



ZONING ENABLING ACT AMENDMENT

An Act to amend Chapter 665 of the Acts of 1956, Boston's Zoning Enabling Act (ZEA), to authorize adoption of Boston's Inclusionary Development Policy, which provides for affordable housing, as an amendment to the Zoning Code and ensure the continued applicability of Boston's Linkage program, which provides for jobs and affordable housing from new large commercial real estate developments, as zoning is updated in areas of the City.

FREQUENTLY ASKED QUESTIONS

What is the Inclusionary Development Policy (IDP)?

The IDP has, for the past 17 years, required that residential development projects of 10 or more units and which need a zoning variance provide a percentage of their units as affordable/income restricted housing (currently 13% of the total units). This policy has ensured the availability of housing to a range of incomes across the city, including in Boston's most expensive neighborhoods. In addition, some developers are allowed to contribute into the Inclusionary Development Policy Fund instead of creating all the units on-site, which has supported the development of affordable housing across the city.

Why does the Zoning Enabling Act (ZEA) need to be amended?

The IDP was created by an Executive Order of the Mayor, and is not part of the zoning code. As a result, any developments that do not require zoning relief currently do not need to comply with the policy and provide affordable housing. The City is engaged in the first city-wide planning effort in 50 years, Imagine Boston 2030, as well as several neighborhood planning initiatives that may result in new zoning to guide future development. In order to ensure the continued applicability of IDP for projects that do not require zoning relief, the policy needs to be made part of the Zoning Code. The Zoning Enabling Act grants power to the City to create zoning regulations but is silent on the City's ability to adopt Inclusionary Zoning, so to eliminate any uncertainty, the city is seeking clear authority by amending the ZEA. By amending the ZEA to authorize IDP to become part of the zoning code, all projects 10 units or more will be required to provide affordable housing.

What are the steps in the process to amend to the ZEA?

Changing the Zoning Enabling Act is a two-step process; the legislation first must be approved by the Boston City Council and then enacted by the State Legislature.

Will this change the amount of affordable housing provided by private residential development?

Since its inception, IDP has provided over 1,700 units of affordable housing. Currently, nearly all large development and many smaller projects require zoning relief and are required to provide affordable units. When IDP becomes part of the zoning code as Inclusionary Zoning, affordable housing will continue to be required at the same rate, regardless of the need for zoning relief. Presently, there are a very few developments of 10 or more units that do not need zoning relief and thus are not required to provide affordable units. With Inclusionary Zoning, those too would be included and thus all projects of 10 or more units would be required to participate.

What is meant by “affordable housing”?

The phrase “affordable housing” usually refers to any housing that is income restricted. For such properties, rents or sales prices are generally set so that a qualifying household does not have to spend more than approximately 30% of their gross income to housing costs. If a family has to spend more than 30% to 35% of their income on rent, they are considered “rent burdened.” This does not mean that a unit that is described as affordable housing is affordable to all households. There are a wide range of housing programs, each of which targets a specific income group. For example, public housing targets families with some of the lowest incomes, while IDP units in private developments target moderate- to middle-income households who find it difficult to afford market-rate housing in Boston’s expensive market. In order to keep Boston’s neighborhoods vibrant, we need housing affordable to a range of income levels.

How does someone qualify for an affordable/income-restricted unit?

When affordable units are initially created, the developer, whether a private company or a non-profit, markets the property in conjunction with the City of Boston Fair Housing Commission, which requires certain forms of advertising and outreach. A combination of a lottery and preferences are used to determine a household's priority to get a unit. The most common preferences are Boston residency, household size that matches the number of bedrooms in the unit, and first-time homebuyers (for homeownership units). These preferences are spelled out in the marketing material.

To qualify for the unit, a household must submit income and asset information such as tax returns and bank statements, to make sure the household meets the income and asset standards for the particular unit, which can vary from unit to unit.

How long does a unit stay affordable?

Under the current policy, units created within a private development (“on-site units”) are income restricted for fifty years. Many of the units created with the help of IDP funds are income restricted for 99 years.

What is the difference between IDP and “Linkage”?

IDP applies to residential projects. Linkage is a program, in place since 1987, which requires new, large commercial real estate development projects in excess of 100,000 sq. ft. that need zoning relief or changes to the zoning maps, to make a contribution into the Neighborhood Housing Trust and the Neighborhood Jobs Trust to support affordable housing and job access for Boston residents. The Linkage requirements are fully described in the current ZEA.

Why does the ZEA need to be amended for Linkage if it’s already in there?

The Linkage regulations are clearly stated in the ZEA and are part of the zoning code already. As Boston updates its zoning, there will likely be some instances where new, large commercial real estate development can go forward without the need of zoning relief or changes to the zoning maps. In order to ensure the continued application of Linkage requirements to these projects, the ZEA needs to be amended to include another “trigger”. With the amendment, if a project is required to file a Large Project Impact Report (must be 50,000 sq. ft. or more) under Article 80 of the zoning code and is more than 100,000 sq. ft. it would be required to participate in Linkage regardless of the need for zoning relief or an amendment to the zoning maps.

**For additional information, or if you have any questions,
please contact Bryan Glascock, 617- 918- 4242, or Bryan.Glascock@boston.gov.**