

## Comparison of *An Act Building for the Future of the Commonwealth (H.2420)*

March 6, 2018

This document compares the elements in H.2420 as originally filed with the changes made to the bill as it was reported out by the Joint Committee on Municipalities and Regional Government.

Element	Bill as Originally Filed	As Reported Out by Municipalities Committee
<b>Board training</b>	Directs DHCD to create training program, allows contract with Citizen Planner Training Collaboration, and training to be online and at various locations. Section: 1	Same. Section: 1
<b>Definitions</b>	12 definitions, including form based zoning. Sections: 2 (new definitions), 19 (striking old)	Same, except form based zoning removed. Sections: 2 (new definitions), 17 (striking old)
<b>Transfer of Development Rights</b>	Updated definition. Section: 3	Same. Section: 3
<b>Home Rule</b>	Statute does not limit home rule. Section: 4	Same. Section: 4
<b>Accessory Apartments</b>	Accessory by right for apts. within main single family structure, with provisos: lot size 5K or more, apt 900sf or less, municipalities may require either of units owner-occupied & muni can cap total number of units. DHCD can exempt communities by regulation based on multifamily housing stock and declining sale prices over the prior 3 years. Section: 5	Accessory by right, that is "occupied by the owner, so long as that unit or the principal dwelling is occupied by at least one person with disabilities or who is elderly." Can't be smaller than 450sf, "may include up to two bedrooms." The two DHCD exemptions based on multifamily housing stock and declining sale prices both removed. Section: 5

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<b>Multifamily zoning requirement</b>	Every community must provide "reasonable and realistic opportunities" for multifamily housing in eligible locations. No requirement of by right zoning or specified density. Section: 6	Removed.
<b>Cluster Development</b>	In any district with minimum lot size above 40,000 sq.ft. for single family, municipalities must offer cluster option for 5+ home developments. Cluster must identify natural/cultural resources, conserve at least 40% percent of land. Yield plan and density bonus both permitted. Section: 6	If a municipality already has an Open Space Residential Design (OSRD) ordinance, must meet certain requirements, including permanent preservation of 30-60% of developable land. Sketch plan or formula can be used to determine same number of homes as conventional subdivision, but not full conventional plan. If municipality does not have OSRD, owner proposing 5+ homes in district with minimum lot size 30,000 sq. ft. or more can use cluster option set forth in this provision (including at least 40% land conserved.) Enforcement paragraph (3) (AG/aggrieved applicant can sue) is removed. Section: 6
<b>Simple majority vote when municipalities not in compliance with Section 6</b>	If muni not in compliance with Section 6, then next proposal before legislative body that would bring it into compliance is by simple majority. Section: 8	Same, but now applies only to cluster ordinances. Section: 8
<b>Zoning Amendments</b>	Municipality can vote to lower majority. Section: 7, 10	Same. Section: 7, 10
<b>Consistency with master plans</b>	Planning Board must report on consistency. Section: 9	Same. Section: 9

<b>Element</b>	<b>Bill as Originally Filed</b>	<b>As Reported Out by Municipalities Committee</b>
<b>Vesting Rights (Timing of freeze on issued permits)</b>	Building or special permit freeze when issued before first publication of notice of public hearing. Section: 11-12	Same. Sections: 11-12
<b>Vesting Rights (Timing of freeze on permit applications)</b>	Freeze on building or special permit applications received before first publication of notice of public hearing. Section: 13	Same. Section: 13
<b>Vesting Rights (3 lots in common)</b>	3 lots in common loophole closed. Section: 14	Removed
<b>Vesting Rights (Subdivision plan freeze)</b>	Filing of definitive subdivision plan triggers vesting/freeze for 8 years. Section: 15	Same. Section: 14
<b>Vesting Rights (ANR plan freeze)</b>	Approval not required (ANR) plan freeze eliminated. Section: 16	Same. Section 15
<b>Vesting Rights (land shown on plan)</b>	Freeze applies to proposal, not the "land shown on the plan." Section: 17	Same. Section: 16
<b>Form based zoning</b>	Explicit authorization of form based zoning. Section: 18	Removed
<b>Special Permits</b>	Reduce super-majority vote to a simple majority vote, with community able to raise to 2/3. Section: 20	Same. Section: 18
<b>Hazardous waste facilities &amp; site assignments</b>	Technical changes, clarifying that these provisions apply to land "principally" zoned for industrial use. Section: 21-22	Removed
<b>Site Plan Review</b>	Clear authorization and establishes framework. Section: 23	Same. Section: 19

