

0347

Offered by COUNCILOR LYDIA EDWARDS



**CITY OF BOSTON
IN CITY COUNCIL**

**ORDER REGARDING A TEXT AMENDMENT FOR
BOSTON ZONING CODE RELATIVE TO FAIR HOUSING AND
INTEGRATED COMMUNITIES**

WHEREAS, On April 11, 1968, President Lyndon Johnson signed the Civil Rights Act of 1968, including Title VIII of said legislation, the Fair Housing Act; and,

WHEREAS, The Fair Housing Act outlawed discrimination in sale, rental, and financing of housing; and,

WHEREAS, Beginning in 1968, federal, state and municipal jurisdictions have recognized the obligation to proactively address, or, as defined in 24 CFR 5.152, 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: April 10, 2019

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. As defined in 24 CFR 5.152: 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, 42 U.S.C. 3608, 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.

Exclusionary 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. A fair housing standard defined in 24 CFR 5.152 and case law indicating significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, 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 Department of Neighborhood Development and the Office of Fair Housing and Equity, or such Department or Offices assuming their responsibilities, regarding compliance with fair housing laws and affirmatively furthering fair housing provisions, which shall address affirmative marketing, the participation of protected classes, the prevention of exclusionary displacement, and strategies for promoting racially, ethnically and economically integrated communities and, including but not limited to strategies to address affordability, prevention of displacement, and integrations of communities facing language isolation or access barriers. 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.

- 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 proposed public benefit, on (1) the city's efforts toward Affirmatively Furthering Fair Housing, with particular regard to concerns identified in an Analysis of Impediments and (2) addressing impediments to fair housing, including both those identified citywide and in the neighborhood or district in which the project is proposed.

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 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 the City of Boston's Department of Neighborhood Development and the Office of Fair Housing and Equity, or their successor agencies, 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 offer further 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: (a) 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 (b) 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; 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 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.

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