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Newton Housing Partnership (NHP)

July 23, 2024 from 5:00 pm - 7:00 pm

Virtual meeting: <https://newtonma-gov.zoom.us/j/84421425093>

Meeting ID: 844 2142 5093

- 1. Review and Approval of June minutes, 2024 Meeting Summary**
- 2. Priorities Group Update**
 - a. Update from David Rockwell and Ann Houston on the Priorities Group
- 3. Mitigation Fees Update**
 - a. Update from David Rockwell and Planning staff on mitigation fee research and next steps.
- 4. Partnership Discussion on Inclusionary Zoning Ordinance**
 - a. Summary of Key Provisions
 - b. Resident Services Discussion
- 5. Project Updates**
 - a. 78 Crafts St.
 - b. 528 Boylston St.
 - c. 41 Washington St.
 - d. West Newton Armory
 - e. West Newton Family Navigation Center (FamilyAid Project)
 - f. 136 Hancock St. and 169 Grove St. (City Project)
 - g. Newton Thrive
- 6. Upcoming Meeting**
 - a. Next Meeting: August 27, 2024 Meeting
 - i. Cancel August Meeting Discussion
 - b. September 24, 2024, Meeting: Planning Discussion for Newton Housing Partnership

Attachments:

- June meeting minutes
- Mitigation fee information
- Project update worksheet
- Inclusionary Zoning Ordinance
- Newton Housing Partnership Purpose, Roles, & Structure for September Planning
- Newton Housing Partnership terms

Meeting Access Instructions

No in-person meeting will take place at City Hall.

The Newton Housing Partnership will hold this meeting virtually on July 23, 2024 at 5:00 pm.

Access the meeting audio and video on your smartphone:

- 1) Open your smartphone's app store. If the Zoom app is already installed on your smartphone, this step is not necessary.
- 2) Download the "ZOOM Cloud Meetings" app.
- 3) At the above date and time, open the ZOOM Cloud Meetings app, and tap, "Join a Meeting."
- 4) Type the following Meeting ID into the dialogue box: 844 2142 5093

It is also possible to open your smartphone's internet browser app, navigate to www.zoom.us, and join the meeting with the same Meeting ID: 844 2142 5093. Doing so would provide access to the meeting's audio and video.

OR

Access the meeting audio only on your phone or smartphone:

- 1) Dial + 1 312 626 6799
- 2) Dial the following Meeting ID: 844 2142 5093

OR

Access the meeting audio and video on your computer:

- 1) Open your internet browser on your computer
- 2) At the above date and time, copy the following link into your browser's URL bar:
- 3) <https://newtonma-gov.zoom.us/j/84421425093>
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The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

Newton Housing Partnership

DRAFT Notes from June 25, 2024 Meeting Zoom Meeting 5:00pm-7:00pm

*D Rockwell
6/28/24*

Partnership Members in Attendance:

- Lizbeth Heyer, Ann Houston, David Rockwell, Marva Serotkin, Bryan Decker, Nicole Stewart

Others in Attendance:

- City of Newton Staff: Barney Heath, Lara Kritzer, Shaylyn Davis-Iannaco, Allison McIntyre
- City Councilors: none
- Former NHP member: Josephine McNeil
- Members of the community

Decisions taken, and follow-up items assigned, are shown in bold.

1. Minutes of the May 28, 2024 Meeting

Approved unanimously (David motion, Ann second), Bryan abstaining (though he noted he had attended the meeting as a guest and found the minutes accurate).

2. Election of Chair and Secretary

The two elections were handled separately.

Election of Chair: Still in her role as chair, Lizbeth noted that Marva has indicated interest in succeeding Lizbeth as chair. Lizbeth asked board and staff if other board members were interested in serving, and there were none. Lizbeth asked Marva if she was prepared to accept being nominated, and Marva indicated she was. **Marva was elected unanimously (6-0) by all Board members**, upon nomination by Ann and a second by David. Following the election, several Board members expressed their gratitude for Lizbeth's service as chair and appreciation that she is remaining on the NHP Board.

Election of Secretary: Lizbeth turned this item over to Marva as the newly elected chair. Marva indicated that David had indicated an interest in serving as Secretary. Marva asked if there were other board members interested in the position, and there were none. **David was elected unanimously by all members (6-0)** upon nomination by Lizbeth and second by Ann.

3. Introduction of New Members

Bryan Decker indicated he'd moved to Newton in 2018 after many years in Brookline, that he has been a lawyer specializing in labor and employment since the early 1990s, and still is, having founded his own Newton-based law firm upon his move to Newton. He said that in his legal work, he focuses on the labor side and frequently represents and advises public sector employees and unions. He added that he was a bicycle

advocate when he lived in Brookline. He got particularly interested in housing in Newton when the referendum regarding the Northland project on Needham Street arose. He added that he is not an expert in housing but looks forward to learning.

Nicole Stewart said she's been a Newton resident since 2006, having moved here when her son was in the first grade. She mentioned that former Newton school superintendent Irwin Blumer, now chair of the Boston College Graduate Department of School Administration and Higher Education at Boston College, was a mentor of hers when she was earning her master's in educational leadership at BC. She indicated she is executive director of Boston CASA Inc., which recruits and trains volunteers to work and advocate for children and youth involved in the court system, and that she earlier served as a turn-around CEO for Homes For Families Inc. She spoke of her passion for working with individuals and households in need, and added that she doesn't have direct background in housing, but has seen housing issues at close hand in her career.

At this point, Lizbeth noted that she had to leave for a Board meeting, and welcomed Bryan and Nicole to the Board.

David added his welcome, noting the value of Bryan's and Nicole's knowledge of populations on the receiving end of housing programs and challenges.

4. Newton Housing Priorities Task Force Update

Ann gave a brief update on the activities of the Task Force, whose members consist of representative from each of NHP, the Affordable Housing Trust Fund, the Newton Fair Housing Committee, and the Newton Housing Authority. She indicated that the group's purpose is to analyze and recommend Newton priorities in affordable housing reflecting the factors of tenure (rental vs homeownership), household type (age-restricted, non-age-restricted, and special needs), levels of affordability, use of City subsidy funding, and preservation of existing units vs production of new units. David added that Ann's leadership has been to assure that the Task Force's work is strongly data-based, and that, along with members of the Planning Department, the Task Force has been working hard to collect accurate and consistent data. Ann said the data collection has taken longer than expected, but the work is proving justified by the assemblage of valuable information for policy making and community understanding. Marva asked if the Task Force's report will be ready in September when the NHP will be focusing on goal-setting, and Ann said not quite, but **she said there will be information that the Task Force can share at that time.**

5. Newton THRIVE update

Marva asked Barney if there is further information beyond what he had presented at the May 25 meeting, and Barney indicated there was, and turned it over to Lara, who screen-shared a 5-page interim summary. She indicated that the program is under the City's Economic Mobility Initiative announced in February 2023 to serve low-income household and residents in Newton negatively impacted by COVID, and has reached its first-year anniversary. A full report is in process and not yet ready, but she offered these highlights:

- Eligibility limited to Newton residents at 50% AMI household income or lower, with adult member being between 18 and 60 years of age with children of 18 years or below, who are willing to meet regularly with a program mentor on achieving identified goals in employment, training, education, savings and the like. The program provides a \$250 monthly stipend to enrollees as long as they continue to meet with their mentors.

- Newton Thrive is being implemented in partnership with Economic Mobility Pathways (EMPath) and by January 2024 had achieved its enrollment goal of 50 enrolled households.
- Enrollees are all at incomes of 50% AMI or less and are ethnically- and language-diverse, and include some single parent households.

