

HOUSE No. 4115

The Commonwealth of Massachusetts

PRESENTED BY:

Kevin G. Honan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing the city of Boston to limit buildings according to their use or construction to specified districts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>9/26/2019</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>10/3/2019</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>10/3/2019</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>10/3/2019</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>10/3/2019</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>10/3/2019</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>10/3/2019</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	<i>10/4/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>10/4/2019</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>10/4/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>10/4/2019</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>10/4/2019</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>	<i>10/4/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>10/4/2019</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>10/4/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>10/7/2019</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>10/7/2019</i>

HOUSE No. 4115

By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 4115) of Kevin G. Honan and others (with the approval of the mayor and city council) that the city of Boston be authorized to further regulate the zoning of housing, commercial and institutional development in said city. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act authorizing the city of Boston to limit buildings according to their use or construction to specified districts.

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

1 PREAMBLE: Whereas, the General Court finds and declares that economic development
2 in the city of Boston, including access to good jobs for low and moderate income residents, is
3 vitally important to the Commonwealth and the New England region; and

4 Whereas, Boston’s robust housing, commercial and institutional development must be
5 guided by a comprehensive zoning code based on sound planning principles and designed to
6 protect and promote the health, safety, convenience, morals and welfare of its inhabitants; and

7 Whereas, the cost of housing in Boston has increased dramatically, reducing the
8 availability of housing affordable to low, moderate, and middle income households, who are
9 disproportionately likely to be members of classes protected by federal and state fair housing
10 laws; and

11 Whereas, the welfare of Boston’s inhabitants is greatly enhanced where there is a range
12 of housing options in each neighborhood to support diverse neighborhoods, overcome patterns of
13 segregation and foster inclusive communities free from barriers that restrict access to opportunity
14 for protected classes; and

15 Whereas, the city of Boston’s Inclusionary Development Policy has been in place for
16 more than 18 years, and supported the creation of 4,146 units of income restricted housing and
17 the preservation of 350 units of income restricted housing for Boston’s working families, and

18 Whereas, the current Inclusionary Development Policy applies only when a developer of
19 ten (10) or more units of housing seeks relief from the zoning code thus creating a significant
20 disincentive to modernize zoning and develop form-based code where a variance or other relief
21 would not be required; and

22 Whereas, incorporating Boston’s Inclusionary Development Policy into the zoning code
23 ratifies and confirms the city’s authority, through Boston’s zoning commission, to require
24 developers to set aside units as income restricted so that there is a range of housing available;
25 and

26 Whereas, the city’s Inclusionary Development Policy, as codified in the zoning code and
27 as further defined in section 7 hereof, shall be hereinafter referred to as “Inclusionary
28 Development”; and

29 Whereas, the city, pursuant to the program authorized by chapter 371 of the acts of 1987
30 (“Linkage”), requires developers of new, large-scale commercial developments to pay fees per
31 square foot to support the creation of affordable housing and to support job training for each

32 gross square foot over one hundred thousand (100,000) in order to mitigate the impacts of such
33 development on housing supply and the availability of qualified workers; and

34 Whereas, in the more than 30 years that have passed since Linkage came into effect, the
35 city of Boston has received \$168 million for affordable housing and \$38 million for job training;
36 and

37 Whereas, the city's ability to adjust the Linkage formula is limited to a combination of
38 consumer price indexes and can only be adjusted every three years, failing to keep pace with
39 housing prices and the cost of training Boston residents to take on the 21st century jobs being
40 created as well as the new demands for public and private services by new development, leaving
41 some Bostonians with nowhere to live and no ability to participate in the new and emerging
42 industries that economic development is bringing; and now,

43 THEREFORE, this act is declared to be in the public interest and necessary for the public
44 health, safety, and general welfare of the citizens of Boston.

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

47 The zoning commission may establish rules and regulations for its own procedures not
48 inconsistent with this act and may, from time to time, establish subcommittees as it sees fit.

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

52 For the purpose of promoting the health, safety, convenience, morals and welfare of its
53 inhabitants, the city of Boston may, through zoning regulations adopted by its zoning
54 commission, regulate and restrict the following: the height, number of stories and size of
55 buildings and structures, size and width of lots, percentage of a lot that may be occupied, the size
56 of yards, courts and other open spaces, the density of population, and the location and use of
57 buildings, structures, and land for trade, industry, agriculture, residence or other purposes. In
58 order to protect and enhance the public welfare and meet planning goals so that neighborhoods
59 will have a range of housing options with sizes, types, and levels of affordability to support a
60 diverse populace, the zoning commission may also adopt inclusionary zoning regulations or
61 amendments to establish and further Inclusionary Development for income restricted housing in
62 residential developments.

