

Article 80B-7 Linkage Amendments-~~REDLINED~~

[Edits underlined and in RED indicate new language to be inserted, edits in ~~STRIKETHROUGH~~ are to be deleted, language in BLACK is existing and to be retained. Clarifying edits made since 2/16/23 are in BLUE and are in substantial accord with BPDA board approval]

Section 80B-7. - Development Impact Project Exactions.

1. Purposes of Development Impact Project Exactions.

(a) Purposes of Housing Exaction. The purposes of the Housing Exaction requirement for Development Impact Projects, as set forth in [Section 80B-7](#), are: to prevent overcrowding and deterioration of existing housing; to preserve and increase the City's housing amenities; to facilitate the adequate provision of low and moderate income housing; and to establish a balance between new large-scale real estate development projects and the low and moderate income housing needs of the City of Boston. The Housing Exaction requirement is designed to mitigate the impacts of large-scale real estate development on the available supply of low and moderate income housing and increase the availability of such housing by requiring developers of Development Impact Projects, as a condition of the grant of Zoning Relief, to make a development impact payment to the Neighborhood Housing Trust or to contribute to the creation of low and moderate income housing.

(b) Purposes of Jobs Contribution Exaction. The purpose of the Jobs Contribution Exaction requirement for Development Impact Projects, as set forth in [Section 80B-7](#), is to mitigate the adverse impacts of new large-scale real estate development projects by providing for related job training, job retention workforce preparedness, and skill enhancement for low and moderate income people. The City has found that, because new commercial uses are more capital intensive and less land intensive than industrial uses, land for such commercial uses commands a higher price per acre than industrial uses, contributing to the decline of the manufacturing sector and related employment. To mitigate this impact, job training, job retention, workforce preparedness, and skill enhancement programs are needed to enable workers to compete for new non-manufacturing jobs. The Jobs Contribution Exaction requirement is designed to increase the opportunities for job training, job retention, workforce preparedness, and skill enhancement for low and moderate income people and to address historical disparities, such as race and gender disparities, in access to employment opportunities by requiring developers, as a condition of the grant of Zoning Relief, to make a development impact payment to the Neighborhood Jobs Trust or to create or expand job training, job retention, workforce preparedness, and skill enhancement programs.

2. Definitions. For the purposes of this [Section 80B-7](#) only, the following words and phrases shall have the meanings indicated:

(a) "Development Impact Project," means a Proposed Project that:

(i) requires Zoning Relief; and

(ii) proposes to include one or more Development Impact Uses occupying an aggregate gross floor area of more than ~~one hundred fifty~~ thousand (~~1050,000~~) square feet; and

(iii) proposes to:

(i) erect a structure or structures having a total gross floor area of more than ~~one hundred fifty~~ thousand (~~5100,000~~) square feet;

(ii) enlarge or extend a structure or structures so as to increase its (or their) gross floor area by more than ~~one hundred fifty~~ thousand (~~4050,000~~) square feet; or

(iii) substantially rehabilitate a structure or structures having, or to have after rehabilitation, a gross floor area of more than ~~one hundred fifty~~ thousand (~~4050,000~~) square feet.

For the purposes of the definition of Development Impact Project:

(i) The measurement of gross floor area excludes all accessory parking garage space and includes lab dependent mechanical equipment.

(ii) "Substantially rehabilitate" has the meaning set forth in [Article 2A](#).

(iii) "Development Impact Project" does not include any building or structure that is, or will be, wholly-owned by one or more public agencies.

(b) "Development Impact Project Exaction," means the Housing Exaction specified in subsection 4, and the Jobs Contribution Exaction specified in subsection 5, of this [Section 80B-7](#).