Nicole inquired about the metrics to be used to assess impact, and Lara indicated her team is working on developing these in concert with EMPATH. **Marva encouraged Lara to consult with Nicole on ideas for metrics.**

Josephine indicated her concern that the program is not providing a neutral place for in-person meetings with mentors, which she said is part of the EMPATH model; Josephine indicated City Hall is not in her opinion such a place. Nicole asked about hours being made available for the meetings, and Lara indicated City Hall opening hours extend longer than staff is present. She also noted that many participants prefer virtual meetings, and that the program is offering that choice. Ann suggested that the Library could be a good meeting place. **Marva asked staff to inquire about choices for meeting places and report back to NHP in the future.**

Josephine asked for a copy of the Year 1 report when it is ready, and Shaylyn indicated she would provide her with one, and that the report will be publicly available on line.

David asked what happens to program participants after the 2-year program period has expired. Barney said that EMPATH, who has done this program for a while, commonly offers participants to remain connected to EMPATH's services after the 2-year program period is completed.

Marva encouraged staff to consider planning for the continuation of the program beyond its 2-year term, but said the next step is to receive the Year 1 report.

6. Mitigation Fees Update

Shaylyn and David summarized the mitigation fees project, begun several months ago when an NHP member wondered about the efficiency of charging fees to projects that the City is also subsidizing, and the possibility that these fees impose costs on projects that might be inhibiting the number of units produced. Shaylyn explained that she is gathering information from the affordable and mixed-income projects which have gone into service over the last several years, as to the imposition of both ordinance-required and discretionary fees. Shaylyn noted that staff work on this data collection effort had to be deferred in favor of the data work on the Housing Priorities Task Force, but that she has returned to this project recently. David noted that the project is not premised on any assumption that the fees charged by the City are or are not appropriate or onerous, but simply on the premise that having this information available to the City would be useful in policy-setting on fees. Shaylyn indicated she expects a preliminary report of findings will be ready for the July NHP meeting.

7. Real Estate Transfer Fee

With last week's decision by the State Senate, and earlier by the State House, to eliminate the Real Estate Transfer from the Governor's housing bond bill, this policy issue has become moot, and there was no discussion. It will be removed from the agenda.

8. Project Updates

- a. **78 Crafts St** (295 rental units, 59 affordable at 50% AMI). Replacement of industrial buildings with four 4- to 6-story residential buildings and a 2-story parking structure. In process with the ZBA, next public hearing July 16.
- b. **528 Boylston St** (184 rental units, 46 affordable – 37u at 80% AMI, and 9u @ 50% AMI). New construction on site of landscaping company. ZBA approved Comp Permit 5/8/24, filed by City Clerk 5/28/24.
 - (1) Shaylyn reported that an abutter lawsuit was filed 6/17/24 by the Daniel Hill Law Firm on behalf of nine nearby residents, seeking to have the ZBA approval annulled.
- c. **41 Washington St** (16 ownership units – 4u @ 80@ AMI). Replacement of Victorian home with a new-construction 16-unit condominium (revised from prior plan for preservation and expansion of home). Next public hearing scheduled for July 11.
- d. **West Newton Armory** (43 rental units – 100% @ 60@ AMI and lower). Re-use of surplus Armory building at 1135 Washington St.
 - (1) Shaylyn reported that the project is on track to close on its finances in January or February 2025 and for construction to begin during the spring of 2025. This ends the year-long delay caused by oversubscription for tax-exempt bond closings, which caused many projects including this one to delay construction loan closings for one year.
- e. **West Newton Family Navigation Center (Family Aid project)**. (42 transitional housing units for families in crisis, in former nursing home at 1650 Washington St.)
 - (1) Shaylyn reported that closing is underway; Family Aid Center is being assisted by non-profit developer Planning Office for Urban Affairs; Barney indicated demolition has begun ahead of closing.
 - (2) Marva asked about plans for welcoming these families, and Ann noted that recent conversations she has had with Family Aid Director Larry Seamans indicated that the opening will be modest in the interests of the new residents.
- f. **136 Hancock St and 169 Grove St (City Project)**. (Proposal to build up to an informally estimated 11 affordable rental units within three single-family homes, on part of site of former conference center.)
 - (1) Shaylyn reported that this site, consisting of two non-contiguous parcels (separated by a separate 10,000sf parcel retained by the City for future educational use for the neighboring Williams School), was determined by the Council's Real Property ReUse Committee, at its last meeting on June 12, to be made available for sale or lease through the formation of a 9-member citizens' Joint Advisory Planning Group (JAPG), of whom five are appointed by the Chair of the City Council and four by the Mayor.
- g. **144 Hancock Street (Civico Project)**. (Proposed 16-unit mixed-income condominium development, including 2 inclusionary zoning units at 80% AMI; combination of new construction and adaptive reuse of conference center buildings.)
 - (1) Shaylyn noted that the developer, who'd obtained a Special Permit for the project with two IZ units but then returned to request a waiver of the onsite unit requirement, has withdrawn the waiver request and is proceeding under the Special Permit on two fronts: (1) with the City Building Department and Planning to determine if its newly revised plans represent a substantial or insubstantial change from the project as approved under the Special Permit (a substantial change would require a new approval through the Land Use Committee by the City Council), and (2) with the Planning Department to ensure compliance with the IZ bylaw.
- h. **Inclusionary Zoning Ordinance Update.**

- (1) Shaylyn explained that the IZ Ordinance requires a review every five years, and that the City is to be signing a contract soon with RKG Associates, a planning consulting firm, and that RKG would be seeking input on the IZ ordinance from several sources in the City including the NHP.
- (2) In response to a query from David, Barney indicated that the Planning staff would welcome input from NHP Board members.
- (3) Marva noted that NHP has expressed concerns about the IZ ordinance over the past year, and asked for a volunteer to research NHP minutes to retrieve what our concerns have been. **David offered to do this research.**
- (4) Marva noted that the ordinance doesn't fit assisted living projects well.
- (5) Marva wondered about getting resident services provisions added into the IZ ordinance, which generated an extensive discussion.
 - Ann suggested the resident services issue applies to more than IZ projects, but to 40B and other projects as well.
 - Nicole suggested seeking advice on the subject from EMPATH.
 - Marva noted that many developers do provide resident services, which Ann confirmed, and **Marva asked staff to identify developers whom NHP can consult. Shaylyn said she can do that.**
 - Marva also wondered about getting input from residents on the subject and asked Josephine about reaching out to residents.
 - Josephine said her organization U-CHAN (United Citizens for Housing Affordability in Newton) is currently working on getting this input, partly in the context of the Housing Priorities Task Force policy activities, and added that renters lack a voice in housing policy discussions in Newton.
 - Ann added that she can get advice also from The Neighborhood Developers, a Chelsea-based non-profit housing developer of which she formerly was ExDir.
 - Nicole added that she was at one time a resident services coordinator for the housing developers Trinity Financial and Madison Park Development Corporation.
 - Marva asked Lara if she could get feedback from Newton Thrives clients, and Lara said she could. Ann suggested preparing a consistent set of questions for consistency of data, and Josephine cautioned about making the data collection process too prescriptive.

9. Upcoming Meetings

- a. Next meeting: July 23, 2024, 5-7pm via Zoom
- b. Cancel August meeting: David asked that we not decide to cancel this meeting until we know our agenda more clearly after the July meeting. **The members agreed.**

Meeting concluded at 7:15pm.

Respectfully Submitted,

David Rockwell
6/28/24

Sec. 5.10. Floodplain, Watershed Protection

Floodplain and watershed protection is not a part of this Chapter, and is regulated in Revised Ordinances Chapter 22, Article II, Sec. 22-22 et. seq.

