seventeen.

232 Upon written application by the grantee of a special permit, the special permit granting
233 authority in its discretion and without a public hearing may, by the same vote majority originally
234 required to approve the special permit, extend the time for the exercise of such special permit for