



CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR  
MARTIN J. WALSH

January 7, 2018

TO THE CITY COUNCIL

Dear Councilors:

I hereby transmit for your approval a Home Rule Petition to the General Court entitled: "Petition for a Special Law RE: An Act to Further Leverage Commercial Development to Build Housing, Create Jobs and Preserve Inclusionary Development."

In 1986, the Massachusetts Legislature and City of Boston created a "linkage" law that applies to new commercial developments of more than 100,000 square feet that require zoning relief. All linkage funds are provided to and disbursed by the Neighborhood Housing Trust and the Neighborhood Jobs Trust. Boston is allowed to adjust the rate based on the Consumer Price Index (CPI) every three years. This special act will provide Boston with the ability to make adjustments to the Linkage formula and threshold for application to new projects as needed, eliminating the restriction on making adjustments only once every three years. Greater flexibility has proven necessary to share the benefits of our current economic growth with more residents.

Furthermore, this special act will also memorialize Boston's Inclusionary Development Policy (IDP) into the Zoning Code, allowing Boston to maintain its ability to secure IDP obligations from residential projects, regardless of zoning approvals. This will ensure Boston can continue to promote the production of income-restricted, affordable housing in Boston.

I urge your Honorable Body to expeditiously pass this special act so that we can continue to leverage Boston's prosperity to build a more inclusive and equitable city

Sincerely,

Martin J. Walsh  
Mayor of Boston

# **CITY OF BOSTON**

## **IN CITY COUNCIL**

**ORDERED:** That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this Order be, and hereby is, approved under Clause One (1) of Section Eight (8) of Article Two (2), as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

### **PETITION FOR A SPECIAL LAW RE: AN ACT AUTHORIZING THE CITY OF BOSTON TO LIMIT BUILDINGS ACCORDING TO THEIR USE OR CONSTRUCTION TO SPECIFIED DISTRICTS**

SECTION 1. Section 1 of chapter 665 of the acts of 1956, as amended, is hereby amended by inserting at the end of the fourth paragraph the following sentence:-

The Zoning Commission may establish rules and regulations for its own procedures not inconsistent with this act and may, from time to time, establish subcommittees from among its members as it sees fit.

SECTION 2. Section 2 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

For the purpose of promoting the health, safety, convenience, morals and welfare of its inhabitants, the City of Boston may, through zoning regulations adopted by its zoning commission, regulate and restrict the following: the height, number of stories and size of buildings and structures, size and width of lots, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, agriculture, residence or other purposes. In order to protect and enhance the public welfare and meet planning goals so that neighborhoods will have a range of housing options to support a diverse populace, the zoning commission may also adopt inclusionary zoning regulations or amendments to carry out the city's Inclusionary Development Policy (IDP) for income restricted housing in residential developments. Residential developments meeting the threshold requirements of the IDP may be required to include a percentage of the units as income restricted dwelling units for rent or purchase or cause such units to be produced off-site as specified by the IDP, regardless of need for zoning relief.

SECTION 3. Section 2 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

A zoning regulation shall be designed among other purposes to lessen congestion in the streets; to conserve health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; provide a range of housing options to support a diverse populace; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the city; and to preserve and increase its amenities.

SECTION 4. Section 8 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the last sentence in the sixth paragraph and inserting in place thereof the following sentence:-

The board shall establish rules and regulations for its own procedures not inconsistent with this act and may, from time to time, establish subcommittees from among its members as it sees fit.

SECTION 5. Section 15 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the meaning of "New large-scale commercial real estate development" and inserting in place thereof the following meaning:-

any development in the city of Boston in which development it is proposed to erect a building or structure having a gross floor area, exclusive in both cases of all accessory parking garage space, in excess of thresholds as established from time to time by the zoning commission, or to enlarge or extend a building or structure so as to increase its gross floor area by an amount as established from time to time by the zoning commission, exclusive of all accessory parking garage space in both cases, or to substantially rehabilitate a building or structure or portion thereof having, or to have, after rehabilitation, a gross floor area, exclusive of all accessory parking garage space in both cases, in excess of an amount as established from time to time by the zoning commission which is intended for one or more of the following "exaction" uses: (1) office, (2) retail business or service, (3) institutional or educational, (4) hotel or motel, but not including an apartment hotel or lodging house.

SECTION 6. Section 15 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the meaning of "Substantially rehabilitated" and inserting in place thereof the following meaning:-

to cause alterations or repairs to be made to a building or structure, constituting the new large-scale commercial real estate development, within any period of twelve months, costing in excess

of fifty per cent of the assessed value of the building or structure as it appears on the assessment rolls of the city as of the first day of January preceding the date of application for the zoning relief or approvals to authorize such alterations or repairs, including, without limitation, conditional use permits, exceptions, zoning map or text amendments or variances, the filing of a Project Notification Form (PNF) pursuant to the Boston Zoning Code Article 80 and 80B, Large Project Review, or the date of application for the building permit for such alterations or repairs, whichever is earlier.

