

By Mr. Fitzgerald of Boston, petition of Kevin W. Fitzgerald and other members of the General Court (with the approval of the mayor and city council) for legislation to authorize certain actions by the city of Boston relative to new large scale commercial real estate development. Housing and Urban Development.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT AUTHORIZING CERTAIN ACTIONS BY THE CITY OF BOSTON TO MITIGATE THE EFFECTS OF NEW LARGE-SCALE COMMERCIAL REAL ESTATE DEVELOPMENT (LINKAGE).

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

1 SECTION 1. *Preamble.*

2 *Whereas*, The General Court finds and declares that a serious  
3 public emergency exists in the City of Boston with respect to the  
4 housing and also the employment of a substantial number of the  
5 citizens of said city, as further described below; and

6 *Whereas*, Due to the City of Boston's concentrated population,  
7 its intense land use by business, educational, governmental, and  
8 religious entities, its role as the center of commerce and finance  
9 in New England, and its geographic layout, the City of Boston  
10 is unique in the Commonwealth of Massachusetts; and

11 *Whereas*, There is not an adequate supply of affordable housing  
12 for low and moderate income residents of the city; and

13 *Whereas*, The construction of new large-scale commercial real  
14 estate developments, without the obligation to mitigate their  
15 adverse impact on the availability of such affordable housing, is  
16 contrary to the public health, safety, convenience and welfare; and

17 *Whereas*, There is an urgent need to supply affordable housing  
18 for low and moderate income residents of the city in conjunction  
19 with the construction of new large-scale commercial real estate  
20 developments; and

21 *Whereas*, The construction of new large-scale commercial real  
22 estate developments in the city influences land use patterns and  
23 can directly and indirectly eliminate existing businesses; and

24 *Whereas*, New large-scale commercial real estate developments  
25 influence employment opportunities for low and moderate income  
26 residents and tend to reduce the number of jobs for which low  
27 and moderate income residents of the city are qualified; and

28 *Whereas*, New large-scale commercial real estate developments  
29 change the character of surrounding areas and, to the extent that  
30 such developments create jobs, they create jobs for which low and  
31 moderate income residents of the city are not qualified without  
32 additional job training; and

33 *Whereas*, The construction of new large-scale commercial real  
34 estate developments, without the obligation to mitigate their  
35 adverse impact on the availability of jobs for which low and  
36 moderate income residents of the city are qualified, is contrary  
37 to the public health, safety, convenience and welfare; and

38 *Whereas*, There is an urgent need to provide job training to low  
39 and moderate income residents of the city in conjunction with the  
40 construction of new large-scale commercial real estate  
41 developments; and

42 *Whereas*, The foregoing findings are based upon a considera-  
43 tion of city of Boston housing trends, production statistics for new  
44 dwellings and housing vacancy rates for affordable housing for  
45 low and moderate income residents, as well as a consideration of  
46 employment trends, unemployment rates, and statistics on job  
47 training programs; and

48 *Whereas*, It is hereby determined that: (1) prior to the effective  
49 date of this act, developers of new large scale commercial real  
50 estate developments, have relied reasonably and in good faith on  
51 the applicability to their developments of article 26, article 26A  
52 and article 26B of the Boston zoning code;

53 (2) the approval, grant, or enactment of all zoning code  
54 amendments, zoning map amendments, zoning variances,  
55 conditional use permits, and zoning exceptions requested by any  
56 new large scale commercial real estate developments, is an act of  
57 independent legal significance governed by the provisions of the  
58 Boston zoning code;

59 (3) prior to the effective date of this act, owners and financiers  
60 of new large scale commercial real estate developments, relying  
61 reasonably and in good faith on the validity of zoning code  
62 amendments, zoning map amendments, zoning variances,  
63 conditional use permits, and zoning exceptions approved, have  
64 invested a substantial amount of funds and time in such projects;