Sec. 5.11. Inclusionary Zoning

5.11.1. Purposes.

The purposes of this Sec. 5.11 are to:

- A. Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels in the City;
- B. Provide for a full range of housing choices throughout the City for households of all incomes, ages, and sizes;
- C. Increase the production of affordable housing units to meet existing and anticipated housing needs within the City; and
- D. Work to overcome economic segregation regionally as well as within Newton, allowing the City to be a community of opportunity in which low and moderate-income households have the opportunity to advance economically.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09; A-33, 11/18/13)

5.11.2. Definitions.

- A. "Area Median Income ('AMI')" means the median income for households within the designated statistical area that includes the City of Newton, as reported annually and adjusted for household size by the U.S. Department of Housing and Urban Development (HUD).
- B. "Deed-Restricted Affordable Unit(s)" means any Inclusionary Unit that meets the provisions of 5.11.4 and holds a legal use restriction that runs with the land, is recorded at the Registry of Deeds, provides for affordability in perpetuity, identifies the Subsidizing Agency and monitoring agent, if applicable, and restricts occupancy to income eligible households, as defined by the provisions of Section 5.11.4.
- C. "Eligible Household" means a household whose gross annual income does not exceed

the applicable household income limit for the Inclusionary Unit.

- D. "Extremely Low-Income (ELI) Unit(s)" means any dwelling unit affordable to households with annual gross incomes at or below 30% of AMI.
- E. "Household Income Limit" means at any given percentage of the area median income (AMI), the income limit adjusted by household size at that percentage as published by HUD for the designated statistical area that includes the City of Newton or, for percentage levels not published by HUD, as calculated by the City based on the HUD AMI calculation.
- F. "Inclusionary Housing Project" means any development project that meets the provisions of Section 5.11.3.A.
- G. "Inclusionary Unit(s)" means any dwelling unit that meets the provisions of Section 5.11.4.
 - 1. "Tier 1 Unit(s)" means any Inclusionary Unit affordable to households with annual gross incomes at or below 80% of AMI, and where applicable, affordable to households with annual gross incomes at or below 50% of AMI.
 - 2. "Tier 2 Unit(s)," also know as "Middle-Income Unit(s)," means any Inclusionary Unit affordable to households with annual gross incomes greater than 80% of AMI, but at or below 110% of AMI.
- H. "Local Action Unit(s) (LAUs)" means an affordable housing unit created as a result of an intentional action taken by a community, without a comprehensive permit, and which meets the requirements for inclusion on the Subsidized Housing Inventory (SHI). Local Action Units are a component of the Department of Housing and Community Development's (DHCD) Local Initiative Program (LIP).
- I. "Public development funds" means funds for housing construction or rehabilitation if provided through a program eligible to serve as a 'subsidy' under 760 CMR 56.00 Comprehensive Permit: Low or Moderate Income Housing, Community Preservation Act funds, and other federal and state funds available for housing allocated by the City of Newton.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09; Ord. No. A-37, 03/17/14)

5.11.3. Application of Inclusionary Zoning Requirements.

- A. These inclusionary zoning provisions apply to any proposed residential or mixed-use development, including a conventional subdivision of land under M.G.L. Chapter 41, Section 81K-81GG, in any zoning district that includes the construction or substantial reconstruction of seven or more residential dwelling units on any parcel or contiguous parcels comprising a proposed development site. The inclusionary zoning requirements apply to the total number of residential units regardless of the existing residential units proposed to be demolished. The inclusionary zoning requirements also apply to any situation where rental residential dwelling units are converted to 7 or more residential ownership units.
- B. This Sec. 5.11 does not apply to accessory units.
- C. **No Segmentation.** The inclusionary zoning provisions of this section apply to projects at one site or two or more adjoining sites in common ownership or under common control within a period of five years from the first date of application for any special or building permit for construction on the lot or lots, or for the 12 months immediately preceding the date of application for any special permit or building permit. An applicant for development may not segment or divide or subdivide or establish surrogate or subsidiary entities to avoid the requirements of Section 5.11. Where the City Council determines that this provision has been violated, a special permit or building permit will be denied. However, nothing in Section 5.11 prohibits the phased development of a property.
- D. **100% Deed-Restricted Affordable Developments.** Any proposed residential or mixed-use development that consists of 100% deed-restricted affordable units up to 110% of AMI is not subject to the Number of Inclusionary Units Required, Section 5.11.4.B; however, projects of this type are subject to all other applicable provisions of this Section 5.11. The percentage of AMI used for establishing monthly housing costs and the applicable household limit for all units in the project must average no more than 95% of AMI.

- E. **Qualification of Tier 1 Units as Local Action Units.** All Inclusionary Units affordable to households at or below 80% of AMI must be qualified as 'Local Action Units' pursuant to the requirements of the Comprehensive Permit Guidelines of the Massachusetts Department of Housing and Community Development (DHCD), Section VI.C "Local Action Units," as in effect December 2014 as the same may be amended from time to time, unless the unit is exempted from this requirement by another provision of this Section 5.11.
- F. **Tier 2 Units as Consistent with Local Action Units.** All Inclusionary Units affordable to households earning greater than 80% but less than or equal to 110% of AMI must be consistent, where applicable, with the requirements of 'Local Action Units' pursuant to the requirements of the Comprehensive Permit Guidelines of the DHCD, Section VI.C "Local Action Units," as in effect December 2014 as the same may be amended from time to time, unless the unit is exempted from this requirement by another provision of this Section 5.11.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09)

5.11.4. Mandatory Provision of Inclusionary Units.

- A. **Inclusionary Unit Tiers.** Inclusionary Units are divided into two tiers based on their level of affordability. Tier 1 represents units affordable to households with annual gross incomes at or below 50% of AMI and units affordable to households with annual gross incomes at or below 80% of AMI; and Tier 2 represents Middle-Income units affordable to households with annual gross incomes greater than 80% of AMI, but at or below 110% of AMI.
- B. **Number of Inclusionary Units Required.** The percentage of required Inclusionary Units in a proposed development is based on the total number of new units proposed on any parcel or contiguous parcels comprising a proposed development site, and whether the units are rental or ownership.
 1. Where the inclusionary zoning requirement results in a fraction of a unit greater than or equal to 0.5, the development must provide one Inclusionary Unit to capture that fraction.

2. Where the inclusionary zoning requirement results in a fraction of a unit less than 0.5, the development may choose to provide one Inclusionary Unit to capture that fraction or contribute a fractional cash payment to the City to cover the fraction of that Inclusionary Unit requirement. Fractional cash payment amounts are calculated based on the provisions of Section 5.11.5.
3. All fractions are rounded to the nearest tenth.
4. Rental Project Requirements. The percentage requirements for applicable rental developments are based on the following table and provisions:
 - a. For rental Inclusionary Housing Projects with 7-9 residential dwelling units, where only one rental inclusionary unit is required at Tier 1, the inclusionary unit shall be priced for a household income limit at not more than 80% of AMI.
 - b. For rental Inclusionary Housing Projects with 10 or more residential dwelling units, where two or more rental Inclusionary Units are required at Tier 1, the AMI used for establishing rent and income limits for these Inclusionary Units must average no more than 65% of AMI. Alternatively, at least 50% of such units may be priced for households having incomes at 50% of AMI and the remaining Inclusionary Units may be priced for households at 80% of AMI.
 - c. Effective January 1, 2021, rental Inclusionary Housing Projects with 100 or more residential dwelling units must provide 15% of residential dwelling units at Tier 1 and 5% of residential dwelling units at Tier 2.

