



City of Boston, Massachusetts
Office of the Mayor
MICHELLE WU

January 29, 2024

TO THE CITY COUNCIL

Dear Councilors:

I hereby transmit for your consideration and approval: *An Ordinance creating the Planning Department in the City of Boston.*

For decades, and in contrast to nearly all other major cities, the City of Boston has not had a City Planning Department. This Ordinance will restore planning as a core City function with the same accountability and oversight as all other City departments, by codifying the transition of former Boston Planning and Development Agency (BPDA) staff to a new City Planning Department. The language of this Ordinance also sets the parameters for an effective and sustainable, budget-neutral transition that ensures continuity for critical aspects of staff members' employment benefits.

It is critical that Boston's continued growth should create much needed housing and support a thriving downtown, vibrant neighborhood business districts, and a strong regional economy for healthy, connected communities. This Ordinance is one piece of our administration's plan to implement reforms that chart the course for comprehensive planning, updated zoning, integrated urban design, and predictable development review to achieve those goals. This Ordinance complements several major initiatives undertaken over the past two years, including:

1. **A home-rule petition** passed by your honorable body last April and under review by the State Legislature that would end Urban Renewal, abolish outdated structures, and modernize the focus of our authority away from targeting so-called "blight and urban decay" and instead to enacting affordability, equity, and resiliency citywide;
2. **Restructuring the BPDA** to shift the focus and culture of our work by elevating planning with distinct teams focused on zoning compliance and comprehensive planning that are separate from development review, and elevating design in its own division. In addition, the housing compliance team formerly at the BPDA has already been transferred to the Mayor's Office of Housing which has a robust compliance function to enforce affordability requirements;

3. **Coordinating citywide planning and implementation** by creating the Planning Advisory Council that brings together all cabinet agencies responsible for planning the built environment to establish collaboration and coordination on comprehensive community driven planning, including Streets; Housing; Operations; Finance, Environment, Energy, and Open Space; Equity; Economic Opportunity and Inclusion; and Arts and Culture;
4. **Working to update Boston's zoning code** through completion of neighborhood planning processes inherited from previous administrations and launching Squares + Streets, the first major rezoning effort in decades, focused on neighborhood commercial business corridors that are close to transit and that would benefit from greater housing density and affordability; and
5. **Modernizing development review** through a process to evaluate and improve the Article 80 development review parameters for the first time since its creation, with a mission to enhance predictability and transparency.

In establishing the Planning Department and implementing the reforms above, the City of Boston will transition away from a reactive approach centered on responding to private development proposals, to instead planning proactively for the needs of Bostonians with coordinated citywide efforts for direct accountability, transparency, community engagement, and predictability.

This Ordinance includes three major components:

1. **Codify the purpose and powers of the Planning Department:** The Planning Department's purpose will be to develop comprehensive short and long term plans for Boston's built environment, establishing a consistent and predictable zoning code for the City, advancing exceptional and inclusive design standards, providing predictability to guide development that is responsive to community needs, and planning for the effective use of public real estate. The new City department will retain and clarify all the existing functions of the BPDA. In its current form, the BPDA Board will still function as the Planning Board and approval authority for Article 80 projects, completed plans with zoning language to be further approved by the Boston Zoning Commission, and other land use actions.
2. **Enable financial transfer between the City of Boston and the BPDA:** The creation of a Planning Department will be a budget neutral transition for the City of Boston. For the last several decades the BPDA has been a self-financed entity not tied to direct City oversight, and the Agency had the sole authority to allocate its budget for the functions carried out by staff. Under this Ordinance, the BPDA will transfer funds to the City of Boston in order to financially support the new Planning Department and enable it to carry out its duties as approved through the standard City Council and Administration budget process for all City departments. This act sets forth the mechanisms for this regular transfer of funds to cover the expenses incurred by the City of Boston for performing

these functions, which will include staff payroll, service contracts, property maintenance, administrative expenses, and more.