65 (4) the agreements to make development impact project  
66 exactions, development impact project contributions and jobs  
67 contribution grants entered into prior to the effective date of this  
68 act provide revenues to meet a public exigency for the provision  
69 of affordable housing and job training for low and moderate  
70 income residents of the City of Boston; and

71 (5) there is an urgent need to provide the public with certainty  
72 (i) that the funds, time and jobs invested in and dependent upon  
73 development impact projects are secure; (ii) that the zoning code  
74 amendments, zoning map amendments, zoning variances,  
75 conditional use permits, and zoning exceptions upon which such  
76 development impact projects depend are secure; and (iii) that the  
77 development impact project exactions, development impact  
78 project contributions and jobs contribution grants agreed to be  
79 made by development impact projects are available for the  
80 provision of job training and affordable housing for low and  
81 moderate income residents of the City; now

82 *Therefore*, This act is declared to be in the public interest and  
83 necessary for the public health, safety and general welfare of the  
84 citizens of the city of Boston.

1 SECTION 2. Chapter 665 of the acts of 1956, as amended, is  
2 hereby further amended by inserting after section fourteen thereof  
3 the following new sections: —

4 Section 15. Definitions. When used in sections 15 through 20  
5 of this act, terms, not otherwise defined, shall be defined in  
6 accordance with the definitions contained in the City of Boston  
7 Zoning Code as in effect on the date of enactment hereof, unless  
8 the context requires otherwise and the following terms shall,  
9 unless the context requires otherwise, have the following  
10 meanings: —

11 “Affordable housing” — a unit or units of housing, whether  
12 rental, condominium or cooperative, or a single or multi-family

13 owner occupied home exclusively, for low and moderate income  
14 residents (i) for which the occupancy cost to the residents thereof  
15 does not exceed such percentage of the income of the occupant  
16 household as may be established from time to time for low and  
17 moderate income residents in the Boston area by the United States  
18 department of housing and urban development (“HUD”), as the  
19 maximum total tenant payment pursuant to section 8 of the  
20 United States housing act of 1937, as amended by the housing  
21 and community development act of 1974 and as further amended  
22 from time to time, and regulations promulgated pursuant thereto,  
23 or (ii), as otherwise defined by the zoning commission through  
24 its adoption of the definition of any state or federal agency,  
25 authority, department or similar instrumentality providing  
26 financial assistance to reduce the occupancy cost of housing to  
27 low and moderate income residents.

28 “Affordable housing exaction” — a contribution towards the  
29 creation of affordable housing by a developer whether in kind,  
30 or by the payment of a sum of money in lieu thereof by said  
31 developer to the neighborhood housing trust; or a combination  
32 of such creation and monetary payment; all made in accordance  
33 with regulations promulgated by the Boston zoning commission.

34 “Combined index” — an index which measures the increase in  
35 price levels by combining in equal proportions the consumer price  
36 index for all urban consumers (CPI-U) (1967=100) and the  
37 housing component of said CPI-U for the Boston metropolitan  
38 area, as these indices are published from time to time by the bureau  
39 of labor statistics, United States department of labor.

40 “CPI-W” — an index now known as the consumer price index  
41 for urban wage earners and clerical workers, all items, for the  
42 Boston metropolitan area (1967=100) as published from time to  
43 time by the bureau of labor statistics, United States department  
44 of labor.

45 “Developer” — the person or entity seeking to create one or  
46 more new large-scale commercial real estate developments in the  
47 city of Boston.

48 “Employment exaction” — a contribution by a developer  
49 towards the creation of a job training program or programs  
50 whether by the creation of such program or the payment of a sum

51 of money in lieu thereof by said developer to the neighborhood  
52 jobs trust; or a combination of such creation and monetary  
53 payment; all made in accordance with regulations promulgated  
54 by the Boston zoning commission.

55 “Job training programs” — programs designed to enhance the  
56 ability of the participants to be qualified to successfully compete  
57 for employment opportunities including, without limitation, job  
58 training, adult literacy training, employment counseling and  
59 associated support services.