Illustration: Tier 1 Average 65% AMI Methodology

Example Project: 17-unit rental development

15% at Tier 1 = $0.15 \times 17 \text{ units} = 2.55 \text{ units}$
Total: 3 units at Tier 1 (round up)

Average affordability level across units must be 65% AMI

EXAMPLE APPROACH #1: 1 unit at 50% AMI
1 unit at 65% AMI
1 unit at 80% AMI

EXAMPLE APPROACH #2: 3 units at 65% AMI

Rental Projects: Number of Inclusionary Units Required		
Tier Level	7-20 UNITS	21+ UNITS
Tier 1: 50%-80% AMI	15%	15%
Tier 2: 110% AMI	0%	2.5%
Total	15%	17.5%

Rental Projects: Number of Inclusionary Units Required EFFECTIVE January 1, 2021			
Tier Level	7-20 UNITS	21-99 UNITS	100+ UNITS
Tier 1: 50%-80% AMI	15%	15%	15%
Tier 2: 110% AMI	0%	2.5%	5%
Total	15%	17.5%	20%

Illustration: Rental Projects Calculation Methodology

Example Project: 31-unit rental development

15% at Tier 1 = $0.15 \times 31 \text{ units} = 4.7 \text{ units}$
Total: 5 units at Tier 1 (round up)

2.5% at Tier 2 = $0.025 \times 31 \text{ units} = 0.8 \text{ units}$
Total: 1 unit at Tier 2 (round up)

TOTAL UNITS = 6 deed-restricted affordable units

5. **Ownership Project Requirements.** The percentage requirements for applicable ownership developments are based on the following table and provisions.
- a. For ownership Inclusionary Housing Projects with 7-16 residential dwelling units, where one or two ownership inclusionary units are required at Tier 1, the household income limit for those units shall be 80% of AMI and the inclusionary units must be priced for affordability to households having annual gross incomes of not more than 70% of AMI at the time of marketing.
 - b. For ownership Inclusionary Housing Projects with 17 or more residential dwelling units, where three or more ownership inclusionary units are required, the household income limit for Tier 1 units must be 80% of AMI and those inclusionary units must be priced for affordability to households having annual gross incomes of not more than 70% of AMI at the time of marketing. The household income limit for Tier 2 Middle-Income units must be 110% of AMI and those inclusionary units must be priced for affordability to households having annual gross incomes of not more than 100% of AMI at the time of Marketing.
 - c. Effective January 1, 2021, ownership Inclusionary Housing Projects with 100 or more residential dwelling units must provide 10% of residential dwelling units at Tier 1 and 10% of residential dwelling units at Tier 2.

C. Incentives for Additional Inclusionary Units. An Inclusionary Housing Project that includes more than the required number of Inclusionary Units will be awarded bonus market-rate units at a ratio of 2 to 1. For every additional Inclusionary Unit the applicant agrees to provide, the development will be awarded 2 additional market-rate units. In the event that the additional Inclusionary Unit provided by the applicant is a family-sized unit (a 3-bedroom unit greater than 1,100 square feet), the ratio is 3 to 1. For every additional 3-bedroom Inclusionary Unit proposed, the development will be awarded 3 additional market-rate units. The additional Inclusionary Units must be Tier 1 units and the

Ownership Projects: Number of Inclusionary Units Required			
Tier Level	7-16 UNITS	17-20 UNITS	21+ UNITS
Tier 1: 80% AMI	15%	10%	10%
Tier 2: 110% AMI	0%	5%	7.5%
Total	15%	15%	17.5%

Ownership Projects: Number of Inclusionary Units Required EFFECTIVE January 1, 2021				
Tier Level	7-16 UNITS	17-20 UNITS	21-99 UNITS	100+ UNITS
Tier 1: 80% AMI	15%	10%	10%	10%
Tier 2: 110% AMI	0%	5%	7.5%	10%
Total	15%	15%	17.5%	20%

Illustration: Ownership Projects Calculation Methodology

Example Project: 52-unit ownership development

10% at Tier 1 = $0.10 \times 52 \text{ units} = 5.2 \text{ units}$
 Total: 5 units at Tier 1 (round down)
 plus fractional cash payment

7.5% at Tier 2 = $0.075 \times 52 \text{ units} = 3.9 \text{ units}$
 Total: 4 units at Tier 2 (round up)

TOTAL UNITS: 9 deed-restricted affordable units

Illustration: Incentive Units Calculation Methodology

Example Project: 31-unit rental development

PRE-INCENTIVE CALCULATION

15% at Tier 1 = $0.15 \times 31 \text{ units} = 4.7 \text{ units}$
 Total: 5 units at Tier 1 (round up)

2.5% at Tier 2 = $0.025 \times 31 \text{ units} = 0.8 \text{ units}$
 Total: 1 unit at Tier 2 (round up)

INCENTIVE: Additional 2 Tier 1 Units >> 4 additional Market Rate Units

POST-INCENTIVE PROJECT: 37 units
 7 Tier 1 Units + 1 Tier 2 Unit
TOTAL: 8 deed-restricted units (21.6%)

NOTE: The post incentive project may not exceed 25% more units than otherwise permissible ($1.025 \times 31 = 37.8 \text{ max units}$)

total number of additional units of any type must not exceed 25% of the number of units otherwise permissible on the lot under lot area per dwelling unit requirements.

D. Maximum Monthly Housing Costs, Sale Prices and Rents. Maximum sale price or rent for Inclusionary Units is calculated as affordable to a household with a number of household members equal to the number of bedrooms in a unit plus one, regardless of the actual number of persons occupying the unit.

1. Rental. Inclusionary rental units are to be priced to be affordable to a household having a gross annual income at the household income limit for that Inclusionary Unit, as specified in Section 5.11.4. Monthly housing costs, inclusive of rent, utility costs for heat, water, hot water, and electricity, 1 parking space, and including access to all amenities that are offered to tenants in the building, must not exceed 30% of the applicable household income limit for the Inclusionary Unit. If the utilities are separately metered, they may be paid by the tenant and the maximum allowable rent will be reduced to reflect the tenant's payment of utilities, based on the area's utility allowance for the specific unit size and type, to be secured from the Newton Housing Authority. For a household with a Section 8 voucher, the rent and income are to be established by the Newton Housing Authority with the approval of HUD.

2. Homeownership. Inclusionary units for sale are to be priced to be affordable to a household having a gross annual income 10 percentage points lower than the household income limit for that Inclusionary Unit, as specified in Section 5.11.4. The monthly housing costs, inclusive of mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, hazard insurance, and 1 parking space, must not exceed 30% of the applicable household income limit for the Inclusionary Unit. Additionally, the following requirements apply:

a. Down payment must be at least 3% of the purchase price;

b. Mortgage loan must be a 30-year fully amortizing mortgage for not more than 97% of the purchase price with a fixed interest rate that is not more than 2 percentage points above the current MassHousing interest rate; and

c. Buyers will be eligible so long as their total housing costs, including the services identified above, do not exceed 38% of their income.

E. Notwithstanding the requirements of this Section 5.11.4, an Inclusionary Housing Project may set the sale price or rental rate for Inclusionary Units lower than what is required herein.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09; Ord. No. A-37, 03/17/14)

5.11.5. Cash Payment Option.

As an alternative to the requirements of Section 5.11.4, an applicant may contribute a cash payment to the City's Inclusionary Zoning Fund, in lieu of providing Inclusionary Units.

A. Eligibility. There are 3 circumstances in which the Inclusionary Unit requirements of Section 5.11.4 may be met through a cash payment instead of providing Inclusionary Units:

1. For Inclusionary Housing Projects that include the construction or substantial reconstruction of 7 to 9 dwelling units; or
2. By special permit from the City Council, where the Council makes specific findings that there will be an unusual net benefit to achieving the City's housing objectives as a result of allowing a cash payment rather than requiring the development of Inclusionary Units. The findings must include consideration of the appropriateness of the development site location for income-eligible households, including proximity to and quality of public transportation, schools, and other services; the current balance of the Inclusionary Housing Fund; and the purposes of this Section 5.11.
3. For Inclusionary Housing Projects where the inclusionary zoning requirement results in a

fraction of a unit less than 0.5, the applicant may contribute a fractional cash payment to the City to cover the fraction of that Inclusionary Unit requirement.

B. Cash Payment Amount. The cash payment as an alternative to each required Inclusionary Unit, or fraction thereof, is based on a formula that utilizes the average total development costs (TDC) per unit in Newton, calculated by the Newton Housing Partnership and approved by the Director of Planning and Development utilizing final closing budgets and/or certified cost and income statements from new affordable housing developments built in Newton in the previous 3 years that were funded all or in part by public subsidies or approved through M.G.L. Chapter 40B. This basis for the cash payment standard (average TDC/unit in Newton) must be increased annually by the amount of the Consumer Price Index (CPI-U) and take effect on the anniversary date of the effective date in Section 5.11.14. No more than every 3 years, the average TDC/unit in Newton must be recalculated by the Newton Housing Partnership and approved by the Director of Planning and Development based on available data from affordable housing developments as above, completed in Newton during the preceding 3 year period.

