

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 terms and definitions:

"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, and transforming racially and ethnically concentrated areas of poverty into areas of opportunity."

"Meaningful Actions. Significant decisions and other actions in the development process, including unit mix, affordability levels, allocation of financial mitigation, transportation planning, and other decisions that are designed, and can be reasonably expected, to achieve a material positive change for Boston residents and affirmatively further fair housing."

"AFFH Assessment Component. This includes completion of 1) the most recent version of the Assessment Tool, with a copy provided to the Boston Redevelopment Authority (d/b/a Boston Planning and Development Agency or BPDA) and the BIFDC, which shall provide to the Proponent a Displacement Risk Analysis and Historical Exclusion Analysis 2) an Affirmative Fair Housing Marketing Requirement 3) and a description of which measures from the most recent version of the AFFH Intervention Options, as adopted by the Boston Redevelopment Authority, the Proponent intends to utilize to address displacement and affirmatively create housing accessible to people within protected classes. These measures should be commensurate with the size and scope of the project, as well as the magnitude of historical exclusion and potential displacement, and shall be reviewed by the BIFDC, which shall advise the Boston Redevelopment Authority on the Proposed Project's compliance with the provisions of this article."

"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 and/or source of income including but not limited to any 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."

"Boston Interagency Fair Housing Development Committee ("BIFDC"). Comprised of representatives from the Boston Housing Authority (BHA), Office of Fair Housing and Equity ("OFHE"), Department of Neighborhood Development ("DND"), the Mayor's Commission for Persons with Disabilities, and the Boston Redevelopment Authority staff ("BRA") for a total of five. The BIFDC shall meet regularly to review the assessment components, proposals, and public comments, and develop a plan for ongoing monitoring of commitments and reporting requirements for the Proponent and/or successors and assignees and make recommendations to the BRA Board."

"Protected classes. Individuals or groups who are entitled to protection from discrimination or other adverse action, or to affirmative accommodations, opportunities, or protections, pursuant to federal, state, and local civil rights and fair housing laws including but not limited to protected classes listed under M.G.L. c. 151B of the Massachusetts General Laws."

"Displacement. Unwilling or coerced departure, removal or economic dislocation, in a community or in an adjacent and impacted community, 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."

"Displacement Risk Analysis. Defined as when the Proposed Project runs an elevated risk of directly or indirectly displacing current residents, or residents of neighboring or nearby areas, including disproportionately displacing members of protected classes, and shall be measured by data provided by the Boston Redevelopment Authority to Proponents."

"Historical Exclusion Analysis. Defined as when explicit discrimination based on race or membership of other Protected Classes, or correlative economic factors have perpetuated housing segregation and excluded members of Protected Classes from living in the neighborhood, and it shall be measured by data provided by the Boston Redevelopment Authority to Proponents."

"Affirmatively Integrated Communities. Where a diverse set of people, including those that belong to Protected Classes, can afford to live and where they have reasonable access to amenities (e.g. healthcare, transit, groceries, banking, greenspace), educational opportunities, and

economic opportunities. Reasonable access means that such amenities and opportunities are affordable, in close proximity to one's housing, and culturally appropriate."

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:

" ... for the purposes of Affirmatively Furthering Fair Housing, as defined in Articles 2 and 2A. "

- b. In Section 80-A-5, Agreements:
 - i. Insert after the second paragraph, the new paragraph:

"The **cooperation agreement** shall also include the AFFH Assessment Component and all provisions requiring the Proponent to comply with fair housing laws and Affirmatively Furthering Fair Housing, and shall provide for the enforcement of mitigation, public benefits, and other measures."

- 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;

(9) AFFH Assessment Component, as set forth in this Section 80B-3;

(10) Accessibility Component, as set forth in this Section 80B-3; and

(11) Smart Utilities Component, 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. AFFH Assessment Component. In order to Affirmatively Further Fair Housing, the Applicant shall complete the relevant sections of the most recent version of the AFFH Assessment Component as adopted by the Boston Redevelopment Authority. The Applicant shall, in conjunction with the BIFDC, assess the impacts of the Proposed Project, including proposed public benefit, on the city’s efforts toward Affirmatively Furthering Fair Housing, with particular regard to concerns identified in an Analysis of Impediments, including both those identified citywide and in the neighborhood zoning district or community in which the project is proposed.