60 “Low and moderate income resident” — A resident, or group  
61 of residents all of whom occupy the same dwelling unit as their  
62 principal residence, whose total income (i) is no greater than the  
63 per cent of the median income for the Boston area set forth in  
64 or determined based upon regulations and definitions promul-  
65 gated from time to time by the United States department of  
66 housing and urban development (“HUD”) pursuant to section 8  
67 of the housing act of 1937, as amended by the housing and  
68 community development act of 1974 and as further amended from  
69 time to time, for lower income families or very low income families  
70 as defined in such regulations, or any combination thereof as  
71 determined by the zoning commission or (ii) is otherwise defined  
72 by the Boston zoning commission through its adoption of the  
73 definition of any state or federal agency, authority, department  
74 or similar instrumentality providing financing, subsidy or other  
75 financial assistance to reduce the occupancy cost of housing to  
76 low and moderate income residents.

77 “Neighborhood housing trust” — a Massachusetts public  
78 charitable trust created under the authority of this act and the laws  
79 of the commonwealth and administered by the collector-treasurer  
80 of the city as managing trustee pursuant to Chapter 7 of the  
81 Ordinance of the City of Boston of 1986 and pursuant to a  
82 Declaration of Trust dated November 19, 1985.

83 “Neighborhood jobs trust” — a Massachusetts public  
84 charitable trust created under the authority of this act and the laws  
85 of the commonwealth and administered by the collector-treasurer  
86 of the city as managing trustee.

87 “New large scale commercial real estate development” — any  
88 development in the city of Boston in which development it is

89 proposed to erect a building or structure having a gross floor area  
90 (exclusive in both cases of all accessory parking garage space) in  
91 excess of one hundred thousand (100,000) square feet, or to  
92 enlarge or extend a building or structure so as to increase its gross  
93 floor area (exclusive of all accessory parking garage space in both  
94 cases) to more than one hundred thousand (100,000) square feet  
95 or to substantially rehabilitate a building or structure or portion  
96 thereof having, or to have, after rehabilitation, a gross floor area  
97 (exclusive of all accessory parking garage space in both cases) of  
98 more than one hundred thousand (100,000) square feet which  
99 square footage is intended for one or more of the following uses  
100 (“exaction uses”): (1) office, (2) retail business or service, (3)  
101 institutional or educational, (4) hotel or motel, but not including  
102 an apartment hotel or lodging house.

103 “Substantially rehabilitate” — to cause alterations or repairs to  
104 be made to a building or structure, constituting the new large-  
105 scale commercial real estate development, within any period of  
106 twelve (12) months, costing in excess of fifty (50) percent of the  
107 assessed value of the building or structure as it appears on the  
108 assessment rolls of the city as of the first day of January preceding  
109 the date of application for the zoning relief to authorize such  
110 alterations or repairs, including, without limitation, conditional  
111 use permits, exceptions, zoning map or text amendments or  
112 variances, or the date of application for the building permit for  
113 such alterations or repairs, whichever is earlier.

114 Section 16. Affordable Housing Exaction. Notwithstanding  
115 any provisions of general or special law or rule to the contrary,  
116 in the city of Boston the zoning commission is hereby authorized  
117 to adopt zoning regulations or amendments thereto for the  
118 purpose of mitigating the effects of any new large scale commercial  
119 real estate development on the health and welfare of low and  
120 moderate income residents of Boston due to the unavailability of  
121 affordable housing in the city of Boston. Such regulations shall  
122 provide that, with respect to a new large scale commercial real  
123 estate development, any relief granted under the provisions of the  
124 zoning code, existing or as amended, including without limitation  
125 the granting of a conditional use permit, exception, zoning map  
126 or text amendment or variance, shall be conditioned upon action,

127 or promised action, by the developer seeking to obtain such relief  
128 to contribute an affordable housing exaction, to mitigate the  
129 effects which the new large scale commercial real estate  
130 development project may have upon the availability of affordable  
131 housing within the city, which action shall be, the contribution  
132 towards the creation of affordable housing as determined by the  
133 zoning commission pursuant to duly adopted regulation.  
134 Affordable housing may be a portion of a housing development  
135 which includes residents of mixed income levels.