3. **Ensure continuity of employment conditions for existing staff:** Part of ensuring a stable transition during the creation of the Planning Department is guiding the seamless transition of current BPDA staff to the City of Boston. This act preserves the residency policy requirements under which existing staff were originally hired. In addition, the Home Rule Petition approved by the Council last year and currently under review by the State Legislature would allow former BPDA employees to purchase their EDIC service time in the City of Boston's pension system. Currently, EDIC staff within the BPDA participate in a 401(a) retirement plan program that the City of Boston is restricted from offering. For this reason, current BPDA staff who are over 5 years of service or over 50 years old shall be given the opportunity to elect to stay on the BPDA payroll for the remaining tenure of their service for the sole purpose of retaining the 401(a) program if they do not wish to move to the City of Boston pension system. Staff that choose to preserve this retirement benefit will be treated in the same manner as City employees in every other respect and integrated into the management structures of the relevant City department. These employment steps will enable the vast majority of current BPDA staff to start on the first day of the new budget year (July 1, 2024) as City of Boston employees. After this date, no new employees would be hired to the BPDA, and all new hires supporting these functions will be hired within the City of Boston.

This Ordinance clarifies the functions needed for community-grounded planning to address the urgent and long-term needs of our residents and our city. I urge your Honorable Body to act favorably on the ordinance to help guide us toward a better future together.

Sincerely,



Michelle Wu
Mayor of Boston

AN ORDINANCE ESTABLISHING THE PLANNING DEPARTMENT IN THE CITY OF BOSTON

SECTION 1. City of Boston Code, Ordinances, *Chapter VIII* is hereby amended by adding the following after Section 8-13:

8-14 The Planning Department.

8-14.1 Purpose of the Planning Department.

There shall be in the City of Boston a department, known as the Planning Department (the "Department"), which shall be the City's primary land use agency charged with planning and designing the City's built environment, and evaluating and managing urban development (the "Purpose"). In achieving its Purpose, the Department shall develop plans and create strategies aimed at addressing the City's growth and infrastructural needs. Included among the Department's duties are to provide staff and technical support for planning or zoning efforts, and to review all large scale private development proposals within Boston.

8-14.2 Appointment, Powers and Duties of the Department's Chief of Planning.

a. Appointment

The Department shall be managed and directed by a chief of planning (the "Chief of Planning"). The Chief of Planning shall be appointed by the Mayor and shall remain in the position pursuant to City of Boston Code 5-5.1. The Chief of Planning shall be a resident of Boston for the duration of their appointment subject to City of Boston Code 5-5.2.

b. Powers and Duties to Manage the Department

The Chief of Planning shall have the powers and duties to manage the Department and its employees, including hiring employees. The Chief of Planning and the Department's employees shall be municipal employees of the City of Boston subject to M.G.L. ch. 268A and all rules, regulations, laws, ordinances and statutes applicable to such employees.

c. Chief of Planning as Director of the BPDA

The Chief of Planning may serve in a dual capacity as Director of each of the Boston Redevelopment Authority ("BRA") and the Economic Development and Industrial Corporation of Boston ("EDIC"), which entities together do business as the BPDA (the BRA and EDIC, together with any successor agency to the BRA and/or the EDIC, are referred to herein as the "BPDA") and who shall coordinate and integrate the work of the Department and the BPDA or any successor entities in a manner consistent with this ordinance and the BPDA's statutory authority.

d. *Specific Powers and Duties of the Chief of Planning*

The Chief of Planning shall have the following powers and perform the following duties to further the Purpose of the Department: coordinating and directing all planning efforts by the Department, all City land use directives, and all related policies and procedures on behalf of the Department; and leading the City's coordination with ongoing planning, design, zoning and development review efforts.

18-14.3 Powers and Duties of the Department.

The Department shall serve as the technical planning lead for the City of Boston and shall organize and make such recommendations to the BPDA Board or any successor entities concerning matters within its responsibility as may be necessary and appropriate.

The Department shall have the following divisions with the respective powers and duties below to further its Purpose which may be amended at the discretion of the Chief of Planning to ensure the effective functioning of the Department:

- a. *The Planning Division:* To create comprehensive plans and zoning regulations to guide urban development citywide, including by: maintaining an accurate and updated version of the City's Zoning Code and accompanying zoning maps which shall be available to the public through a publicly accessible database; and providing staff and technical support for citywide planning and zoning efforts, including staffing for Boston Zoning Commission activities.
- b. *The Design Division:* To set standards and guidelines for urban design citywide, and to evaluate architectural, public realm, and site design of proposed developments and policies, including by: ensuring that projects and policies meet aesthetic, functional, and community standards for urban design, with coordination and input from the Boston Civic Design Commission and other public processes; evaluating aspects such as building appearance, landscape design, signage, lighting, and their integration into the surrounding environment; and enhancing the quality, character, and compatibility of development within neighborhoods across the city to promote and protect the City's cultural heritage and unique sense of place.
- c. *The Development Review Division:* To evaluate proposed development projects to ensure coordination with zoning, land use planning, and other relevant policies related to the built environment, including by: assessing the community impact of projects related to affordability, resilience, equity, and other important factors, in order to shape project details, mitigation, and community benefits; managing application submission, public notifications, public hearings, review by various city departments, and final decision-making and approvals for proposed development projects; and ensuring transparency and predictability in development review processes.

- d. *The Real Estate Division*: To manage the planning process for acquisition and disposition of real estate; to oversee public-private partnerships to create public value on public land; and to direct construction, maintenance, coastal protection, leasing, and licensing of public assets with municipal or non-municipal uses including properties owned by the BPDA or successor entities.
- e. The Department may also include support services to ensure the smooth functioning of human resources, financial, legal, technological, communications, and other functions.

8-14.4 Residency Exemption for Former BPDA Personnel.

- a. Individuals employed by the Department shall be residents of the City of Boston in accordance with the City of Boston's Residency Ordinance (Ord. 1976, c. 9 as amended, hereinafter the "Residency Ordinance").
- b. Individuals employed by the BPDA as of June 30, 2024 who are subsequently hired by any City Department (the "Former BPDA Personnel") with no break in service between BPDA employment and employment with a City department, shall be exempt from the Residency Ordinance if: Such Former BPDA Personnel have already served ten (10) consecutive years with the BPDA (as calculated by the BPDA as of the date of such Former BPDA Personnel's date of transition to a City department); or Such Former BPDA Personnel serve ten (10) consecutive years with the BPDA (as calculated by the BPDA as of the date of such Former BPDA Personnel's date of transition to a City department) combined with their service time with a City department post-date of transition to the City; or such Former BPDA Personnel has already become exempt as of June 30, 2024 during employment with the BPDA pursuant to the provisions of a collective bargaining agreement between the Former BPDA Employee's bargaining unit and the BPDA.
- c. 8-14.4(b)'s exemption shall remain in effect during the entirety of the Former BPDA Personnel's service with the City unless and until the Former BPDA Personnel's employment with the City ends, or unless and until the Former BPDA Personnel subsequently becomes covered by any labor or collective bargaining agreement. At the time of either of these events, the exemption set forth herein ceases to apply to that Former BPDA Personnel.

8-14.5 Financial Transfers.

Upon passage of this ordinance and consistent with the City Charter and state law, and from time to time thereafter, the BPDA shall transfer funds to the City to fulfill the Purpose of the Department and to fulfill its statutory duties (the "Financial Transfers"). The City and the BPDA shall execute a memorandum of agreement (the "Financial Transfer MOA"), which Financial Transfer MOA may be amended from time

to time, to memorialize the process by which the Financial Transfers shall be effectuated for any Financial Transfers completed after the effective date of this Ordinance. The City shall expend any funds subject to the Financial Transfers in the manner in which they are required to be expended. The annual budget filed by the Mayor may be based on the amount of the Financial Transfers estimated to be received by the City in the upcoming fiscal year. The Financial Transfer MOA, in conjunction with 18-14.5 shall permit the execution of the Financial Transfers without further authorization.

8-14.6 Property Transfers.

The City may transfer to and acquire from the BPDA real property according to existing statutory processes as they may apply to certain parcels. The City and the BPDA may execute one or more memoranda of agreement to memorialize the process by which certain real property transfers shall be effectuated. To the extent required, approval of 8-14.6 shall constitute any requisite City Council approval of real property acquisitions and transfers by the City pursuant to the City Charter or other applicable Massachusetts state law.

SECTION 2.

1. Effective Date.

The provisions of this Ordinance shall take effect upon passage.

SECTION 3.

1. Partial Invalidity.

If any provision of this ordinance is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance, which shall remain in full force and effect.

I HEREBY CERTIFY
THE FORGOING, IF PASSED IN
THE ABOVE FORM, WILL BE IN
ACCORDANCE WITH LAW.
BY Adam Cederbaum
ADAM CEDERBAUM
CORPORATION COUNSEL