1. The average TDC per unit, as calculated in May 2019 by the Newton Housing Partnership and approved by the Director of Planning & Development, is \$550,000.
2. For Inclusionary Housing Projects containing 10 or more units that receive a Special Permit to make such a payment, the total cash payment is determined by utilizing the following calculation:
3. For Inclusionary Housing Projects with 7-9 units, the total cash payment is determined by utilizing the average total development costs (TDC) per unit in Newton and reducing that number based on the number of units in the project as follows:
 - a. Total cash payment for a 7-unit project: 70% multiplied by the TDC per unit in Newton.
 - b. Total cash payment for an 8-unit project: 80% multiplied by the TDC per unit in Newton.
 - c. Total cash payment for a 9-unit project: 90% multiplied by the TDC per unit in Newton.

Inclusionary Zoning Cash Payment Calculation	
A = # of dwelling units in proposed project	FORMULA
B = Total Inclusionary Percentage Required for the project	STEP 1: A X B = total inclusionary units required (round to nearest 10th)
C = average total development costs (TDC) per unit in Newton	STEP 2: (A x B rounded) x C = Total cash payment

Illustration: Cash Payment Calculation Methodology

sample TDC: \$550,000 (May 2019 figure)

EXAMPLE 1: 18 Unit Rental Project
A = 18 units
B = 15% inclusionary required
C = \$550,000 TDC

STEP 1: 0.15 x 18 units = 2.7 units
STEP 2: 2.7 units x \$550,000 = \$1,485,000
Total Payment

EXAMPLE 2: 36 Unit Ownership Project
A = 36 units
B = 17.5%
C = \$550,000

STEP 1: 0.175 x 36 units = 6.3 units
STEP 2: 6.3 units x \$550,000 = \$3,465,000
Total Payment

SMALL PROJECT CALCULATION EXAMPLES

7 Unit Project: 0.7 x \$550,000 = \$385,000
Total Payment

8 Unit Project: 0.8 x \$550,000 = \$440,000
Total Payment

9 Unit Project: 0.9 x \$550,000 = \$495,000
Total Payment

Illustration: Fractional Payment Calculation Methodology

sample TDC: \$550,000 (May 2019 figure)

EXAMPLE: 48 Unit Rental Project

Tier 1: 0.15 x 48 units = 7.2 units
TOTAL UNITS = 7 units
FRACTIONAL PAYMENT = 0.2 X \$550,000 = \$110,000

Tier 2: 0.025 x 48 units = 1.2 units
TOTAL UNITS = 1 unit
FRACTIONAL PAYMENT = 0.2 x \$550,000 = \$110,000

Total Inclusionary Requirement = 8 deed-restricted units and \$220,000

C. Fractional Cash Payment Amount. Where the inclusionary zoning requirement results in a fraction of a unit less than 0.5, the development may choose to contribute a fractional cash payment to the City to cover the fraction of that Inclusionary Unit requirement. The fractional cash payment is based on the resulting fraction (rounded to the nearest tenth) multiplied by the average TDC per unit in Newton.

D. Payment Deadline. Any Inclusionary Unit cash payment must be paid in full to the City prior to the granting of any Certificate of Occupancy.

E. Cash Payment Recipient.

1. The cash payment is made to the City's Inclusionary Zoning Fund, to be distributed equally to the Newton Housing Authority and the City of Newton.
2. These funds are to be used for the restoration, creation, preservation, associated support services, and monitoring of deed-restricted units affordable to households with annual gross incomes at or below 80% of AMI, to the extent practical.
3. Notwithstanding Section 2 above, funds received from Inclusionary Housing Projects with 7-9 units, as described in Section 5.11.5.B.3, must be used for the creation of deed-restricted units affordable to households at or below 80% of AMI.
4. Appropriation of these funds for use by the City or the Newton Housing Authority must first be approved by the Planning & Development Board and then by the Mayor.
5. The Newton Housing Authority and the City must each maintain an ongoing record of payments to the fund on their behalf and the use of the proceeds for the purposes stated in this Sec. 5.11.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09)

5.11.6. Off-Site Development.

A. Eligibility. Off-site Inclusionary Units are generally discouraged. The Inclusionary Unit requirements of Section 5.11.4 may be met through the off-site

development of the required Inclusionary Units only by special permit from the City Council where the Council makes specific findings that there will be an unusual net benefit to achieving the City's housing objectives as a result of allowing the units to be built off-site. The findings must include consideration of:

1. The appropriateness of the development site location for income-eligible households, including proximity to and quality of public transportation, schools, and other services;
2. Consideration relative to the concentration of affordable units in the City;
3. An increase in the number of Inclusionary Units or an increase in the percentage of Tier 1 units from the amount otherwise required; and
4. Consideration of the purposes of this section of the ordinance, Section 5.11.1.

B. Non-Profit Housing Developer Partnership. Any Inclusionary Housing Project that includes off-site Inclusionary Units must enter into a development agreement with a non-profit housing developer for the development of the off-site units.

1. The applicant must submit a development plan for off-site development for review and comment by the Planning and Development Department prior to submission to the City Council. The plan must include at a minimum, demonstration of site control, necessary financing in place to complete the off-site development or rehabilitation, an architect's conceptual site plan with unit designs and architectural elevations, and agreement that the off-site units will comply with Sec. 5.11.7.

C. The off-site development must provide either a greater number of affordable units or a deeper level of affordability, an equivalent unit mix and comparable sized units, and an equivalent level of accessibility as that which would have been provided if the required units were to remain on-site.

D. All off-site inclusionary units allowed by special permit must be completed and occupied no later than completion and occupancy of the applicant's on-site market rate units. If the off-site inclusionary units are not completed as required within that time, temporary and final occupancy permits will not

be granted for the number of on-site market rate units equal to the number of off-site inclusionary units which have not been completed. Where the City Council determines that completion of off-site inclusionary units has been delayed for extraordinary reasons beyond the reasonable control of the applicant and non-profit housing developer, the City Council may, upon the request of the applicant to amend the Special Permit, allow the applicant to post a monetary bond and release one or more on-site market rate units. The amount of the bond must be sufficient in the determination of the Planning and Development Department to assure completion of the off-site inclusionary units.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09)

5.11.7. Design and Construction.

In all cases, inclusionary units shall be fully built out and finished dwelling units and comply with the requirements set out in the Comprehensive Permit Guidelines of DHCD, Section VI.B.4 "Design and Construction Standards," as in effect December 2014 as the same may be amended from time to time. Additionally, the following requirements apply to all Inclusionary Units:

- A. Inclusionary units provided on-site, and their associated parking spaces, must be proportionally distributed throughout the Inclusionary Housing Project and be sited in no less desirable locations than the market-rate units;
- B. The bedroom mix of Inclusionary Units must be equal to the bedroom mix of the market-rate units in the Inclusionary Housing Project;
- C. The Inclusionary Units must meet the following size specifications:
 - 1. Must be comparable in size to that of the market rate units;
 - 2. Whichever is greater of the two:
 - a. Must meet the minimum square footage and bathroom requirements, as required by DHCD's most current Comprehensive Permit Guidelines.
 - b. Must have an average square footage of not less than 80% of the average square

footage of the market-rate units with the same number of bedrooms; and

- 3. The total square footage of Inclusionary Units in a proposed development must not be less than 10% of the sum of the total square footage of all market-rate and all Inclusionary Units in the proposed development;
- D. Inclusionary Units must have exteriors that are indistinguishable in design and of equivalent materials to the exteriors of the market-rate units in the project;
- E. The materials used and the quality of construction for inclusionary units, including heating, ventilation, and air conditioning systems, must be equal to that of the market rate units in the Inclusionary Housing Project, as reviewed by the Planning and Development Department; provided that amenities such as designer or high end appliances and fixtures need not be provided for inclusionary units;
- F. At a minimum, the Inclusionary Units must have an equivalent level of accessibility as that of the market-rate units, and the Inclusionary Units must have an equivalent mix of disabled-accessible units as that of the market-rate units; and
- G. The Inclusionary Units must have equal access to all amenities that are offered to the market-rate units in a project, such as parking, on-site fitness centers, laundry facilities, and community rooms.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09)

5.11.8. Inclusionary Housing Plans and Covenants.

- A. The applicant must submit an inclusionary housing plan for review and approval by the Director of Planning and Development prior to the issuance of any building permit for the project. The plan must include the following provisions:
 - B. A description of the proposed project and inclusionary units including at a minimum, a breakdown of the total number of residential units in the project, including the number of market-rate units, Inclusionary Units, and accessible and adaptable units; floor plans indicating the location of the inclusionary units and accessible

and adaptable units; the number of bedrooms and bathrooms per unit for all units in the development; the square footage of each unit in the development; the amenities to be provided to all units; the projected sales prices or rent levels for all units in the development; and an outline of construction specifications certified by the applicant.