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

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

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

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

79 SECTION 5. Section 8 of chapter 665 of the acts of 1956, as amended, is hereby
80 amended by striking the word "her or him" in the last sentence of the last paragraph and inserting
81 in place thereof the following:-

82 him/her/them

83 SECTION 6. Section 15 of chapter 665 of the acts of 1956, as amended, is hereby
84 amended by striking out the meaning of "New large-scale commercial real estate development"
85 and inserting in place thereof the following meaning:-

86 any development in the city in which development is proposed to erect a building or
87 structure having a gross floor area, exclusive in both cases of all accessory parking garage space,
88 in excess of one hundred thousand square feet or other threshold as established from time to time
89 by the zoning commission, or to enlarge or extend a building or structure so as to increase its
90 gross floor area, exclusive of all accessory garage space in both cases, to more than one hundred
91 thousand square feet or other threshold as established from time to time by the zoning
92 commission, or to substantially rehabilitate a building or structure or portion thereof having, or to
93 have, after rehabilitation, a gross floor area, exclusive of all accessory parking garage space in
94 both cases, of more than one hundred thousand square feet or other threshold as established from
95 time to time by the zoning commission, which square footage is intended for one or more of the

96 following "exaction" uses: (1) office, (2) retail business or service, (3) institutional or
97 educational, (4) hotel or motel, but not including an apartment hotel or lodging house, or (5)
98 other uses as determined by the zoning commission.

99 SECTION 7. Section 15 of chapter 665 of the acts of 1956, as amended, is hereby
100 amended by striking out the meaning of "Substantially rehabilitated" and inserting in place
101 thereof the following meaning:-

102 to cause alterations or repairs to be made to a building or structure, constituting a new
103 large-scale commercial real estate development, within any period of twelve months, costing in
104 excess of fifty per cent of the assessed value of the building or structure as it appears on the
105 assessment rolls of the city as of the first day of January preceding the date of application to the
106 zoning commission for any zoning map or text amendment to authorize such alterations or
107 repairs, the filing of a Project Notification Form pursuant to Article 80 of the Boston zoning
108 code, or the date of application for the building permit for such alterations or repairs, whichever
109 is earlier.

110 SECTION 8. Section 15 of chapter 665 of the acts of 1956, as amended, is hereby
111 amended by inserting the term "Inclusionary Development" and establishing the following
112 meaning:-

113 a set of programs, policies, ordinances and regulations designed to create or incent the
114 creation of income restricted housing and further fair housing by requiring development projects
115 meeting thresholds established by the city of Boston to include income restricted housing on-site,
116 construct income restricted housing off-site or contribute financially to the construction of
117 income restricted housing or a city fund designated for such purpose.

118 SECTION 9. Section 15 of chapter 665 of the acts of 1956, as amended, is hereby
119 amended by inserting the term “income restricted housing” and establishing the following
120 meaning:-

121 a unit of housing, whether rental, condominium or cooperative, a single or multi-family
122 owner occupied home, or other dwelling type, for which the occupancy cost to the resident(s)
123 thereof does not exceed the percentage of the maximum income of an income eligible occupant
124 household, attributed to that unit of housing, as defined by any state or federal agency, authority,
125 department, or similar instrumentality providing financial assistance to reduce the occupancy
126 cost of housing.

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

130 Notwithstanding the provisions of any general or special law or rule to the contrary, in
131 the city of Boston the zoning commission is hereby authorized to adopt zoning regulations or
132 amendments thereto for the purpose of mitigating the effects of new large-scale commercial real
133 estate development on the health and welfare of low and moderate income residents of Boston
134 due to the unavailability of affordable housing in the city of Boston. Such regulations shall
135 provide that, with respect to new large-scale commercial real estate development, any relief
136 granted under the provisions of the zoning code, existing or as amended, including without
137 limitation the granting of a conditional use permit, exception, zoning map or text amendment or
138 variance, or any approvals granted pursuant to Article 80 of the Boston zoning code, shall be
139 conditioned upon action, or promised action, by the developer seeking to obtain such relief or

140 approvals to contribute an affordable housing exaction, to mitigate the effects which new large-
141 scale commercial real estate development projects may have upon the availability of affordable
142 housing within the city, which action shall be, the contribution towards the creation of affordable
143 housing as determined by the zoning commission pursuant to duly adopted regulation.
144 Affordable housing may be a portion of a housing development which includes residents of
145 mixed income levels. The regulations shall provide that the zoning relief or approvals necessary
146 to build new large-scale commercial real estate developments are distinct from any other relief or
147 approvals granted under the provisions of the zoning code.