136 If the developer chooses to contribute towards the creation of  
137 housing in kind, in lieu of making the affordable housing exaction  
138 money payments provided for in this section, such affordable  
139 housing contribution shall be created in accordance with  
140 regulations adopted by the zoning commission which is hereby  
141 authorized to delegate to the Boston Redevelopment Authority  
142 ("BRA") the authority to adopt such housing creation regulations.  
143 Such regulations may authorize such contribution by the actual  
144 creation of affordable housing, or by the economic participation  
145 in such creation, including without limitation, the making of  
146 loans, contribution of capital to partnerships, limited partner-  
147 ships, or joint ventures, or the assignment of the developers'  
148 contractual obligations to make the money payments provided for  
149 in this section. The economic benefit, if any, of the right to any  
150 repayment of such economic participation shall be redirected by  
151 the developer, pursuant to the provisions of the housing creation  
152 regulations, or, in the absence of such redirection, to the  
153 neighborhood housing trust.

154 The zoning commission shall determine by regulation that the  
155 value of the affordable housing exaction shall be measured on the  
156 basis of dollars per square foot devoted to exaction uses in excess  
157 of 100,000 square feet of gross floor area devoted to exaction uses  
158 (exclusive in both cases of all accessory parking garage space) in  
159 the new large scale commercial real estate development project.  
160 The developer of any new large scale commercial real estate  
161 development project, in lieu of contributing towards the creation  
162 of affordable housing referred to in the preceding paragraph, may  
163 make a payment or payments of an amount of money equal to  
164 the measured value of the affordable housing exaction to the

165 neighborhood housing trust authorized by section twenty of this  
166 chapter over a payment period to be established by regulation of  
167 the zoning commission, for the purpose of mitigating the impact  
168 of new large scale commercial real estate developments.

169 Such regulations shall provide that the measured value of the  
170 affordable housing exaction shall be determined on the basis of  
171 a fixed dollar amount per square foot of gross floor area devoted  
172 to exaction uses in excess of 100,000 square feet of gross floor  
173 area devoted to exaction uses (exclusive in both cases of all  
174 accessory parking garage space) of the new large-scale commercial  
175 real estate development, as determined by the zoning commission  
176 upon written recommendations of the BRA, which recommenda-  
177 tions shall include an analysis of the following: (1) economic  
178 trends, such as real estate development activity, commercial rents  
179 per square foot, employment growth and inflation rates; (2)  
180 housing trends measured in terms of vacancy rates for affordable  
181 housing available to low and moderate income residents, and  
182 production statistics for new dwelling units; and (3) any other such  
183 information which the BRA deems appropriate for consideration;  
184 provided that the zoning commission shall be authorized to  
185 decrease the measured value of the above affordable housing  
186 exaction at any time upon consideration of the factors above;  
187 provided that the zoning commission shall not be authorized to  
188 set the measured value of the above affordable housing exaction  
189 at more than five dollars per square foot of gross floor area  
190 devoted to exaction uses in excess of 100,000 square feet devoted  
191 to exaction uses (exclusive in both cases of all accessory parking  
192 garage space); provided further, that three years after the effective  
193 date of this act and no more frequently than at three year intervals  
194 thereafter, the zoning commission is authorized to increase the  
195 measured value above such five dollar maximum, but any such  
196 increase, expressed as a percentage increase of the then applicable  
197 maximum per square foot amount, shall not exceed the percent  
198 of the increase in the combined index for the prior thirty-six  
199 month period. No such increase shall apply to any new large scale  
200 commercial real estate development for which an application for  
201 a conditional use permit, exception, zoning map or text  
202 amendment or variance has been filed with the appropriate

203 governmental authority prior to the effective date of such increase  
204 or for which an application for a Planned Development Area has  
205 been filed with the BRA prior to the effective date of such increase,  
206 whichever occurs first. The payment period for the affordable  
207 housing exaction shall be the payment period for the housing  
208 contribution grant or exaction as set forth in Article 26A of the  
209 Boston Zoning Code as of November 1, 1986 and any such period  
210 shall not be altered by subsequent regulation. Any affordable  
211 housing exaction payment shall be made to the neighborhood  
212 housing trust, as created and administered pursuant to section  
213 twenty of this chapter. The zoning commission is authorized to  
214 promulgate such regulations or rules as will effectuate the  
215 purposes of this section.