(c) "Development Impact Use," means any of the following uses, as defined in [Article 2A](#) for Proposed Projects in those zoning districts to which [Article 2A](#) applies, and as described in Table A of [Section 8-7](#) and defined in [Article 2](#) for Proposed Projects in all other zoning districts:

	Uses	Use Item Numbers
(a)	Office	39, 39A, 40, 41, 42
(b)	Retail Business;	30, 31, 32, 34 , 34A, 35, 36 ,
	Service; Public	36A, 37, 37A, 38, 38A, 43, 44,
	Service Uses	24 , 45, 46, 47, 48 , 49, 60, 60A, 61
(c)	Institutional;	16, 16A , 18, 19, 20, 20A, 21,

	Educational	22, 22A, 23, 24 , 29
(d)	Hotel; Motel	15 (excluding apartment hotel)
(e)	<u>Research Laboratory</u> ¹	<u>48</u>

(e) Other use for purposes of Housing Exaction required by this [Section 80D-7](#): Any use not specifically listed in the definition of Development Impact Use, if the Proposed Project for such use will result directly in a reduction in the supply of low and moderate income dwelling units, as determined by the Boston Redevelopment Authority.

(d) "Neighborhood Housing Trust," means a Massachusetts public charitable trust created under the authority of Chapter 371 of the Acts of 1987 and the laws of the Commonwealth of Massachusetts and administered pursuant to a Declaration of Trust dated November 19, 1985 and pursuant to an Ordinance Establishing the Neighborhood Housing Trust passed by the City Council on May 21, 1986 and approved by the Mayor of Boston on July 6, 1986, or another trust created or administered for such purpose, if passed by the City Council and approved by the Mayor.

(e) "Neighborhood Jobs Trust," means a Massachusetts public charitable trust created under the authority of Chapter 371 of the Acts of 1987 and the laws of the Commonwealth of Massachusetts and administered pursuant to a Declaration of Trust dated November 19, 1985 and pursuant to an Ordinance Establishing the Neighborhood Jobs Trust passed by the City Council on August 19, 1987 and approved by the Mayor of Boston on September 8, 1987, or another trust created or administered for such purpose, if passed by the City Council and approved by the Mayor.

3. Requirement of Development Impact Project Exaction. No Zoning Relief shall be granted, allowed, or adopted for a Development Impact Project unless the Applicant for such Zoning Relief has entered into an agreement with the Boston Redevelopment Authority to meet the Development Impact Project Exaction requirements of this [Section 80B-7](#).

(a) Housing Exaction. For each Development Impact Use within the Proposed Project, a Housing Exaction shall be required. The Housing Exaction requirement may be met by:

(i) payment of a Housing Contribution Grant according to the formula (including the amount and payment schedule), and in the manner, specified in this [Section 80B-7](#); or

(ii) the creation of housing units in compliance with the requirements for the Housing Creation Option, as specified in subsection 4(b) of this [Section 80B-7](#); or

¹ [For the purpose of DIP exaction rates, Research Laboratory shall not include any scientific research or teaching laboratories that are allowed by an Institutional Master Plan and not conducted for profit. Such uses shall be subject to rates applicable to all other DIP uses.](#)

(iii) a combination of payments and creation of housing units, where such combination meets the requirements of subsection 4 of this [Section 80B-7](#). The Applicant may select the method for meeting the Housing Exaction requirement of this paragraph (a) of Section 80B-7.3; provided that any proposal for the creation of housing units shall be approved pursuant to the requirements for the Housing Creation Option.

(b) Jobs Contribution Exaction. For each Development Impact Use within the Proposed Project, a Jobs Contribution Exaction shall be required. The Jobs Contribution Exaction requirement may be met by:

(i) payment of a Jobs Contribution Grant according to the formula (including the amount and payment schedule), and in the manner, specified in this [Section 80B-7](#); or

(ii) the creation of a job training program in compliance with the requirements for the Jobs Creation Option, as specified in subsection 5(b) of this [Section 80B-7](#); or

(iii) a combination of payments and creation of a job training program, where such combination meets the requirements of subsection 5 of this [Section 80B-7](#). The Applicant may select the method for meeting the Jobs Contribution Exaction requirement of this paragraph (b) of Section 80B-7.3; provided that any proposal for the creation of a job training program shall be approved pursuant to the requirements for the Jobs Creation Option.

4. Housing Exaction.

(a) Housing Contribution Grant.