148 SECTION 11. Section 16 of chapter 665 of the acts of 1956, as amended, is hereby
149 amended by striking out “Boston redevelopment authority” in the first sentence of the second
150 paragraph and inserting in place thereof the following:-

151 Boston Redevelopment Authority

152 SECTION 12. Section 16 of chapter 665 of the acts of 1956, as amended, is hereby
153 amended by inserting after the second sentence of the second paragraph the following sentence:-

154 The requirements for creation of housing in kind or payments made over a period of time
155 shall be determined by the regulations.

156 SECTION 13. Section 16 of chapter 665 of the acts of 1956, as amended, is hereby
157 amended by striking out the third paragraph in its entirety.

158 SECTION 14. Section 16 of chapter 665 of the acts of 1956, as amended, is hereby
159 amended by striking out the fourth paragraph and inserting in place thereof the following
160 paragraph:-

161 Such regulations shall provide that the measured value of the affordable housing exaction
162 shall be determined on the basis of a fixed dollar amount per square foot of gross floor area
163 devoted to exaction uses in excess of one hundred thousand square feet of gross floor area
164 devoted to exaction uses or other such threshold as determined by the zoning commission,
165 exclusive in both cases of all accessory parking garage space, of the new large-scale commercial
166 real estate development, as determined by the zoning commission upon written recommendations
167 of the BRA, which recommendations shall include an analysis of the following: (1) economic
168 trends, such as real estate development activity, commercial rents per square foot, employment
169 growth and inflation rates; (2) housing trends measured in terms of vacancy rates for affordable
170 housing available to low and moderate income residents, and production statistics for new
171 dwelling units; and (3) any other such information which the BRA deems appropriate for
172 consideration; provided, however, that the zoning commission shall be authorized to decrease the
173 measured value of the above affordable housing exaction at any time upon consideration of the
174 factors above; provided further, that annually on each July 1st, the current housing exaction in
175 dollars per square foot (\$9.03 as of the date of adoption of this amendment) as set by the zoning
176 commission shall be automatically adjusted by the BRA to reflect the combined index; and
177 provided further, that the zoning commission may adopt additional adjustments based on BRA
178 recommendations pursuant to the analysis as required above. No such increase shall apply to any
179 new large-scale commercial real estate development for which an application for a conditional
180 use permit, exception, zoning map or text amendment or variance, Project Notification Form or
181 other Article 80 application has been filed with the appropriate governmental authority prior to
182 the effective date of such increase or for which an application for a planned development area
183 has been filed with the BRA prior to the effective date of such increase, whichever occurs first;

184 provided, however, that the zoning commission may require increased exactions for any
185 development project which seeks additional relief through the filing of a Notice of Project
186 Change, amendment of a planned development area, or other such zoning relief as specified by
187 the zoning commission. Any affordable housing exaction payment shall be made to the
188 neighborhood housing trust, as created and administered pursuant to section twenty. The zoning
189 commission is authorized to promulgate such regulations or rules as will effectuate the purposes
190 of this section.

191 SECTION 15. Section 16A of chapter 665 of the acts of 1956, as amended, is hereby
192 deleted in its entirety.

193 SECTION 16. Section 17 of chapter 665 of the acts of 1956, as amended, is hereby
194 amended by striking out the section in its entirety and inserting in place thereof the following
195 section:-

196 Notwithstanding any provisions of general or special law or rule to the contrary, in the
197 city of Boston the zoning commission is hereby authorized to adopt zoning regulations or
198 amendments thereto for the purpose of mitigating the effects of new large-scale commercial real
199 estate development on the health and welfare of low and moderate income residents of the city of
200 Boston due to the unavailability of employment opportunities for such low and moderate income
201 residents of Boston. Such regulations shall provide that any relief granted under the provisions of
202 the zoning code, existing or as amended, including without limitation the granting of a
203 conditional use permit, exception, zoning map or text amendment or variance, or review and
204 approval under Article 80 of the Boston zoning code, shall be conditioned upon action, or
205 promised action, by the developer seeking to obtain such relief or approvals to contribute an

206 employment exaction to mitigate the effects which new large-scale commercial real estate
207 development projects may have upon the availability of jobs for low and moderate income
208 residents within the city, which action shall be the contribution towards the creation of job
209 training programs for the training of low and moderate income residents of the city as
210 determined by the zoning commission pursuant to duly adopted regulations. The regulations
211 shall provide that the zoning relief or approvals necessary to build new large-scale commercial
212 real estate developments are distinct from any other relief or approvals granted under the
213 provisions of the zoning code.