- C. An Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP) for all Inclusionary Units, including Tier 2 Middle-Income Units, which, at a minimum, meets the requirements set out in the Comprehensive Permit Guidelines of the DHCD, Section III, Affirmative Fair Housing Marketing and Resident Selection Plan, as in effect December 2014 as the same may be amended from time to time and:
1. To the extent permitted by law, such plan must provide for a local preference for 25% of the Inclusionary Units in a project and at least one of the local preference units must be a fully accessible unit;
 2. Where a project results in the displacement of individuals who qualify for a unit in terms of household size and income, first preference must be given to those displaced applicants, unless such preference would be unallowable under the rules of any source of funding for the project;
 3. Where a project includes units that are fully accessible, or units that have adaptive features for occupancy by persons with mobility impairments or hearing, vision, or other sensory impairments, first preference (regardless of the applicant pool) for those units must be given to persons with disabilities who need such units, including single person households, in conformity with state and federal civil rights law, per DHCD's Comprehensive Permit Guidelines, Section III, Affirmative Fair Housing Marketing and Resident Selection Plan, as in effect December 2014 as the same may be amended from time to time; and
 4. Prior to the marketing or otherwise making available for rental or sale any of the units in the development, the applicant must obtain the City's and DHCD's approval of the AFHMP for the Inclusionary Units.
- D. Agreement by the applicant that initial and ongoing resident selection must be conducted and implemented in accordance with the approved marketing and resident selection plan and Comprehensive Permit Guidelines of the DHCD, Section III, Affirmative Fair Housing Marketing and Resident Selection Plan.
- E. Agreement by the applicant that all Tier 1 units must be qualified as, and all Tier 2 units must be consistent, where applicable, with the requirements of 'Local Action Units' pursuant to the requirements of the Comprehensive Permit Guidelines of the DHCD, Section VI.C "Local Action Units," as in effect December 2014 as the same may be amended from time to time, unless the unit is exempted from this requirement by another provision of this Section 5.11.
- F. Agreement by the applicant that all inclusionary units, including those affordable to households earning greater than 80% but less than or equal to 110% of AMI must be subject to an Affordable Housing Deed Restriction with the City, and in most cases, a Regulatory Agreement between the City, DHCD (or relevant subsidizing agency) and the developer. The developer must execute and record these affordable housing covenants in the Registry of Deeds for the Southern District of Middlesex County as the senior interest in title for each Inclusionary Unit and which must endure for the life of the residential development, as follows:
1. For ownership units, a covenant to be filed at the time of conveyance and running in favor of the City of Newton, in a form approved by the City Solicitor, which limits initial sale and subsequent re-sales of Inclusionary Units to eligible households in accordance with provisions reviewed and approved by the Director of Planning and Development, which incorporates the provisions of this Section; and
 2. For rental units, a covenant to be filed prior to the issuance of any occupancy permit and running in favor of the City of Newton, in a form approved by the City Solicitor, which limits rental of Inclusionary Units to eligible households in accordance with provisions reviewed and approved by the Director of Planning and

Development, which incorporates the provisions of this Section.

- G. Agreement by the applicant that the Inclusionary Units must be completed and occupied no later than completion and occupancy of the applicant's market rate units. If the Inclusionary Units are not completed as required within that time, temporary and final occupancy permits may not be granted for the number of market rate units equal to the number of Inclusionary Units that have not been completed.
- H. At the discretion of the applicant and with the agreement of the Newton Housing Authority, an agreement, in a form approved by the City Solicitor, to convey rental units to the Newton Housing Authority for sale or rental to eligible households.
- I. In the case of rental housing, an agreement by the applicant to submit an annual compliance report to the Director of Planning and Development, in a form approved by the City Solicitor, certifying compliance with the provisions of this [Sec. 5.11](#).

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09; Ord. No. A-34, 11/18/13; Ord. No. B-90, 11/01/21)

5.11.9. Public Funding Limitation.

An applicant must not use public development funds to construct inclusionary units required under Sec. 5.11. However, the applicant may use public development funds to construct inclusionary units that are found by the Director of Planning and Development to be consistent with the following:

1. Those that represent a greater number of affordable units than are otherwise required by this subsection and not receiving additional market rate units according to Section 5.11.4.C;
2. Those that are lower than the maximum eligible income limit for some or all inclusionary units by at least 10 percentage points below that stipulated in [Sec. 5.11.2](#); and
3. Those that exceed regulatory requirements in providing for persons having disabilities.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09; Ord. No. A-37, 23/17/14)

5.11.10. Extremely Low-Income (ELI) Alternative Compliance Option.

An Inclusionary Housing Project that includes the construction of 21 or more new residential rental units and provides a required percentage of the total number of new units in the proposed development as Extremely Low-Income (ELI) units may seek a special permit from the City Council to reduce its total percentage of required Inclusionary Units. Such projects must provide, and cover all costs associated with providing, ongoing regular on-site support services for the households residing in the ELI units, in partnership with a qualified agency. ELI units represent units affordable to households with annual gross incomes at or below 30% of AMI.

A. ELI Alternative Compliance Option Project

Requirements. The percentage requirements for applicable rental developments are based on the following table and provisions:

1. Where 2 or more rental inclusionary units are required at Tier 1, the AMI used for establishing rent and income limits for these inclusionary units must average no more than 65% of AMI. Alternatively, at least 50% of such units may be priced for households have incomes at 50% of AMI, and the remaining inclusionary units may be priced for households at 80% of AMI.
2. Effective January 1, 2021, applicable rental developments with 100 or more residential dwelling units must provide 5% of residential dwelling units at the ELI Tier, 5% of residential dwelling units at Tier 1, and 5% of residential dwelling units at Tier 2.

B. Support Services Provider Partnership. Any inclusionary Housing Project that chooses the ELI Alternative Compliance Option must form a service agreement with a qualified agency that specializes in supportive housing and case management for extremely low-income individuals or families. Property owners must partner directly with the designated agency on all aspects of tenant selection and management related to the ELI units in all such projects.