216 Section 17. Employment Exaction. Notwithstanding any  
217 provisions of general or special law or rule to the contrary, in the  
218 city of Boston the zoning commission is hereby authorized to  
219 adopt zoning regulations or amendments thereto for the purpose  
220 of mitigating the effects of any new large scale commercial real  
221 estate development on the health and welfare of low and moderate  
222 income residents of the City of Boston due to the unavailability  
223 of employment opportunities for such low and moderate income  
224 residents of Boston. Such regulations shall provide that any relief  
225 granted under the provisions of the zoning code, existing or as  
226 amended, including without limitation the granting of a  
227 conditional use permit, exception, zoning map or text amendment  
228 or variance, shall be conditioned upon action, or promised action,  
229 by the developer seeking to obtain such relief to contribute an  
230 employment exaction to mitigate the effects which the new large  
231 scale commercial real estate development project may have upon  
232 the availability of jobs for low and moderate income residents  
233 within the city, which action shall be the contribution towards the  
234 creation of job training programs for the training of low and  
235 moderate income residents of the city as determined by the zoning  
236 commission pursuant to duly adopted regulation.

237 The zoning commission shall determine by regulation that the  
238 value of an employment exaction shall be measured on the basis  
239 of dollars per square foot devoted to exaction uses in excess of  
240 100,000 square feet of gross floor area devoted to exaction uses

241 (exclusive in both cases of all accessory parking garage space) in  
242 the new large scale commercial real estate development project.  
243 The developer of any new large scale commercial real estate  
244 development project, in lieu of contributing towards the creation  
245 of the job training programs or similar activities projects referred  
246 to in the preceding paragraph, may make a payment or payments  
247 of an amount of money equal to the measured value of the  
248 employment exaction to the neighborhood jobs trust authorized  
249 by section twenty of this chapter over a payment period to be  
250 established by regulation of the zoning commission, for the  
251 purpose of mitigating the impact of the new large scale commercial  
252 real estate development project.

253 Such regulations shall provide that the measured value of the  
254 employment exaction shall be determined on the basis of a fixed  
255 dollar amount per square foot of gross floor area devoted to  
256 exaction uses in excess of 100,000 square feet devoted to exaction  
257 uses (exclusive in both cases of all accessory parking garage space)  
258 in the new large scale commercial real estate development, as  
259 determined by the zoning commission upon written recommen-  
260 dations of the Boston redevelopment authority ("BRA"), which  
261 recommendations shall include an analysis of the following: (1)  
262 economic trends, such as real estate development activity,  
263 commercial rents per square foot, employment growth and  
264 inflation rates; (2) employment trends such as unemployment  
265 rates and statistics on the availability and use of job training  
266 programs; and (3) any other such information which the BRA  
267 deems appropriate for consideration; provided that the zoning  
268 commission shall be authorized to decrease the measured value  
269 of the above employment exaction at any time upon consideration  
270 of the factors above; provided that the zoning commission shall  
271 not be authorized to set the value of the above employment  
272 exaction at more than one dollar per square foot of gross floor  
273 area devoted to exaction uses (exclusive in both cases of all  
274 accessory parking garage space) in excess of 100,000 square feet  
275 devoted to exaction uses; provided further, that three years after  
276 the effective date of this act and no more frequently than at three  
277 year intervals thereafter, the zoning commission is authorized to  
278 increase the measured value above such one dollar maximum, but