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

226 Such regulations shall provide that the measured value of the employment exaction shall
227 be determined on the basis of a fixed dollar amount per square foot of gross floor area devoted to
228 exaction uses in excess of one hundred thousand square feet devoted to exaction uses, exclusive

229 in both cases of all accessory parking garage space or other such threshold as determined by the
230 zoning commission, in the new large-scale commercial real estate development, as determined
231 by the zoning commission upon written recommendations of the BRA, which recommendations
232 shall include an analysis of the following: (1) economic trends, such as real estate development
233 activity, commercial rents per square foot, employment growth and inflation rates; (2)
234 employment trends such as unemployment rates and statistics on the availability and use of job
235 training programs; and (3) any other such information which the BRA deems appropriate for
236 consideration; provided, however, that the zoning commission shall be authorized to decrease the
237 measured value of the above employment exaction at any time upon consideration of the factors
238 above; provided, further, that annually on each July 1st, the current employment exaction in
239 dollars per square foot (\$1.78 as of the date of adoption of this amendment) as set by the zoning
240 commission shall be automatically adjusted by the BRA to reflect the combined index; and
241 provided further, that the zoning commission may adopt additional adjustments based on BRA
242 recommendations pursuant to the analysis as required above. No such increase shall apply to any
243 new large-scale commercial real estate development for which an application for a conditional
244 use permit, exception, zoning map or text amendment or variance, Project Notification Form or
245 other Article 80 application has been filed with the appropriate governmental authority prior to
246 the effective date of such increase or for which an application for a planned development area
247 has been filed with the BRA prior to the effective date of such increase, whichever occurs first;
248 provided, however, that the zoning commission may require increased exactions for any
249 development project which seeks additional relief through the filing of a Notice of Project
250 Change, amendment of a planned development area, or other such zoning relief as specified by
251 the zoning commission. Any employment exaction shall be paid into the neighborhood jobs trust

252 as created pursuant to section twenty of this chapter. The zoning commission is authorized to
253 promulgate such regulations or rules, as will effectuate the purpose of this provision.

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

256 SECTION 18. Section 18 of chapter 665 of the acts of 1956, as amended, is hereby
257 amended by striking out the entire section and inserting in place thereof the following:-

258 (a) The zoning commission is further authorized to promulgate zoning regulations and
259 amendments thereto for the purpose of mitigating the effects of new large-scale commercial real
260 estate development in the city of Boston on the availability of affordable housing or employment
261 opportunities for low and moderate income residents of Boston; provided, however, that such
262 regulations may not be in force simultaneously with those authorized by sections sixteen and
263 seventeen. Such regulations and amendments may provide that any relief granted under the
264 provisions of the zoning code, existing or amended, including without limitation the granting of a
265 conditional use permit, exception, zoning map or text amendment or variance, or review and
266 approval under Article 80 of the Boston zoning code or other such threshold as determined by
267 the zoning commission, shall be conditioned upon action or promised action by the developer
268 seeking to create such new large-scale commercial real estate development project or obtain such
269 relief to mitigate the effects which new large-scale commercial real estate development may
270 have upon low and moderate income residents of the city as determined by the zoning
271 commission pursuant to duly adopted regulations. Such regulations or amendments shall state the
272 specific improvements or amenities to be provided as a condition required for the grant of zoning
273 relief or approvals and the zoning relief or approvals to be granted. The regulations shall provide

274 that the zoning relief or approvals necessary to build new large-scale commercial real estate
275 developments are distinct from any other relief granted under the provisions of the zoning code.