(i) Amount of Grant. ~~P~~ayment of a Housing Contribution Grant shall be required in the amount ~~specified in Table A in subsection 7 of this Section 80B-7 thirteen dollars (\$13.00) for each square foot of gross floor area in excess of thousand (100,000) square feet that is occupied by a Development Impact Use, as defined in this Section 80B-7.~~

~~(ii) Allocation of Grant. No less than ten percent (10%) of any Housing Contribution Grant made for Proposed Projects located in the area described in Appendix B to this Article, and twenty percent (20%) of any Housing Contribution Grant made for Proposed Projects located outside such area, shall be reserved for use in the area surrounding the Proposed Project that is directly affected by the housing impacts of the Proposed Project, as that area is set forth in the agreement required pursuant to Section 80B-7.3, provided that the Neighborhood Housing Trust finds that proposals for feasible housing projects can be developed in such area.~~

~~(iii) Payment Schedule. The Housing Contribution Grant shall be made according to the following payment schedule:—~~

~~(1) General Payment Schedule. The Housing Contribution Grant shall be made in seven (7) equal annual installments. The first installment shall be due and payable upon the issuance of a Certificate of occupancy for the Proposed Project, or twenty four (24) months after the issuance of a building permit for the Proposed Project, whichever~~

~~comes first. The remaining six (6) installments shall be due and payable annually on the anniversary of the first payment. The Housing Contribution Grant shall be made to the Neighborhood Housing Trust in two (2) equal installments, the first installment is due on or before the issuance of a Building Permit for the Proposed Project, and the second installment is due on or before the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy permit for the Proposed Project. A prepayment of the Housing Contribution may require an additional contribution at the issuance of a Certificate of Occupancy to reflect actual eligible square footage, but no refund shall be allowed for overpayment.~~

- (2) ~~Special Downtown Payment Schedule. For each Proposed Project located within that area depicted and described in Appendix B to this Article, the Housing Contribution Grant shall be made in seven (7) equal annual installments. The first installment shall be due and payable upon the issuance of a building permit for the Proposed Project. The remaining six (6) installments shall be due and payable annually on the anniversary of the first payment. Where a boundary set forth in Appendix B divides a Development Impact Project, the payment schedule set forth in this subparagraph (iii)(2) of Section 80B-7.4(a) shall apply.~~

(iv) Notice Of ~~First~~ Payments. Written notice shall be given by the applicant of the Proposed Project to the Secretary of the Boston Redevelopment Authority, of the due date of the ~~first~~ payments of the Housing Contribution Grant ~~according to the following schedule:~~

- (1) ~~General Payment Schedule. If the Housing contribution Grant is to be paid in accordance with the General Payment Schedule set forth in Section 80B-7.4(a)(iii)(1), the Applicant shall give such notice no less than thirty (30) days prior to~~
- ~~(a) the anticipated issuance of the Certificate of Occupancy for the Proposed Project or~~
 - ~~(b) the expiration of the twenty four month of time after a building permit has been issued for the Proposed Project, whichever is sooner.~~

~~(2) Special Downtown Payment Schedule. If the Housing Contribution Grant is to be paid in accordance with the Special Downtown Payment Schedule set forth in 80 B-7.4(a)(iii)(2), the Applicant shall give such notice no less than thirty (30) days prior to the anticipated issuance of a building permit for the Proposed Project.—~~

(b) Housing Creation Option. The Housing Creation Option shall be met by creating, or causing to be created, housing units for occupancy exclusively by low and moderate income residents of the City, at a cost at least equivalent to the amount of the Housing Contribution Grant, and in conformity with written regulations adopted by the Boston Redevelopment Authority after public notice and hearing. The actual Housing Creation Contribution may be approved by the Authority only after public notice and hearing.

For purposes of the Housing Creation Option, "low and moderate income residents" shall mean those households, located in the City, whose total annual income is not more than eighty

percent (80%) of the median income for the Boston area as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to the Housing and Community Development Act of 1974, as amended.

5 Jobs Contribution Exaction.

(a) Jobs Contribution Grant.

