

By Mr. Ahearn of Norwood, petition of David C. Ahearn and Robert S. Creedon, Jr., for legislation to establish a uniform planning and zoning act. Urban Affairs.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-One.

AN ACT ESTABLISHING THE UNIFORM PLANNING AND ZONING ACT.

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

1 The General Laws are hereby amended by inserting after  
2 chapter 40C the following chapter:—

3 CHAPTER 40D.

4 UNIFORM PLANNING AND ZONING ACT.

5 *Section 1. Definitions.*—As used in this chapter the follow-  
6 ing words and terms shall have the following meaning:—

7 (1) “Metropolitan area” is an area designated as a “stand-  
8 ard metropolitan statistical area” by the United States  
9 Bureau of the Census.

10 (2) “Municipality” shall mean any city or town, but not a  
11 county. A n area planning council shall mean such council as  
12 is operative in the various sections of the commonwealth.

13 *Section 2. (a)* Any municipality of less than fifty thousand  
14 and more than five thousand population, as determined by  
15 the latest official census, located within an area planning  
16 council shall be given notice to the council of any proposal  
17 which, if adopted, would have the result of (1) changing the  
18 types of uses permitted on property abutting any federally  
19 aided or state highway, parkway, or throughway, or any  
20 county road or parkway or federal, state, or county park  
21 within the municipality, (2) decreasing the required minimum  
22 setback or the minimum frontage or average width of any  
23 property abutting any federal or state highway, parkway, or  
24 throughway, or any county road or parkway or federal, state  
25 or county park within the municipality, (3) connecting any  
26 new street directly into any federal, state, or county highway,  
27 parkway, throughway, or road, (4) connecting any new drain-

28 age lines directly into any channel lines as established by the  
29 council or (5) reducing permitted residential density to less  
30 than five families per acre. The notice shall be mailed by the  
31 municipality to the council at least fifteen days prior to any  
32 hearing or other action scheduled in the municipality to  
33 consider the proposal.

34 (b) If the council to which referral is made determines that  
35 the grant or denial of any proposal referred to in subsection  
36 (a) hereof would affect any planning area policy pursuant to  
37 section three of this chapter, it shall report its recommenda-  
38 tions thereon to the referring municipal agency, accompanied  
39 by a full statement of the reasons for the recommendation.  
40 If the council fails to report within fifteen days after receiving  
41 notice of the hearing, the municipal body having jurisdiction  
42 to act may do so without such report.

43 (c) The municipality having jurisdiction shall act in ac-  
44 cordance with the recommendations of the council unless the  
45 municipality adopts a resolution fully setting forth the reasons  
46 for contrary action. The resolution shall be filed with the  
47 council within seven days from the adoption of the resolution.  
48 The municipal action shall not become effective until thirty  
49 days have elapsed from the date the resolution is filed.

50 (d) Notwithstanding any resolution or action taken pur-  
51 suant to subsections (b) and (c) hereof, the council within  
52 the thirty day period may review the municipal action and  
53 reverse its action by resolution of the council committee upon  
54 specific findings of fact that the municipal action is not in  
55 accordance with the material provisions of the filed planning  
56 area comprehensive plan or overall development policy docu-  
57 ment. The comprehensive plan or development policy shall  
58 contain standards as set forth in section three of this act.

59 *Section 3. (a)* In the exercise of power conferred by this  
60 act, the council shall prepare and adopt standards and policies  
61 as part of its comprehensive plan or overall development  
62 policy document which takes into account the existing and  
63 future areawide needs with sufficient specificity that they may  
64 be used:

65 (1) By municipalities located within the planning area as  
66 a guide to municipal action that may affect development out-  
67 side its boundaries;

68 (2) By the courts in reviewing the decisions of government

69 officials and agencies rendered pursuant to this chapter.

70 (b) Council review of municipal planning and zoning  
71 actions, as set forth in section two hereof, shall be governed  
72 by the adoption by the council of specific policies and standards  
73 to:

74 (1) Assure that a wide range of housing choices and prices  
75 is available to residents of the planning area;

76 (2) Assure that regulations and actions affecting the loca-  
77 tion of commercial and industrial development, hospitals,  
78 educational, religious, and charitable institutions take into  
79 consideration a planning area needs.

80 (c) If the proposed municipal action excludes types of  
81 development set forth in subsection (b) hereof, the council  
82 shall declare such exclusionary action unreasonable if it is  
83 not:

84 (1) Necessary to public health or safety; or

85 (2) Necessary to the preservation of the established phys-  
86 ical character of the planning area affected; or

87 (3) Specifically authorized in the council comprehensive  
88 plan or other official development policy document.

89 *Section 4.* Each municipality in the planning area shall give  
90 notice of any action scheduled in the municipality in connec-  
91 tion with: (1) changing the types of uses permitted of any  
92 property located within five hundred feet of any contiguous  
93 municipality in the county; (2) a subdivision plat relating to  
94 land within five hundred feet of any contiguous municipality  
95 in the county; or (3) the proposed adoption or amendment  
96 of any official map, relating to any land within five hundred  
97 feet of any contiguous municipality in the planning area to  
98 such municipality. The notice shall be given at least 15 days  
99 prior to any action to the clerk of the contiguous municipality  
100 affected. The action shall be deemed sufficient notice under  
101 this or any other law requiring notice of the action.

102 (b) The municipality to which referral is made may file a  
103 memorandum of its position. If the municipality fails to  
104 report within the period of fifteen days after receiving notice  
105 of the hearing, the municipality having jurisdiction to act  
106 may do so without the report. If the contiguous municipality  
107 disapproves the proposal, or recommends change or modifi-  
108 cations thereof, the municipal agency having jurisdiction  
109 shall not act contrary to the disapproval or recommendation

110 except by a majority vote of all the members thereof and  
111 after the adoption of a resolution fully setting forth the  
112 reasons for its contrary action. Copies of the resolution shall  
113 be filed within the clerk of the contiguous municipality and  
114 with the county.

115 *Section 5. Municipalities.* — (a) Each area planning council  
116 shall exercise planning and zoning authority for:

117 (1) All municipalities within its area having a population  
118 of less than five thousand as determined by the latest official  
119 census, but existing plans and planning and zoning ordinances  
120 shall remain in effect until altered by the council and

121 All municipalities hereinafter incorporated within the  
122 planning area until the population of a municipality exceeds  
123 fifty thousand persons as determined by the latest official  
124 census within its territory, but council authority shall con-  
125 tinue until the municipality adopts a planning and zoning  
126 ordinance. Council authority shall be exercised in accordance  
127 with, and in a manner prescribed by, this chapter.

128 (b) If any municipalities referred to in subsection (2)  
129 hereof are located in more than one planning area, the planning  
130 area having the larger population shall exercise planning and  
131 zoning authority within those municipalities.

132 *Section 6.* The council zoning ordinance may regulate  
133 territory within the zoning jurisdiction of any municipality  
134 whose governing body, by resolution, agrees to such regu-  
135 lation if the council governing body, by resolution, agrees to  
136 exercise such authority. The municipal governing body may,  
137 upon one year's written notice, withdraw its approval of the  
138 council zoning regulations and those regulations shall have no  
139 further effect within the municipality's jurisdiction.