276 (b) Any such regulations and amendments must provide that (1) the present and future
277 economic burden of any such improvements or amenities shall not exceed the sum of the present
278 value of the prevailing affordable housing exaction as established by the zoning commission (at
279 the time of adoption of this amendment, \$9.03) per square foot paid in equal and annual
280 installments over a seven year period plus the present value of the prevailing employment
281 exaction as established by the zoning commission (at the time of adoption of this amendment,
282 \$1.78) per square foot paid in equal and annual installments over a two year period, each
283 commencing on the date of the issuance of the building permit, for each square foot of gross
284 floor area devoted to exaction uses in excess of one hundred thousand square feet devoted to
285 exaction uses, exclusive in both cases of all accessory parking garage space, or other such
286 threshold as determined by the zoning commission, in the new large-scale commercial real estate
287 development; provided, however, that annually on each July 1st, the affordable housing exaction
288 and the employment exaction shall be automatically adjusted by the BRA to reflect the combined
289 index; and provided further, that the zoning commission may adopt additional adjustments based
290 on BRA recommendations pursuant to the analysis as required above.

291 SECTION 19. Section 19 of chapter 665 of the acts of 1956, as amended, is hereby
292 amended by striking out the section in its entirety and inserting in place thereof the following
293 section:-

294 Notwithstanding any provision of general or special law or rule to the contrary, (a)
295 articles 26, 26A and 26B of the Boston zoning code; (b) all zoning code amendments, zoning

296 map amendments, zoning variances, conditional use permits and zoning exceptions granted or
297 planned development areas approved or enacted prior to the effective date of any zoning code
298 amendment or zoning commission regulation pursuant to this act and in any way dependent
299 upon, or related to, articles 26, 26A or 26B of the Boston zoning code, or any of them, which
300 have not been appealed or challenged on the grounds of the invalidity of said articles, or any one
301 of them, in judicial proceedings timely and properly commenced, prior to the enactment of this
302 act or which have been so appealed or challenged in judicial proceedings which have been
303 dismissed or otherwise adjudicated in favor of the developer prior to the enactment of this act;
304 (c) all zoning code amendments, zoning map amendments, zoning variances, conditional use
305 permits, or planned development areas approved and zoning exceptions granted or enacted prior
306 to the effective date of any zoning code amendment or zoning commission regulations pursuant
307 to this act and in any way dependent upon or related to, articles 26, 26A or 26B of the Boston
308 zoning code, or any of them, which have been appealed or challenged on the grounds of the
309 invalidity of said articles, or any of them, in judicial proceedings timely and properly
310 commenced prior to the enactment of this act and which have not been dismissed or otherwise
311 adjudicated in favor of the developer prior to the enactment of this act; (d) any development
312 impact project exactions, development impact project contributions and jobs contribution grants,
313 as those terms are defined in said articles, and agreements for such exactions, contributions and
314 grants related to or dependent upon any of the zoning actions described in clause (b) and (c); and
315 (e) any additional actions, zoning variances, conditional use permits, or planned development
316 areas approved and zoning exceptions granted pursuant to, or in connection with, any
317 development contemplated by any zoning map amendment, zoning code amendment or
318 agreement described in clauses (b), (c) or (d), whether or not subsequent to the date of enactment

319 of this act, are hereby ratified, validated and confirmed, insofar as any such amendments,
320 variances, permits, exceptions, exactions, contributions, grants, agreements, and other actions
321 may be invalid by reason of any invalidity of said articles or any of them. Any new large-scale
322 commercial real estate development which is the subject of any agreement ratified, validated and
323 confirmed by this section, and any additional actions, zoning variances, conditional use permits,
324 zoning exceptions, and zoning code and text amendments ratified, validated and confirmed by
325 this section, shall be governed by any such agreement and by the provisions of said articles 26,
326 26A and 26B of the Boston zoning code, or any of them, pursuant to which said agreements were
327 made or planned development areas approved, and shall not be subject to any zoning regulations
328 or amendments hereafter adopted by the zoning commission pursuant to this act.

329 Notwithstanding the foregoing, no new large-scale commercial real estate development shall be
330 subject to the terms and provisions of sections 26-3(2)(c) of Article 26, section 26A-3(2)(c) of
331 Article 26A or section 26B-3(1)(c) of Article 26B of the Boston zoning code.