279 any such increase, expressed as a percentage of the then applicable  
280 maximum per square foot amount, shall not exceed the percent  
281 of increase of CPI-W for the prior thirty-six month period. No  
282 such increase shall apply to any new large scale commercial real  
283 estate development for which an application for a conditional use  
284 permit, exception, zoning map or text amendment or variance has  
285 been filed with the appropriate governmental authority prior to  
286 the effective date of such increase or for which an application for  
287 a Planned Development Area has been filed with the BRA prior  
288 to the effective date of such increase, whichever occurs first. The  
289 payment period for the employment exaction shall be the  
290 payment period for the jobs contribution grant as set forth in  
291 Article 26B of the Boston Zoning Code as of November 1, 1986  
292 and shall not be altered by subsequent regulation. Any  
293 employment exaction shall be paid into the neighborhood jobs  
294 trust as created pursuant to section twenty of this chapter. The  
295 zoning commission is authorized to promulgate such regulations  
296 or rules, as will effectuate the purpose of this provision.

297 Section 18. Alternative Regulations. (a) The zoning commis-  
298 sion is further authorized to promulgate zoning regulations and  
299 amendments thereto for the purpose of mitigating the effects of  
300 any new large scale commercial real estate development in the city  
301 of Boston on the availability of affordable housing or employment  
302 opportunities for low and moderate income residents of Boston;  
303 provided that such regulations may not be in force simultaneously  
304 with those authorized by sections 16 and 17 of this chapter. Such  
305 regulations and amendments may provide that any relief granted  
306 under the provisions of the zoning code, existing or amended,  
307 including without limitation the granting of a conditional use  
308 permit, exception, zoning map or text amendment or variance,  
309 shall be conditioned upon action or promised action by the  
310 developer seeking to create such new large scale commercial real  
311 estate development project or obtain such relief to mitigate the  
312 effects which the new large scale real commercial estate  
313 development may have upon low and moderate income residents  
314 of the city as determined by the zoning commission pursuant to  
315 duly adopted regulations. Such regulations or amendments shall  
316 state the specific improvements or amenities to be provided as a

317 condition required for the grant of zoning relief and the zoning  
318 relief to be granted.

319 (b) Any such regulations and amendments must provide that  
320 (1) the present and future economic burden of any such  
321 improvements or amenities shall not exceed the sum of the present  
322 value of \$5.00 per square foot paid in equal and annual  
323 installments over a seven year period plus the present value of  
324 \$1.00 per square foot paid in equal and annual installments over  
325 a two year period, each commencing on the date of the issuance  
326 of the building permit, for each square foot of gross floor area  
327 devoted to exaction uses in excess of 100,000 square feet devoted  
328 to exaction uses (exclusive in both cases of all accessory parking  
329 garage space) in the new large scale commercial real estate  
330 development; provided further that three years after the effective  
331 date of this act and no more frequently than at three year intervals  
332 thereafter, the zoning commission is authorized to increase the  
333 maximum per square foot amount but any such increase,  
334 expressed as a percentage of the then applicable maximum per  
335 square foot amount, shall not exceed the percent increase of the  
336 combined index for the prior thirty-six month period and (2) the  
337 developer seeking to create such new large scale commercial real  
338 estate development shall have the right to make a cash payment  
339 equal to such economic burden to a fund designated in such  
340 regulations or amendments in lieu of providing any such  
341 improvements or amenities. The incorporation herein of a  
342 limitation upon the economic burden of any such condition which  
343 may be imposed or agreed upon shall not be construed as  
344 mandating the imposition of any particular condition.