(i) Amount of Grant. Payment of a Jobs Contribution Grant shall be required in the amount ~~specified in Table A in subsection 7 of this Section 80B-7 shall be required in the amount of two dollars and thirty-nine cents (\$2.39) for each square foot of gross floor area in excess of one hundred thousand (100,000) square feet that is occupied by a Development Impact Use, as defined in this Section 80B-7.~~

~~(ii) Allocation of Grant. No less than twenty percent (20%) of any Jobs Contribution Grant shall be reserved for use in the area surrounding the Proposed Project, as that area is set forth in the agreement required pursuant to Section 80B-7.3.~~

(iii) Payment Schedule. The Jobs Contribution Grant shall be made to the Neighborhood Jobs Trust in two (2) equal ~~annual~~ installments, the first installment ~~is due upon on or before~~ the issuance of a ~~Building Permit for the Proposed Project, and the second installment is due on or before the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy~~ building permit for the Proposed Project. ~~A Prepayment of the Jobs Contribution may require an additional contribution at the issuance of a Certificate of Occupancy to reflect actual eligible square footage, but no refund shall be allowed for overpayment.~~ The remaining payment of the Jobs Contribution Grant shall be due and payable on the one year anniversary of the first installment.

(iv) Notice of ~~First Payments~~. Written notice shall be given by the applicant of the Proposed Project to the Secretary of the Boston Redevelopment Authority, of the due date of the first payments of the Housing Contribution Grant. ~~No less than thirty (30) days prior to the anticipated issuance of a building permit for the Proposed Project, written notice shall be given by the Applicant to the Secretary of the Boston Redevelopment Authority, of the due date of the payment of the Jobs Contribution Grant.~~

(b) Jobs Creation Option. Upon approval by the Director of the Mayor's Office of Workforce Development ~~Jobs and Community Services~~, or any successor office thereto, the Applicant may use the Jobs Contribution Grant to create a job training program for workers who will be employed, on a permanent basis, at the Proposed Project.

6. Other Requirements for Payment of Exactions.

(a) Payments to Trust. All payments made pursuant to the Housing Exaction requirement and the Jobs Contribution Exaction requirement of this Section 80B-7 shall be made to the Collector-Treasurer, as the managing trustee of the Neighborhood Housing Trust, or as the managing trustee of the Neighborhood Jobs Trust, as the case may be, for the

exclusive benefit of the Neighborhood Housing Trust and the Neighborhood Jobs Trust, respectively.

- (b) Measurement of Area of Development Impact Uses. In calculating the amount of the Housing Exaction and the Jobs Contribution Exaction required pursuant to this [Section 80B-7](#), the measurement of gross floor area shall include the area of all uses that are accessory or ancillary to the Development Impact Uses of the Proposed Project, except that such area shall not include the area of accessory parking garage space. For Proposed Projects containing more than one Development Impact Use, the gross floor area for the calculation of the amount of the Housing Exaction and the Jobs Contribution Exaction shall be the aggregate gross floor area devoted to such uses, including their accessory and ancillary uses.
- (c) Recalculation of Payment Formula. ~~Annually on each January 1st, beginning in 2026, the affordable housing exaction and the employment exaction shall be automatically adjusted by the BRA to reflect the combined index. Provided further, that the zoning commission may adopt additional adjustments based on BRA recommendations. The formulas (comprising the amounts and rates of payment) for the Housing Contribution Grant and the Jobs Contribution Grant shall be subject to recalculation three (3) years after the effective date of this Article, and every three (3) years thereafter. The Boston Redevelopment Authority, after public notice and hearing, shall make a recommendation to the Zoning Commission, when appropriate, to amend such formulas,~~ based on a consideration of the following criteria:

- (i) Economic trends, measured in terms including, but not limited to, development activity, commercial rents per square foot, employment growth, and inflation rates.
- (ii) Housing trends, measured in terms including, but not limited to, vacancy rates for low and moderate income housing, and production statistics for new dwelling units.
- (iii) Employment trends, measured in terms including, but not limited to, unemployment rates and statistics on job training programs. The purpose of this analysis is to determine the changes in the City's employment training needs and the continuing ability of new large-scale development to assist in meeting those needs.