SECTION 7. Section 16 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the provisions of any general or special law or rule to the contrary, in the city of Boston the zoning commission is hereby authorized to adopt zoning regulations or amendments thereto for the purpose of mitigating the effects of new large-scale commercial real estate development on the health and welfare of low and moderate income residents of Boston due to the unavailability of affordable housing in the city of Boston. Such regulations shall provide that, with respect to new large-scale commercial real estate development, any relief granted under the provisions of the zoning code, existing or as amended, including without limitation the granting of a conditional use permit, exception, zoning map or text amendment or variance, or any approvals granted pursuant to the Boston Zoning Code Article 80 and 80B, Large Project Review, shall be conditioned upon action, or promised action, by the developer seeking to obtain such relief or approvals to contribute an affordable housing exaction, to mitigate the effects which new large-scale commercial real estate development project may have upon the availability of affordable housing within the city, which action shall be, the contribution towards the creation of affordable housing as determined by the zoning commission pursuant to duly adopted regulation. Affordable housing may be a portion of a housing development which includes residents of mixed income levels. The regulations shall provide that the zoning relief or approvals necessary to build the new large-scale commercial real estate developments are distinct from any other relief granted under the provisions of the zoning code.

SECTION 8. Section 16 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out "Boston redevelopment authority" in the first sentence of the second paragraph and inserting in place thereof the following:-

Boston Redevelopment Authority

SECTION 9. Section 16 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the first sentence of the third paragraph and inserting in place thereof the following sentence:-

The zoning commission shall determine by regulation that the value of the affordable housing exaction shall be measured on the basis of dollars per square foot devoted to exaction uses in excess of an amount as established from time to time by the zoning commission devoted to exaction uses, exclusive in both cases of all accessory parking garage space, in the new large-scale commercial real estate development project.

SECTION 10. Section 16 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

Such regulations shall provide that the measured value of the affordable housing exaction shall be determined on the basis of a fixed dollar amount per square foot of gross floor area devoted to exaction uses in excess of an amount as established from time to time by the zoning commission , exclusive in both cases of all accessory parking garage space, of the new large-scale commercial real estate development, as determined by the zoning commission upon written recommendations of the BRA, which recommendations shall include an analysis of the following: (1) economic trends, such as real estate development activity, commercial rents per square foot, employment growth and inflation rates; (2) housing trends measured in terms of vacancy rates for affordable housing available to low and moderate income residents, and production statistics for new dwelling units; and (3) any other such information which the BRA deems appropriate for consideration; provided, however, that the zoning commission shall be authorized to decrease the measured value of the above affordable housing exaction at any time upon consideration of the factors above Any payment terms shall be included as part of any relief granted under the provisions of the zoning code, existing or as amended, including without limitation the granting of a conditional use permit, exception, zoning map or text amendment or variance, or any approvals granted pursuant to the Boston Zoning Code Article 80 and 80B, Large Project Review, provided the net present value of those payments meets or exceeds the Affordable Housing Exaction in place as of the date of the project's application for zoning relief or approvals. Any increase in the housing exaction shall not apply to any new large-scale commercial real estate development for which an application for a conditional use permit, exception, zoning map or text amendment or variance or approval has been filed with the appropriate governmental authority prior to the effective date of such increase or for which an application for a planned development area has been filed with the BRA prior to the effective date of such increase, whichever occurs first. Any affordable housing exaction payment shall be made to the neighborhood housing trust, as created and administered pursuant to section twenty. The zoning commission is authorized to promulgate such regulations or rules as will effectuate the purposes of this section.

SECTION 11. Section 16A of chapter 665 of the acts of 1956, as amended, is hereby deleted in its entirety.

SECTION 12. Section 17 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the section in its entirety and inserting in place thereof the following section:-

Notwithstanding any provisions of general or special law or rule to the contrary, in the city of Boston the zoning commission is hereby authorized to adopt zoning regulations or amendments thereto for the purpose of mitigating the effects of new large-scale commercial real estate development on the health and welfare of low and moderate income residents of the city of Boston due to the unavailability of employment opportunities for such low and moderate income residents of Boston. Such regulations shall provide that any relief granted under the provisions of the zoning code, existing or as amended, including without limitation the granting of a conditional use permit, exception, zoning map or text amendment or variance, or any approvals granted pursuant to the Boston Zoning Code Article 80 and 80B, Large Project Review, shall be conditioned upon action, or promised action, by the developer seeking to obtain such relief or approvals to contribute an employment exaction to mitigate the effects which new large-scale commercial real estate development project may have upon the availability of jobs for low and moderate income residents within the city, which action shall be the contribution towards the creation of job training programs for the training of low and moderate income residents of the city as determined by the zoning commission pursuant to duly adopted regulation. The regulations shall provide that the zoning relief or approvals necessary to build new large-scale commercial real estate development are distinct from any other relief granted under the provisions of the zoning code.