345 Section 19. Ratification of Prior Actions. Notwithstanding  
346 any provision of general or special law or rule to the contrary,  
347 (a) articles 26, 26A and 26B of the Boston zoning code; (b) all  
348 zoning code amendments, zoning map amendments, zoning  
349 variances, conditional use permits and zoning exceptions granted  
350 or enacted prior to the effective date of any zoning code  
351 amendment or zoning commission regulation pursuant to this act  
352 and in any way dependent upon, or related to, articles 26, 26A  
353 or 26B of the Boston zoning code, or any of them, which have  
354 not been appealed or challenged on the grounds of the invalidity

355 of said articles, or any one of them, in judicial proceedings timely  
356 and properly commenced, prior to the enactment of this act or  
357 which have been so appealed or challenged in judicial proceedings  
358 which have been dismissed or otherwise adjudicated in favor of  
359 the developer prior to the enactment of this act; (c) all zoning code  
360 amendments, zoning map amendments, zoning variances,  
361 conditional use permits and zoning exceptions granted or enacted  
362 prior to the effective date of any zoning code amendment or  
363 zoning commission regulations pursuant to this act and in any  
364 way dependent upon or related to, articles 26, 26A or 26B of the  
365 Boston zoning code, or any of them, which have been appealed  
366 or challenged on the grounds of the invalidity of said articles, or  
367 any of them, in judicial proceedings timely and properly  
368 commenced prior to the enactment of this act and which have not  
369 been dismissed or otherwise adjudicated in favor of the developer  
370 prior to the enactment of this act; (d) any development impact  
371 project exactions, development impact project contributions and  
372 jobs contribution grants, as those terms are defined in said articles,  
373 and agreements for such exactions, contributions and grants  
374 related to or dependent upon any of the zoning actions described  
375 in clause (b) and (c) above; and (e) any additional actions, zoning  
376 variances, conditional use permits and zoning exceptions granted  
377 pursuant to, or in connection with, any development contem-  
378 plated by any zoning map amendment, zoning code amendment  
379 or agreement described in clauses (b), (c) or (d) above, whether  
380 or not subsequent to the date of enactment of this act, are hereby  
381 ratified, validated and confirmed, insofar as any such  
382 amendments, variances, permits, exceptions, exactions,  
383 contributions, grants, agreements, and other actions may be  
384 invalid by reason of any invalidity of said articles or any of them.  
385 Any new large scale commercial real estate development which  
386 is the subject of any agreement ratified, validated and confirmed  
387 by this section 19, and any additional actions, zoning variances,  
388 conditional use permits, zoning exceptions, and zoning code and  
389 text amendments ratified, validated and confirmed by this section  
390 19, shall be governed by any such agreement and by the provisions  
391 of said Articles 26, 26A and 26B, or any of them, pursuant to  
392 which said agreements were made, and shall not be subject to any

393 zoning regulations or amendments hereafter adopted by the  
394 zoning commission pursuant to this act. Notwithstanding the  
395 foregoing, no new large scale commercial real estate development  
396 shall be subject to the terms and provisions of Sections 26-3(2)(c)  
397 of Article 26, Section 26A-3(2)(c) of Article 26A or Section 26B-  
398 3(1)(c) of Article 26B of the Boston Zoning Code.

399 Section 20. Authorization of Trust and Manner of Payment.  
400 Any general or special law or rule to the contrary notwithstanding,  
401 the city of Boston is hereby authorized to establish, by ordinance,  
402 separate funds, to be known as the neighborhood housing trust  
403 and the neighborhood jobs trust. Each such fund shall be held  
404 in trust by the collector-treasurer under such terms as may  
405 heretofore or hereafter be prescribed by ordinance, subject to the  
406 approval of the mayor. Each fund shall consist of all payments  
407 heretofore or hereafter made by any developer pursuant to  
408 sections sixteen, seventeen, eighteen and nineteen other than  
409 contributions towards the creation of affordable housing as  
410 provided in the second paragraph of Section 16, of this chapter  
411 and any funds appropriated to such funds by the city for the  
412 purposes set forth in this act and in ordinances regulating such  
413 trusts for which appropriations are hereby authorized. Any  
414 payments made to such separate funds pursuant to the provisions  
415 of this act shall be impressed with the terms of the trusts  
416 established under the authority of this section and the ordinances  
417 adopted pursuant to this section, and shall be received by the  
418 collector-treasurer and deposited by him in a separate account;  
419 provided, however, that with respect to each new large scale  
420 commercial real estate development, the total amount of all such  
421 payments to be made by a developer to such trusts shall first be  
422 accepted by the city council and approved by the mayor, which  
423 acceptance shall be deemed a final appropriation of said payments  
424 to such trusts. All payments to be made by a developer to such  
425 separate funds in respect to a particular new large scale  
426 commercial real estate development shall thereupon and  
427 thereafter be deposited directly into such trusts and may thereafter  
428 be expended by the trustees of said trusts for the purposes  
429 authorized by this act, and for no other purpose. All such funds  
430 received, accepted or appropriated shall at all times be impressed