No such amended formula shall apply to any Housing Contribution Grant or Jobs Contribution Grant for which a Development Impact Project agreement has been entered into with the Boston Redevelopment Authority prior to the effective date of such amendment. ~~In addition, no such increase shall apply to any new large-scale commercial real estate development for which an application for a conditional use permit, exception, zoning map or text amendment or variance, Project Notification Form or other Article 80 application has been filed with the appropriate governmental authority prior to the effective date of such increase or for which an application for a planned development area has been filed with the BRA prior to the effective date of such increase, whichever occurs first; provided, however, that the zoning commission may require increased exactions for any development project which seeks additional relief through the filing of a Notice of Project Change, amendment of a planned development area, or other such zoning relief as specified by the zoning commission.~~

7. Applicability and Schedule of Housing and Jobs Exaction Rates

a. For purposes of calculating Housing and Jobs exaction rates, the following schedule shall apply:

Table A

<u>Policy Area</u>	<u>Fee beginning January 1st, 2024</u>	<u>Fee beginning January 1st, 2025</u>
<u>Jobs Linkage</u>	<u>Research Labs: \$3.59/sf</u> <u>All Other Uses \$3.08/sf</u>	<u>Research Labs: \$4.78/sf</u> <u>All Other Uses \$3.76/sf</u>
<u>Housing Linkage</u>	<u>Research Labs: \$19.50/sf</u> <u>All Other Uses \$16.17/sf</u>	<u>Research Labs: \$26.00/sf</u> <u>All Other Uses \$19.33/sf</u>
<u>Total Linkage</u>	<u>Research Labs: \$23.09/sf</u> <u>All Other Uses: \$19.25/sf</u>	<u>Research Labs: \$30.78/sf</u> <u>All Other Uses: \$23.09/sf</u>
<u>Gross Floor Area Threshold²</u>	<u>50,000 SF</u>	<u>50,000 SF</u>
<u>Square Foot Exemption</u>	<u>50,000 SF</u>	<u>50,000 SF</u>
<u>Payment Schedule Jobs Trust:</u>	<u>First payment at Building Permit, second payment at COO</u>	<u>First payment at Building Permit, second payment at COO</u>
<u>Payment Schedule: Housing Trust</u>	<u>First payment at Building Permit, second payment at COO</u>	<u>First payment at Building Permit, second payment at COO</u>

b. Exactions Rates for Mixed-Use Projects

i. For mixed-use projects which include both Research Lab Uses and other Development Impact Uses, exactions shall be calculated on a *pro rata* basis whereby the Research Lab Use rate and the Development Impact Use rate are applied proportionally based on the ratio of the Use to the total gross floor area. Research Lab Uses square footage shall include space dedicated to research lab use mechanical equipment.

² This square footage threshold shall include space dedicated to research lab use mechanical equipment, such space shall be subject to the applicable Research Lab linkage rate.

c. General Applicability.

The revised Housing and Jobs exaction rates of this Section 7 and Section 6(c), above, shall not apply to any new large-scale commercial real estate development for which an application for a conditional use permit, exception, zoning map or text amendment or variance, Project Notification Form or other Article 80 application has been filed with the appropriate governmental authority prior to January 1, 2024 or for which an application for a planned development area has been filed with the BRA prior to January 1, 2024; provided, however, that the zoning commission may require increased exactions for any development project which, following January 1, 2024, seeks additional relief through the filing of a Notice of Project Change, amendment of a planned development area, or other such zoning relief as specified by the zoning commission. Where the rates of this Section 7 shall not apply due to the operation of this paragraph, the rates in effect prior to the effective date of Amendment No. XXX shall apply.

(As amended on ~~X/X, 2022~~, September 18, 2000, October 20, 2000, January 25, 2002, and April 5, 2006, and November 18, 2013; Text Amd. No. 435 , §§ 1, 2, 7-12-18; Text Amd. No. 447 , §§ 1, 2, 3-10-21.)