332 SECTION 20. Section 20 of chapter 665 of the acts of 1956, as amended, is hereby
333 amended by striking the word “him” in the fourth sentence of the first paragraph and inserting in
334 place thereof the following:-

335 him/her/them

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

339 Notwithstanding any general or special law to the contrary, in the city of Boston the
340 zoning commission shall adopt zoning regulations or amendments thereto for the purpose of

341 mitigating the adverse impact of new real estate development on the public health, safety,
342 convenience, and welfare of its inhabitants, including, but not limited to, the transportation
343 network, infrastructure, environment, urban design components, or historic resources in the city
344 of Boston. The regulations shall provide that, with respect to new real estate development, any
345 approval or relief granted under the provisions of the zoning code, existing or as amended,
346 including without limitation the granting of a conditional use permit, exception, zoning map or
347 text amendment or variance, or approvals pursuant to Article 80 of the zoning code shall be
348 conditioned upon action, or promised action, by the developer seeking to obtain the relief or
349 approvals, to undertake measures, as required by the BRA, to mitigate, limit, or minimize the
350 impact within the city.

351 SECTION 22. Chapter 665 of the acts of 1956, as amended, is hereby amended by
352 inserting the following section 22:

353 Notwithstanding the provision of any general or special law or rule to the contrary, in
354 order to protect and enhance the public health, safety and welfare in accordance with the goal of
355 this act, to meet fair housing and planning goals so that neighborhoods will have a range of
356 housing options to support a diverse populace, the city of Boston zoning commission is hereby
357 authorized to adopt inclusionary zoning regulations or amendments to set aside, or to facilitate
358 the creation or preservation of, income restricted housing. Such regulations or amendments shall
359 be adopted in a manner consistent with the planning and zoning authorities, standards and
360 processes of the city of Boston, BRA and zoning commission except as specified in this section.

361 The zoning commission shall only adopt Inclusionary Development or an amendment
362 thereto, following a recommendation of the Board of the BRA, and a vote or inaction of the

363 Boston city council, as described herein. After a vote of the BRA Board, the BRA shall provide
364 notice to the city council of the Inclusionary Development or amendment thereto. The city
365 council shall have, from date of notification, sixty (60) days to reject the Inclusionary
366 Development or amendment thereto, by a two thirds vote of all its members. If the council fails
367 to reject the Inclusionary Development or amendment thereto or should the council take no
368 action within the specified sixty (60) days, then the Inclusionary Development or amendment
369 thereto shall proceed to the zoning commission, which shall notice and schedule a hearing in
370 accordance with section 3 of chapter 665 of the acts of 1956, as amended.

371 Such Inclusionary Development or amendment thereto may include one or more of the
372 following requirements that, regardless of the need for zoning relief, residential development
373 projects, as defined by the zoning commission, must: (1) include a percentage of the units or a
374 percent of square footage on-site as income restricted dwelling units, (2) produce or cause to be
375 produced income restricted units off-site, or, (3) in lieu of including or producing such units,
376 make a monetary or in-kind contribution toward the creation or preservation of income restricted
377 housing. Such requirements may vary based on the zoning district of the new project, or such
378 other factors determined by the zoning commission to be necessary or advisable to achieve the
379 goal of this act.

380 In making a recommendation, the BRA shall consider: (1) Boston housing cost trends; (2)
381 market and income restricted housing production goals; (3) providing housing at a cost not
382 generally available in the city; (4) the city's goal of maintaining racial and economic diversity in
383 the city, and affirmatively furthering fair housing for members of protected classes and the larger
384 community; (5) financial and other considerations regarding the production and cost of market-
385 rate residential development projects and income restricted housing units; and other factors as

386 determined by the zoning commission; provided that, the zoning commission may waive such
387 analysis upon finding that proposed regulations are substantially similar in nature, enact clerical
388 or procedural adjustments, clarify existing requirements, support adoption of a citywide
389 regulation into neighborhood or planned development area zoning, or are otherwise reflected in
390 documented consideration of such factors by the zoning commission, the BRA or the city of
391 Boston within three years of submission.

392 SECTION 23. Chapter 665 of the acts of 1956, as amended, is hereby amended by
393 deleting the fourth paragraph of section 1 and replacing it with the following:

394 The zoning commission and city of Boston shall cause to be made public electronically
395 accessible contact information for members of the zoning commission and meeting minutes.

396 SECTION 24. Chapter 665 of the acts of 1956, as amended, is hereby amended by
397 inserting after section 21 the following section:

398 Section 23. Should any part of this act be found invalid, all valid parts that are severable
399 from the invalid part remain in effect. If any part of this act is found invalid in one or more of its
400 applications, that part remains in effect in all valid applications that are severable from the
401 invalid applications.

402 SECTION 25. This act shall take effect upon its passage.