

Offered by COUNCILOR LYDIA EDWARDS



Bok, Breadon, Campbell, Arroyo, Essaibi-George, Flaherty, Flynn, Mejia, O'Malley and Janey

**CITY OF BOSTON  
IN CITY COUNCIL**

**ORDER REGARDING A TEXT AMENDMENT FOR  
BOSTON ZONING CODE RELATIVE TO AFFIRMATIVELY  
FURTHERING FAIR HOUSING**

*WHEREAS,* On April 11, 1968, President Lyndon Johnson signed the Civil Rights Act of 1968, legislation sponsored by Senator Edward Brooke (R-Massachusetts); and,

*WHEREAS,* Title VIII of said legislation, the Fair Housing Act, outlawed discrimination in sale, rental, and financing of housing; and,

*WHEREAS,* Beginning in 1968, and in federal, state and municipal jurisdictions have recognized the obligation to proactively address, or, as defined by the U.S. Department of Housing and Urban Development under President Barack Obama, affirmatively further, fair housing through meaningful actions that overcome patterns of segregation and foster inclusive communities; and,

*WHEREAS,* The City of Boston has committed to the elimination of discrimination, within Chapters 10-3 and 12-9 of the Boston Municipal Code and elsewhere through policy and executive action, and has conducted listening sessions relative to fair housing; and,

*WHEREAS,* The city's zoning code and development review procedures lack affirmative measures to further fair housing; *NOW, THEREFORE BE IT*

*ORDERED,* That the Boston City Council by and through Councilor Lydia Edwards submits a petition to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956, as amended, to establish fair housing regulations in Boston's zoning code and procedures to secure integrated communities.

Filed in Boston City Council: January 15, 2020

Text Amendment Application No. \_\_\_\_\_  
Boston City Council

Article 2 and Article 2A inserting terminology related to fair housing and displacement; Article 80, Sections 1, A-5, B-7, C-4, C-5 and C-7, modifying development review to require consistency with fair housing plans; and Article 53, Section 49, amending the public benefit

obligations for Planned Development Areas in East Boston.

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

Boston City Council through and by *Boston City Councilor Lydia Edwards* petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956, as amended, as follows:

1. By amending **Articles 2 (Definitions)** and **2A (Definitions applicable in neighborhood districts and in Article 80, Development Review and Approval)** by adding the following term and definition:

**Affirmatively Furthering Fair Housing.** Taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. “Civil rights and fair housing laws” shall include but not be limited to Title VIII of the Civil Rights Act of 1968, Chapter 151B of the Massachusetts General Laws, and Chapters 10-3 and 12-9 of the Boston Municipal Code.

**Analysis of Impediments.** A review of potential actions, omissions, conditions or decisions that have the effect of restricting housing choices or the availability of housing choices on the basis of age, color, creed, disability, gender identity, marital status, familial status, national origin, race, religion, sex, sexual orientation, presence or absence of dependents, or public assistance source of income, or other protected classes listed under Chapter 151B of the Massachusetts General Laws; policies, practices, or procedures that appear neutral on their face, but which operate to deny or adversely affect the availability of housing to protected classes; and accompanying corrective actions designed to overcome such impediments.

**Displacement.** Unwilling departure, removal or economic dislocation, in a district or in an adjacent and impacted district, occurring when neighborhood choices become limited due to increasing rent burden or a lack of housing that is affordable to area residents, area renters, low-income residents, or residents belonging to protected class or a set of protected classes, thereby restricting housing choice for the impacted population.

**Meaningful Actions.** Activities and procedures that can be reasonably expected to achieve a substantial and material positive change that affirmatively furthers fair housing by increasing fair housing choice or decreasing disparities in access to opportunity.

2. By amending **Article 80 (Development Review and Approval)**, as follows:
  - a. In Section 80-1, Statement of Purpose and General Provisions:

- i. Insert in the second paragraph, following the text “To that end, the goals of these development review requirements include the following:”, the phrase:

to take meaningful actions that promote racially, ethnically and economically integrated communities and secure the city’s obligations towards affirmatively furthering fair housing;

- b. In Section 80-A-5, Agreements:

- i. Insert after the second paragraph, the new paragraph:

The cooperation agreement shall also include, or shall require the Applicant and the Boston Redevelopment Authority to execute a separate agreement, with the City of Boston or agencies designated by the Mayor to assume fair housing responsibilities, regarding compliance with fair housing laws and affirmatively furthering fair housing provisions, which shall address affirmative marketing, the participation of protected classes, and strategies for the prevention of displacement and furthering racially, ethnically and economically integrated communities, including provisions for affordability, language access and any procedures regarding housing stabilization specified by the City of Boston. In the case of a PDA Development Plan or PDA Master Plan the agreement shall also include measures for assessing compliance and amending strategies, interventions or public benefit requirements should the initial implementation of such a Plan fail to further fair housing, including, for a multi-phase development, a mandatory review not less than once per phase or every five years from project commencement until project completion.