1. The applicant must submit a Resident Selection and Supportive Services Plan for the ELI units for review and comment by the Director of

Extremely Low Income (ELI) Alternative Compliance Option: Number of Inclusionary Units Required	
Tier Level	21+ UNITS
ELI Tier: 30% AMI	2.5%
Tier 1: 50% - 80% AMI	7.5%
Tier 2: 110% AMI	2.5%
Total	12.5%

Extremely Low Income (ELI) Alternative Compliance Option: Number of Inclusionary Units Required EFFECTIVE January 1, 2021		
Tier Level	21-99 UNITS	100+ UNITS
ELI Tier: 30% AMI	2.5%	5%
Tier 1: 50% - 80% AMI	7.5%	5%
Tier 2: 110% AMI	2.5%	5%
Total	12.5%	15%

Illustration: ELI Inclusionary Units Calculation Methodology

EXAMPLE: 74 Unit Rental Development

*ELI Tier: $0.025 \times 74 \text{ units} = 1.9 \text{ units}$
Total: 2 units at ELI Tier (round up)*

*Tier 1: $0.075 \times 74 \text{ units} = 5.6 \text{ units}$
Total: 6 units at Tier 1 (round up)*

*Tier 2: $0.025 \times 74 \text{ units} = 1.9 \text{ units}$
Total: 2 units at Tier 2*

TOTAL UNITS = 10 deed-restricted affordable units

Planning and Development prior to submission for approval from the City Council as part of the special permit process. The plan must include, at a minimum, the following:

- a. Demonstration of a formal partnership with a qualified agency that specializes in supportive housing and case management for extremely low-income individuals or families;
- b. A marketing and resident selection plan that details how the tenants of the ELI units will be selected;
- c. A detailed plan that outlines the ongoing regular on-site support services and case management to be provided to each household residing in the ELI units; and

- d. An operating pro forma highlighting the initial and ongoing funding for the support services and case management.

2. The designated qualified agency must provide regular on-site support services for the tenants of the ELI units, including, but not limited to, assistance with daily living activities, healthcare referrals, community integration, job training, and employment opportunities.

C. No Public Funding Limitation. Inclusionary Housing Projects that choose the Alternative Compliance Option may seek and accept public development funds to construct and operate the ELI units, notwithstanding Section 5.11.9.

D. Inclusionary Housing Projects that choose the Alternative Compliance Option must comply with all other applicable requirements of Section 5.11.

5.11.11. Elder Housing with Services.

In order to provide affordable elder housing with affordable and sustainable services on-site, this section applies to all housing with amenities and services designed primarily for elders, such as residential care, continuing care retirement communities (CCRCs), assisted living, independent living, and congregate care. This provision also applies to Congregate Living Facilities, as defined in Section 6.2.8, where these facilities are serving elderly households. The base amenities and services to be provided must be included in the annual housing costs and must be comparable to the base amenities and services offered to all residents regardless of income status. Such amenities and services may include long term health care, nursing care, home health care, personal care, meals, transportation, convenience services, social, cultural, educational programming, and the like. This Sec. 5.11.11 does not apply to a nursing or dementia care facility subject to certificate of need programs regulated by the Commonwealth of Massachusetts Department of Public Health or to developments funded under a state or federal program which requires a greater number of elder units or nursing beds than required here.

A. Definition of Elderly Households. For all such projects, an elderly household is defined as a single person who is 62 years of age or older at the time of initial occupancy; or 2 persons living together, where

at least one of whom is 62 years of age or more at the time of initial occupancy.

- B. Definition of Inclusionary Beds.** For all such projects, an Inclusionary Bed is defined as any residential bed that meets the provisions of this section 5.11.11, Elder Housing with Services.
- C. Number of Inclusionary Beds Required.** For all Elder Housing with Services projects, 5% of beds provided on-site must be Inclusionary Beds designated affordable to eligible elderly households with annual gross incomes up to 80% of AMI, adjusted for household size. The applicable household income limit for all Inclusionary Beds subject to the provisions of Section 5.11.11 is 80% of the AMI at the time of marketing. Inclusionary Beds may be located in single-occupancy rooms or in shared rooms. The Inclusionary Beds must be proportionally distributed throughout the site and must be indistinguishable from the market-rate beds.
- D. Monthly Housing and Service Costs.** Total monthly housing costs, inclusive of entrance fees, rent or monthly occupancy fees, amenities, and base services may not exceed a fixed percentage of the applicable household annual income limit for the Inclusionary Bed based on the type of elder housing with services facility, as described below.
 - 1. Independent Living Facilities.** Total monthly housing costs for an Inclusionary Bed in an Independent Living Facility may not exceed 15% of the applicable household income limit for the Inclusionary Bed.
 - 2. Assisted Living Residences.** Total Monthly housing costs for an Inclusionary Bed in an Assisted Living Residence may not exceed 30% of the applicable household income limit for the Inclusionary Bed.
 - 3. Continuing Care Retirement Communities (CCRCs).** Due to their unique structure in providing independent living, assisted living, and skilled nursing and related services to elderly households in one location, CCRCs may choose to satisfy their Inclusionary Zoning requirement through either the provisions related to Independent Living Facilities or those related to Assisted Living Residences.
- E. 100% Deed-Restricted Affordable Facilities.** Any proposed Elder Housing with Services project that consists of 100% deed-restricted affordable units up to 150% of AMI is not subject to the Number of Inclusionary Beds Required per Section 5.11.11.C and may seek and accept public development funds to construct the project. The percentage of AMI used for establishing monthly housing and service costs and the applicable household income limit for all units in the project must average no more than 110% of AMI. However, projects of this type are subject to all other applicable sections of this Section 5.11.
- F. Use Restrictions.** For all such projects, all Inclusionary Beds must be subject to an affordable covenant approved by the City Solicitor, executed by the City and the developer, and recorded at the Registry of Deeds for the Southern District of Middlesex County or the Land Court Registry of Deeds for the Southern District of Middlesex County.
- G. Tenant Selection.** For all such projects, all Inclusionary Beds must be subject to an Affirmative Fair Housing Marketing and Resident Selection Plan to be approved by the Director of Planning and Development. To the extent permitted by law, such plan must provide for a local preference for up to 70% of the Inclusionary Beds in the project.
- H. Fractional Units.** Where the inclusionary zoning requirement results in a fraction of a bed greater than or equal to 0.5, the development must provide one Inclusionary Bed to capture that fraction.
- I. Alternative Compliance.** The applicant may choose to comply with their inclusionary zoning requirement through a cash payment to the City. The total cash payment for projects of this type is based on the average cost of providing long-term care for an elderly individual over a 10-year period, as well as the average total development costs per unit in Newton, calculated by the Newton Housing Partnership and approved by the Director of Planning and Development. The average long-term care cost is based on the Boston area average hourly rate of a home health aide providing three hours per day of care per year as determined by the annual Genworth Cost of Care Survey. Planning staff will review the Cost of Care Survey annually to modify the average cost as necessary. The total

cash payment is determined by utilizing the following calculation:

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09)

Elder Housing with Services: Inclusionary Zoning Cash Payment Calculation	
A = average total development costs (TDC) per unit in Newton	FORMULA
B = average cost of providing long-term care for an elderly individual at 3-hours per day over a 10-year period	STEP 1: $A + B = \text{Total cost per bed}$
	STEP 2: $C \times 0.05 = \# \text{ of inclusionary beds required (rounded to nearest 10th)}$
C = # of beds in proposed project	STEP 3: $(A+B) \times (C \times 0.05 \text{ rounded}) = \text{Total Cash Payment}$

Illustration: Elder Housing with Services Cash Payment Calculation Methodology
<i>sample TDC: \$550,000 (May 2019 figure)</i>
<i>sample care cost = \$306,600</i> <i>\$28 per hour x 3 hrs/day x 365 days/year x 10 years</i> <i>(2019 avg. Home Health Aide hourly rate, Genworth Cost of Care Survey)</i>
EXAMPLE: 115-bed Assisted Living Facility
<i>STEP 1: \$550,000 + 306,600 = \$856,600/bed</i>
<i>STEP 2: 115 beds x 0.05 = 5.8 inclusionary beds required</i>
<i>STEP 3: \$856,600 x 5.8 beds = \$4,968,280</i> <i>Total Payment</i>

5.11.12. No Effect on Prior or Existing Obligations.

The requirements of [Sec. 5.11](#) have no effect on any prior or previously granted special permit, obligation, contract, agreement, covenant or arrangement of any kind, executed or required to be executed, which provides for dwelling units to be made available for sale or rental to or by the City, the Newton Housing Authority, or other appropriate municipal agency, or any cash payment so required for affordable housing purposes,

all resulting from a special permit under [Sec. 5.11](#) applied for or granted prior to the effective date of this amendment.