The zoning commission shall determine by regulation that the value of an employment exaction shall be measured on the basis of dollars per square foot devoted to exaction uses in excess an amount as established from time to time by the zoning commission devoted to exaction uses, exclusive in both cases of all accessory parking garage space, in the new large-scale commercial real estate development project. The developer of any new large-scale commercial real estate development project, in lieu of contributing towards the creation of the job training programs or similar activities projects referred to in the preceding paragraph, may make a payment or payments of an amount of money equal to the measured value of the employment exaction to the neighborhood jobs trust authorized by section twenty of this chapter over a payment period to be established by regulation of the zoning commission, for the purpose of mitigating the impact of new large-scale commercial real estate development projects.

Such regulations shall provide that the measured value of the employment exaction shall be determined on the basis of a fixed dollar amount per square foot of gross floor area devoted to exaction uses in excess of an amount as established from time to time by the zoning commission, devoted to exaction uses, exclusive in both cases of all accessory parking garage space, in the new large-scale commercial real estate development, as determined by the zoning commission upon written recommendations of the BRA, which recommendations shall include an analysis of

the following: (1) economic trends, such as real estate development activity, commercial rents per square foot, employment growth and inflation rates; (2) employment trends such as unemployment rates and statistics on the availability and use of job training programs; and (3) any other such information which the BRA deems appropriate for consideration; provided, however, that the zoning commission shall be authorized to decrease the measured value of the above employment exaction at any time upon consideration of the factors above. The payment period for the employment exaction shall be the payment period for the jobs contribution grant as determined by the Zoning Commission provided the net present value meets or exceeds the employment exaction in place as of the date of the project's application for zoning relief or approvals. Any increase in the employment exaction shall not apply to any new large-scale commercial real estate development for which an application for a conditional use permit, exception, zoning map or text amendment or variance or approval has been filed with the appropriate governmental authority prior to the effective date of such increase or for which an application for a planned development area has been filed with the BRA prior to the effective date of such increase, whichever occurs first. Any employment exaction shall be paid into the neighborhood jobs trust as created pursuant to section twenty of this chapter. The zoning commission is authorized to promulgate such regulations or rules, as will effectuate the purpose of this provision.

SECTION 13. Section 17A of chapter 665 of the acts of 1956, as amended, is hereby deleted in its entirety.

SECTION 14. Section 18 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking out the paragraph in subsection (a) and inserting in place thereof the following paragraph:-

The zoning commission is further authorized to promulgate zoning regulations and amendments thereto for the purpose of mitigating the effects of new large-scale commercial real estate development in the city of Boston on the availability of affordable housing or employment opportunities for low and moderate income residents of Boston; provided, however, that such regulations may not be in force simultaneously with those authorized by sections sixteen and seventeen. Such regulations and amendments may provide that any relief granted under the provisions of the zoning code, existing or amended, including without limitation the granting of a conditional use permit, exception, zoning map or text amendment or variance, or any approvals granted pursuant to the Boston Zoning Code Article 80 and 80B, Large Project Review, shall be conditioned upon action or promised action by the developer seeking to create such new large-scale commercial real estate development project or obtain such relief to mitigate the effects which new large-scale commercial real estate development may have upon low and moderate income residents of the city as determined by the zoning commission pursuant to duly adopted regulations. Such regulations or amendments shall state the specific improvements or amenities

to be provided as a condition required for the grant of zoning relief or approvals and the zoning relief or approvals to be granted. The regulations shall provide that the zoning relief or approvals necessary to build new large-scale commercial real estate developments are distinct from any other relief granted under the provisions of the zoning code.

SECTION 15. Section 20 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking "him" in the fourth sentence of the first paragraph and inserting in place thereof the following:-

him/her/them

SECTION 16. Section 21 of chapter 665 of the acts of 1956, as amended, is hereby amended by striking the first full paragraph after the definitions and inserting in place thereof the following paragraph:-

Notwithstanding any general or special law to the contrary, in the city of Boston the zoning commission shall adopt zoning regulations or amendments thereto for the purpose of mitigating the adverse impact of new real estate development on the public health, safety, convenience, and welfare of its inhabitants, including, but not limited to, the transportation network, infrastructure, environment, urban design components, or historic resources in the city of Boston. The regulations shall provide that, with respect to new real estate development, any approval or relief granted under the provisions of the zoning code, existing or as amended, including without limitation the granting of a conditional use permit, exception, zoning map or text amendment or variance, or approvals pursuant to Article 80 and 80B, Large Project Review shall be conditioned upon action, or promised action, by the developer seeking to obtain the relief or approvals, to undertake measures, as required by the BRA, to mitigate, limit, or minimize the impact within the city.

SECTION 17. This act shall take effect immediately upon its passage.

I HEREBY CERTIFY THAT  
THE FOREGOING, IF PASSED IN  
THE ABOVE FORM, WILL BE IN  
ACCORDANCE WITH LAW.  
BY Eugene L. O'Flaherty  
EUGENE L. O'FLAHERTY  
CORPORATION COUNSEL 