- c. In Section 80-B-3, Scope of Large Project Review; Content of Reports:

- i. Delete the text:  
(7) tidelands; and  
(8) Development Impact Project, as set forth in this Section 80B-3.
- ii. and insert in its place:  
(7) tidelands;  
(8) Development Impact Project, as set forth in this Section 80B-3; and  
(9) Fair Housing, as set forth in this Section 80B-3.

- d. And in Section 80-B-3, Scope of Large Project Review; Content of Reports:

- i. Insert, at the end of the section and after the enumerated item entitled “8. Development Impact Project Component” the following text:

9. Fair Housing. In its Scoping Determination, the Boston Redevelopment Authority shall, in conjunction with city agencies, assess the positive and

negative impacts of a Project, including both a development and its proposed mitigation or public benefit, on (1) the city's efforts toward Affirmatively Furthering Fair Housing and (2) addressing impediments to fair housing, including both those identified citywide and in the neighborhood District or overlay District in which the project is proposed. The Boston Redevelopment Authority shall give particular regard to fair housing concerns in the approval of, and establishment of mitigation and public benefit within, a Planned Development Area.

In analyzing a project's compliance with Fair Housing, the Boston Redevelopment Authority may consider (1) published data relevant to demographic trends and housing characteristics in the City of Boston or a neighborhood or zoning district thereof, including but not limited to publications by the Census Bureau, American Community Survey, Boston Housing Authority, Boston Public Health Commission and Boston Redevelopment Authority; (2) assessment tools developed by the United States Department of Housing and Urban Development, Commonwealth of Massachusetts, or City of Boston; (3) a City of Boston plan for Affirmatively Furthering Fair Housing; (4) a City of Boston Analysis of Impediments; (5) guidelines and criteria for fair housing published by city agencies and approved by the Boston Redevelopment Authority's board of directors; and/or (6) an appendix or appendices relevant to fair housing adopted in the Boston Zoning Code.

The effective date of this section (9.) shall be November 1, 2020.

e. In Section 80-C-4, Standards for Planned Development Area Review Approval:

i. Delete the text:

and (e)

ii. and insert in its place the following:

(e) such plan complies with, facilitates, and advances the City of Boston's obligations, responsibilities, goals and programs regarding affirmatively furthering fair housing, specifically ensuring integrated communities and averting racial, ethnic or economic segregation or the displacement of protected classes, with particular regard to concerns identified in an Analysis of Impediments, and with regard and mitigation for impacts that may trigger exclusionary displacement; and (f)

f. In Section 80-C-5, Boston Redevelopment Authority Procedures for Planned Development Area Review:

i. Delete the following text:

4. Boston Redevelopment Authority Review and Approval. No later than sixty (60) days after the Boston Redevelopment Authority has received the PDA Development Plan or PDA Master Plan filed pursuant to subsection 2 of this Section 80C-5, the Boston Redevelopment Authority shall approve the plan submitted for review and authorize its Director to petition the Zoning Commission to approve the plan and designate the area of the Proposed Project or Master Plan development concept as a Planned Development Area, or shall conditionally approve the plan, or shall disapprove the plan. Before it issues its decision, the Boston Redevelopment Authority shall hold a public hearing, for which it shall publish notice pursuant to Section 80A-2, and shall consider the public comments received.

ii. and insert in its place the following text:

4. Boston Redevelopment Authority Review and Approval. No sooner than sixty (60) days after the Boston Redevelopment Authority has received the PDA Development Plan or PDA Master Plan filed pursuant to subsection 2 of this Section 80C-5, the Boston Redevelopment Authority shall consider approval of the plan submitted for review and authorize its Director to petition the Zoning Commission to approve the plan and designate the area of the Proposed Project or Master Plan development concept as a Planned Development Area, or shall conditionally approve the plan, or shall disapprove the plan. Before it issues its decision, the Boston Redevelopment Authority shall (1) hold a public hearing, for which it shall publish notice pursuant to Section 80A-2, (2) allow for written and electronic comment and issue written responses, individually or in the aggregate, to comments received no later than three business days before the date of a public hearing and (3) consider all public comments received. Prior to approval of a plan, the Boston Redevelopment Authority shall also produce a Certification of Fair Housing from city agencies designated by the Mayor of Boston, indicating that the PDA Development Plan or PDA Master Plan complies with, facilitates, and advances the City of Boston's obligations, responsibilities, goals and programs regarding affirmatively furthering fair housing.

g. In Section 80-C-7, Amendment of Planned Development Area Plans:

i. Insert, after the text "approval of such plan", the following text:

, provided that the Boston Redevelopment Authority shall, upon receipt of a proposed amendment of a Planned Development Area, assess compliance

with the city's obligations regarding Affirmatively Furthering Fair Housing and recommend additional amendment as necessary to further fair housing, and provided further that the public benefits associated with the Planned Development Area and such amendment shall be subject to public benefits required within a pertinent neighborhood District or overlay District.

3. In Article 53, East Boston Neighborhood District,

a. In Section 53-49, Planned Development Areas: Public Benefits:

i. Delete the text:

The Boston Redevelopment Authority may approve a Development Plan for a Proposed Project as meeting the requirement of Section 80C-4 (Standards for Planned Development Area Review) for compliance with the applicable planning and development criteria of this Article if the Development Plan proposes a plan for public benefits, including one or more of the following: (a) diversification and expansion of Boston's economy and job opportunities through economic activity, such as private investment in manufacturing, commercial uses, or research and development; or (b) creation of new job opportunities and establishment of educational facilities, career counseling, or technical assistance providing instruction or technical assistance in fields related to such jobs; or (c) provision of Affordable Housing available to East Boston and Boston residents; or (d) improvements to the aesthetic character of the development site and its surroundings, which may include the provision of open space connections to the waterfront, the provision of street trees and other improvements that enhance open space, the improvement of the urban design characteristics of the site and its surroundings, or the enhancement of existing open space or the creation of new open space.

ii. and insert in its place the following text:

The Boston Redevelopment Authority may approve a Development Plan for a Proposed Project as meeting the requirement of Section 80C-4 (Standards for Planned Development Area Review) for compliance with the applicable planning and development criteria of this Article if the Development Plan proposes a plan for public benefits, including two or more of the following, one of which shall be item (a): (a) provision of Affordable Housing available to East Boston and Boston residents, including protected classes, based on an analysis of the median incomes of renters and homeowners in East Boston and Boston; and (b) creation of new job opportunities and jobs training pipelines for low- and moderate-income residents and establishment of educational facilities, English as a Second Language programming, career counseling, or technical assistance providing instruction or technical

assistance in fields related to such jobs; or (c) the provision, financing or facilitation of affordable childcare services for Boston residents, provided that such benefit should maximize opportunities for local employment; or (d) improvements to the aesthetic character and climate resiliency of the development site and its surroundings, which may include the provision of open space connections to the waterfront, the provision of street trees and other improvements that enhance open space, contributions to district-scale climate resiliency initiatives, the improvement of the urban design characteristics of the site and its surroundings, or the enhancement of existing open space or the creation of new open space.

Petitioner: \_\_\_\_\_  
Boston City Council  
By: City Councilor Lydia Edwards

Address: One City Hall Square -- Fifth Floor  
Boston, MA 02201

Telephone: 617-635-3200

Date: \_\_\_\_\_

Text Amendment Application No. \_\_\_\_\_

Text Amendment No. \_\_\_\_\_

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice Chairman

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

In Zoning Commission

Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
Secretary to the Zoning Commission

Text Amendment Application No. \_\_\_\_\_

Text Amendment No. \_\_\_\_\_

Approved: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

The foregoing amendment was presented to the Mayor on \_\_\_\_\_ and was signed by the Mayor on \_\_\_\_\_ whereupon it became effective on \_\_\_\_\_ in accordance with the provisions of Section 3 of Chapter 665 of the Acts of 1956.

Attest: \_\_\_\_\_

Secretary to the Zoning Commission