431 with the terms of the trusts as defined by this act as regulated by  
432 ordinance and shall be dedicated exclusively to the development  
433 and operation of affordable housing for low and moderate income  
434 residents of Boston or to the development of job training  
435 programs for low and moderate income residents of Boston, and  
436 for no other purpose. Any trust or fund heretofore established  
437 by the city for either of the two purposes described in this act and  
438 now existing, and any ordinance passed for the purpose of  
439 authorizing the establishment of such trusts or funds passed prior  
440 to the effective date of this act including, without limitation,  
441 Chapter 7 of the Ordinances of the City of Boston of 1986 and  
442 Declaration of Trust of neighborhood housing trust dated  
443 November 19, 1985 and any actions taken by the trustees of said  
444 neighborhood housing trust or neighborhood jobs trust prior to  
445 the effective date of this act are hereby authorized, validated and  
446 confirmed.

447 Any payments made by a developer of a new large scale  
448 commercial real estate development pursuant to Chapter 7 of the  
449 Ordinances of the City of Boston of 1986 and the Declaration of  
450 Trust of the Neighborhood Housing Trust dated November 19,  
451 1985 before the effective date of any amendment of said Chapter  
452 or Declaration of Trust or of any trust or fund hereafter  
453 established by the City, in either case pursuant to this act, shall  
454 be governed by said Chapter of the Ordinances of 1986 and said  
455 Declaration of Trust of November 19, 1985 and shall not be  
456 subject to any trust or fund amendments or any new trust or fund  
457 hereafter established.

1 SECTION 3. Appeal Period. Section 665 of the acts of 1956  
2 as amended, is hereby further amended by inserting after section  
3 ten the following new section: —

4 Section 10A. Any persons aggrieved by a decision of the  
5 zoning commission approving a zoning map amendment or a  
6 zoning regulation or amendment thereof, or by any procedural  
7 defect therein, or any municipal board or officer, may appeal such  
8 decision to the superior court for the county of Suffolk or to the  
9 Land Court; provided, that such appeal is filed in said court within  
10 thirty days after such decision became effective in accordance with

11 the provisions of section 3 of chapter 665 of the acts of 1956. Upon  
12 an appeal under this section, the court shall hear all pertinent  
13 evidence and determine the facts, and, upon the facts as so  
14 determined, annul such action if found to exceed the authority  
15 of such commission, or make such other decree as justice and  
16 equity may require. The foregoing remedy shall be exclusive; but  
17 the parties shall have all rights of appeal and exception as in other  
18 equity cases.

19 Cost shall not be allowed against said zoning commission unless  
20 it shall appear to the court that the commission taking the action  
21 appealed from acted with gross negligence, in bad faith or with  
22 malice; and costs shall not be allowed against the part appealing  
23 from the action of the commission unless it shall appear to the  
24 court that said party acted in bad faith or with malice in appealing  
25 to the court.

26 All issues in any proceeding under this section shall have  
27 precedence over all other civil actions and proceedings.

1 SECTION 4. Severability. The provisions of this act and the  
2 chapter it amends shall be severable within the act and chapter,  
3 and if any one or more provisions, or parts of subparts thereof,  
4 shall be held unconstitutional or otherwise invalid by any court  
5 of competent jurisdiction, the decision of such court shall not  
6 affect or impair any of the remaining provisions or parts thereof.

1 SECTION 5. Effective Date. This act shall take effect upon  
2 enactment.