<b>Element</b>	<b>Bill as Originally Filed</b>	<b>As Reported Out by Municipalities Committee</b>
<b>Impact Fees</b>	Clear statutory authorization; communities must create an infrastructure plan; fees conform to "rational nexus" & "proportionality" test; fees for specific infrastructure types. Section: 23	Same. Section 19
<b>Inclusionary Zoning</b>	Provides clear authorization; leaves density bonus up to municipalities. Section: 23	Same, except that "in lieu" fees provisions removed (paragraphs c and d) Section 19
<b>Alternative Dispute Resolution</b>	Authorized use of executive session/use of confidentiality provisions for mediation. Section: 23	Same. Section 19
<b>Artist Live/work spaces</b>	Requires communities to allow artist live/work spaces by special permit. Section: 23	Same. Section 19
<b>Variances</b>	Keeps "substantial hardship" standard for dimensional and use variances. Specific findings required, but clearer than existing law. For communities who want more liberal approach, explicitly authorizes use of special permit for dimensional waiver/modification at local option. Section: 24	Same. Section: 20
<b>Notice to Boards of Health</b>	Requires that boards of health get notice of public hearings. Section: 25	Same. Section: 21
<b>Taxation of statutory court costs &amp; bonding requirement</b>	Added bonding provision for additional types of appeals (now limited to subdivision appeals). Court may impose bond to cover statutory court costs—maximum of \$15,000. Section: 26	Removed
<b>40R approval</b>	Simple majority for 40R district approval. Section 27	Same. Section: 22

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<b>Master Planning</b>	Master planning process streamlined by reducing the number of required elements; elements also updated, e.g., additional environmental considerations included in required master plan elements. Voting majority lowered to simple. Planning Boards must report on whether proposed rezoning is consistent with master plan. Section: 28	Removed
<b>Minor subdivisions (definitions)</b>	Amends subdivision law to define minor subdivisions. Can apply to subdivisions along existing way or newly-created way by subdivider. Section: 29-30	Same. Section: 23-24
<b>Use of minor subdivision for ANR lots</b>	Lots that could have been created without approval (ANR) are subject to minor subdivision process, if minor subdivision rules in effect. Section: 31-32	Same. Section: 25-26
<b>Time limit for prohibiting building on park land</b>	Eliminates 3 year limit on muni's authority to prohibit buildings on park land shown on subdivision plan. Section: 33	Same. Section: 27
<b>Minor lot line changes</b>	Would authorize lot line changes that do not create new lots or make existing nonconforming lots more nonconforming. Section: 34	Same. Section 28
<b>Certiorari standard for subdivision appeals</b>	Subdivision appeals based on the record. Section: 35	Removed

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<b>Minor Subdivision process</b>	Authorizes creation of minor subdivision process and sets forth scope and expedited review. Applies to 6 lots or fewer, but muni can increase threshold. Exemption: Can still use ANR for 2 lots/year if property in farm/forest program or adjacent land under common ownership. Lots can only be 1.5 times minimum lot size. Section: 36	Same. Section 19.
<b>Right of 1<sup>st</sup> refusal for agricultural &amp; recreational land</b>		Increases number of days a city or town must exercise their right of first refusal to purchase agricultural land that is going to be sold or converted to some other use. Section: 30
<b>Exclusionary practices</b>	Makes exclusionary land use practices against affordable housing or housing for families with children unlawful under state anti-discrimination statute, but with affirmative defense. Section: 37	Same. Section: 31
<b>Appeals procedure</b>	Changes in procedure so there is more certainty that cases go to Land Court permit session (Section 38) and deadline for certiorari appeals is 60 days unless otherwise provided by law (Section 39). The latter change is to align with new 9D (site plan review), which sets a 20 day deadline for applying site plan decisions.	Removed
<b>Dover Amendment</b>		Creates Dover Amendment Commission. Change from Senate version in how many members would be appointed by Governor (5 down to 3). Section: 32

<b>Element</b>	<b>Bill as Originally Filed</b>	<b>As Reported Out by Municipalities Committee</b>
<b>Effective dates</b>	Section: 40-47	Same, except effective date for master plan changes was removed. Sections 33-39.