10. Accessibility Component. In order to facilitate full and equal participation in all aspects of life for persons with disabilities in the city of Boston, the Applicant shall complete the most recent version of the Accessibility Checklist as adopted by the Boston Redevelopment Authority.

11. Smart Utilities Component. In order to ensure more equitable, sustainable, affordable, resilient, and innovative utility services in the City of Boston, the Applicant shall complete the relevant elements of the most recent Smart Utilities Checklist as adopted by the Boston Redevelopment Authority.”

- e. By inserting in Section 80B-5 after the paragraph beginning:
“(ix) **Preliminary green building information** and ending,” ... register with the USGBC and seek certification.” the following:

“(x) Preliminary AFFH Assessment Component. A completed AFFH Assessment Component with accompanying narrative explaining proposed measures for the purposes of Affirmatively Furthering Fair Housing to be reviewed by the BIFDC prior to BRA Board consideration.

“(xi) Preliminary Assessment of Accessibility Component. A completed Accessibility Checklist with narrative of anticipated measures to promote full and equal access.

(xii) Preliminary Smart Utilities Component. A completed Smart Utilities Checklist with narrative as to proposed Smart Utilities technologies to be employed."

f. By inserting in Section 80B-6. - Enforcement: Certification of Compliance for Large Project Review, Paragraph (2.) titled "**Findings**" after listed item "(vii) Article 37: Green Buildings." the following:

"(viii) commitments made pursuant to the AFFH Assessment Component including any ongoing commitments and/or reporting requirements, which shall also be made part of the Cooperation Agreement pursuant to Article 80A-5;

(ix) commitments made pursuant to the Accessibility Component

(x) commitments made pursuant to the Smart Utility Component"

g. By inserting in Section 80C-3. - Scope of Planned Development Area Review; Content of Plans, after Paragraph 2. **PDA Master Plans.** the following:

"3. PDA Master Plans and Development Plans. Projects seeking PDA Master Plan or Development Plan approval pursuant to this Section must satisfy, as part of Article 80B Large Project Review, the (9) AFFH Assessment Component, (10) Accessibility Component, and (11) Smart Utilities Component as required in "Article 80B-3, Scope of Large Project Review, Content of Reports.

For the purposes of preparing (9) AFFH Assessment Component as part of Article 80B or Article 80C submission for projects seeking approval of a PDA Master Plan and/or Development Plan, the Proponent, in conjunction with the BIFDC, shall take into consideration the City's goals to Affirmatively Further Fair Housing, including Affirmatively Integrated Communities. The AFFH Assessment Component shall provide thoughtful analysis of direct and potential indirect displacement, especially disproportionate displacement of members of protected classes. It is further expected that in evaluation of this Component, consideration shall be given to Proposed Project(s) creation of or contribution to an integrated and inclusive neighborhood, by promoting residential and commercial affordability, a diversity of housing types to accommodate families, and a mix of publicly accessible amenities. Special consideration should be taken as to whether Proposed Project(s) are located in an area where there is a high risk of direct displacement of protected classes, or the area has historically

excluded protected classes. The PDA Master Plan and/or Development Plan shall enumerate any ongoing commitments and specify reporting requirements relative to the (9) AFFH Assessment Component and they shall be included in the Cooperation Agreement pursuant to Article 80A-5."

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 and Affirmatively Integrated Communities, with particular regard to concerns identified in an Analysis of Impediments, AFFH Assessment Component, and with regard for impacts that may trigger displacement; and (f)”

h. 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 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 approve the plan submitted for review and authorize its Director to petition the Zoning Commission to approve the completed 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, and no later than ninety (90) 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.”

- i. 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 whether the changes to the Proposed Project that give rise to the Amendment to the PDA Development Plan or PDA Master Plan are consistent with the city’s obligations regarding Affirmatively Furthering Fair Housing, including the goal of Affirmatively Integrated Communities, and offer further amendment as necessary for the purposes of Affirmatively Furthering Fair Housing. Notwithstanding the review periods set forth in Section 80C - 5.4, the Boston Redevelopment Authority may consider approval of an amendment and authorize its Director to petition the Zoning Commission to approve the amendment, or conditionally approve or disapprove the amendment, no sooner than sixty (60) days, and no later than ninety (90) days after it has received the Amendment.”

Effective Date: These amendments shall take effect 60 days after adoption by the Boston Zoning Commission