(Ord. No. X-48, 04/22/03; Ord. No. Z-50, 07/13/09)

5.11.13. Inclusionary Zoning Program Reevaluation Requirement.

The City will conduct a reevaluation of the inclusionary zoning program at an interval of no more than 5 years from the time the inclusionary zoning ordinance was last amended and every 5 years thereafter. Such reevaluation must include a report provided to the City Council reviewing factors such as changes in demographic characteristics and residential development activity, housing trends and affordability, and the relationship between Inclusionary Housing Projects and all housing in Newton. The Director of Planning and Development must also conduct an annual review and report on the inclusionary zoning program.

5.11.14. Effective Date.

The effective date of the amended provisions of Section 5.11 is August 1, 2019. The requirements of Section 5.11 do not apply to any special permit (or in the event that a special permit is not required, any building permit) issued prior to the effective date of this amendment. Effective January 1, 2021, rental and ownership Inclusionary Housing Projects with 100 or more residential dwelling units will be subject to an increased inclusionary zoning requirement per Sections 5.11.4.B.4.c, 5.11.4.B.5.c, and 5.11.10.A.2.

Sec. 5.12. Environmental Standards in the Manufacturing District

All uses in a Manufacturing district shall not be injurious, noxious or offensive by reason of noise, smoke, odor, gas, dust or similar objectionable features, or dangerous on account of fire, or any other cause.

(Ord. No. S-260, 08/03/87; Ord. No. T-65, 12/18/89; Ord. No. T-185, 11/18/91)



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Barney S. Heath
Director

Newton Housing Partnership Purpose, Roles and Structure

A. Purpose and Mission:

The Newton Housing Partnership's mission is to foster and support the preservation and creation of housing in order to promote an economically diverse City of Newton. As Mayor Theodore D. Mann wrote after its creation in 1989, the Newton Housing Partnership is to be comprehensive and creative as well as pragmatic and grounded in the fiscal and economic realities of the times.

With this mission, the Newton Housing Partnership (NHP) is an advisory body to the Mayor, City staff, City Council, Boards, Commissions, and Committees on Newton's housing needs, policies, programs, zoning and specific proposals.

B. Roles and Responsibilities:

The roles and responsibilities of the Newton Housing Partnership may include the following:

- Act in an advisory capacity on the preservation and creation of affordable housing throughout Newton, including strategies, policies, programs, zoning, funding efforts and plans.
- Support the strategic, wise, effective and efficient use of City administered funds for preserving and creating affordable housing.
- Educate and inform Newton residents, businesses, and property owners about the preservation and creation of affordable housing through public meetings, presentations, materials and workshops by collaborating with City staff, Boards and Commissions. Such public outreach may focus on planning for a socio-economically well-integrated community, observing human rights, fair housing, and the relationship between diverse housing opportunities and economic development.
- Inform the pre-development and development process – and developers – at the conceptual stage of a project that includes affordable housing, before a project is officially filed with the City.
- Using members' professional expertise, provide a review and guidance on a developer's affordable housing pro forma for projects that require funding or approval by the Planning & Development Board (CDBG and HOME funds) and/or the Community

Preservation Committee (CPA funds, which require City Council approval), as well as proposals seeking to utilize the City's Inclusionary Zoning funds.

- Using members' professional expertise, provide a review of mixed-income and affordable housing development proposals seeking a Special Permit (from City Council) or a Comprehensive Permit (from the Zoning Board of Appeals).
- Review periodically and comment on the Housing section and other housing-related aspects of the Newton Comprehensive Plan.
- Advise on the five-year updates of the Newton Consolidated Plan.
- Advise on revisions to zoning, programs, ordinances and regulations that can impact the preservation and creation of affordable housing.
- Create an annual report on the Housing Partnership's activities and submit it to the Mayor and City Council in January of each year.

➤ **Affordable and Mixed-Income Housing Project Review**

The NHP shall schedule regular meetings, which shall include, on an as-needed basis, review of applicable projects. Project sponsors will be invited to make a presentation to the NHP during such meetings. After a project presentation, the NHP shall discuss the details of the project and decide on the points of their recommendation, which shall be documented in a memo to the Mayor and Director of Planning and Development (with copies to the relevant bodies) within two weeks of the meeting.

Before a project is presented to the NHP, the project sponsor shall first meet with Housing Division staff to discuss the project concept and/or specifics and review the City's funding and permitting process and requirements. For those projects seeking funding from the City, the project sponsor is then required to submit a formal pre-proposal to Housing Division staff, which the NHP shall use as the basis for its review of the project.

The NHP shall review projects based on (1) affordability, (2) feasibility, (3) community impact, and (4) sustainability (as it relates to long-term affordability / operations).

C. Membership and Meetings:

The Newton Housing Partnership shall schedule regular meetings to allow for the timely review of applicable projects. There shall be no less than three meetings a year.

The Newton Housing Partnership shall consist of 9 members appointed by the Mayor, with staggered 3-year terms. Members may serve for two terms, but then must rotate off, and may be eligible to be reappointed after one year. Members may only vote in person.

A Chair and Secretary shall be elected annually by the Members of the Newton Housing Partnership. The Secretary shall be responsible for audio taping (audio equipment provided by the City) each meeting and writing a brief written summary of each meeting, as well as documenting in a memo to the Mayor and Director of Planning and Development the Housing Partnership's recommendation for specific projects that it reviews. Both the written meeting summary and project review memo shall be provided to the Mayor and Director of Planning and

Development within two weeks of the Housing Partnership meeting, for posting on the City website.

Department staff are responsible for booking a room for Housing Partnership meetings and helping to coordinate the date and agenda of each meeting.

The Housing Partnership members may decide on a case-by-case basis whether an item requires consensus or a formal vote. For those matters submitted to a vote, each member shall be entitled to one vote, unless they must recuse themselves on a project subject to conflict of interest laws.

The Housing Partnership membership shall reflect the diversity in race, ethnicity, abilities and socio-economic background that the City seeks to promote. Members shall be persons interested in promoting the Housing Partnership's mission and shall include those persons that live in Newton and/or serve organizations, businesses and institutions which are based in Newton (Newton residency is preferred, but not required).

Member qualifications may include one or more of the following:

- Familiarity with affordable housing production, planning, architecture, law, lending, business, property management, social and human services, capital planning, and construction management
- Professional experience in affordable housing finance and development
- Professional participation as a funder, developer or consultant in successfully completed projects that include deed-restricted affordable housing
- Experience with all-affordable, mixed-income housing, and/or mixed-use development projects that include housing
- Familiarity with Massachusetts and HUD affordable housing funding sources and regulatory requirements, specifically CDBG and HOME, LIHTC, and 40B
- Familiarity with the Massachusetts Community Preservation Act's eligibility criteria for housing projects

Persons interested in becoming a member of the NHP should first submit an application (www.newtonma.gov/boards). The Mayor appoints members to the Newton Housing Partnership.

D. Conflict of Interest and Open Meeting Laws:

The activities of the Housing Partnership and its members adhere to the letter and spirit of the State's Open Meeting and conflict of interest laws. Once appointed, new members must complete the Massachusetts State Ethics Commission's introductory online training program (no studying needed; about 30 minutes to complete) and will be provided with a copy of the Newton Housing Partnership's Conflict of Interest Policy. New members should also speak with the City of Newton Law Department if they have any questions regarding the state conflict of interest law.

Newton Housing Partnership

Name	Term	End date	Appointing Authority
Nicole Stewart	1	6/3/2027	Mayor
Bryan Decker	1	6/3/2027	Mayor
Albert H. Simmons	1	8/16/2024	Mayor
Eliza E Datta	2	3/8/2025	Mayor
Lizabeth A Heyer	2	3/8/2025	Mayor
David P Rockwell	1	4/21/2025	Mayor
Mark JT Caggiano	2	3/9/2026	Mayor
Marva Serotkin	2	3/9/2026	Mayor
Ann Houston	2	9/27/2026	Mayor