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## City of Newton, Massachusetts

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Barney S. Heath  
Director

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### MEMORANDUM

**DATE:** September 22, 2017

**TO:** Councilor Ted Hess-Mahan, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Barney Heath, Director of Planning and Development  
James Freas, Deputy Director of Planning and Development  
Amanda Berman, Housing Development Planner

**RE:** #109-15 - HIS HONOR THE MAYOR requesting consideration of changes to the inclusionary housing provisions of the Zoning Ordinance to increase the required percentage of affordable units to 20% with the additional 5% set aside for middle income households.

**MEETING DATE:** September 25, 2017

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One of the most important purposes of Zoning is to ensure that the development of a community happens in ways that are consistent with identified public benefits and values, thus zoning ordinances include provisions relating to such issues as parking, environmentally sustainable design, and other development rules. Like many communities in Massachusetts and across the country, Newton strongly values an economically diverse community; within the City's Zoning Ordinance, the Inclusionary Zoning provisions support this value and require that, as the community develops, new development includes opportunities for a mix of household incomes.

Newton's 2016 Housing Strategy revealed that the City's demographic profile is rapidly shifting towards higher-income households, and that high-value residential development is a significant contributor to this trend. The strategy, therefore, recommends that the City strengthen its inclusionary zoning ordinance, raising the percentage of affordable units to as much as 20 or 25%. The proposal described below represents the beginning of a dialogue on this idea and staff looks forward to working with the City Council, development community, and other stakeholders to arrive at the best formula for Newton.

The City of Newton initially codified its inclusionary zoning provisions (called the “10% Ordinance”) in 1970 to proactively create affordable housing opportunities in the City. In 2003, Newton increased its inclusionary housing percentage from 10% to 15% for any residential development of more than two units where a Special Permit would be required. Newton’s Inclusionary Housing Ordinance has been responsible for the creation of 147 affordable deed-restricted units.

In recent years, the strength of Newton’s (and greater Boston’s) housing market has shrunk the available supply of affordable housing and substantially widened the affordability gap for low and moderate income households seeking to live in the City. The recently completed Newton Housing Strategy confirmed this trend.

Newton is not alone in considering an adjustment to its current inclusionary ordinance. In the past few years, Boston (2015), Cambridge (2017), and Somerville (2017) have all amended their inclusionary housing provisions to balance the growing need for affordable housing units in a rapidly appreciating and high demand housing market.

In proposing to revise Newton’s current inclusionary ordinance, we sought to rebalance the existing formula to better address the widening affordable housing gap that exists today in the Newton housing market. While the chart below provides a capsule summary of where and how the new ordinance would apply, some of the proposed key changes include:

- 1. Applying an inclusionary requirement to all new residential development, including single-family and two-family homes** - Newton’s reduction in its supply of affordable housing and its housing affordability price gap is driven in part by the demolition of existing housing stock and replacement with larger square footage units which demand, in turn, substantially higher prices. To address this effect, we propose that the inclusionary zoning requirement apply to all residential development, including single- and two-family projects. As the percentage of affordable units required for projects containing 1-6 new units would result in a fraction of a unit, the new ordinance would provide the option for a payment in-lieu of development of an on-site unit. While the formula for calculating this fractional unit payment is still being explored, we have tested the idea of utilizing the average cost of residential development per square foot in Newton coupled with the average size of the proposed unit(s) to be created as a starting point for determining the payment required for these smaller projects. Developers of 1-6 units would also be given the option to provide an on-site unit or partner with a non-profit affordable housing developer to create an off-site unit to meet their requirement. Additionally, this fractional unit formula would be used to determine the obligatory payment for larger projects (7-plus units) where the required number of inclusionary units results in a fraction less than 0.5.

- 2. Developing a tiered structure targeting inclusionary affordable housing requirements according to household income, rental and ownership opportunity and the size of the development** - Striking the right balance between providing opportunity for a range of low and moderate income households and not stifling the development of housing overall is a key aspect of any inclusionary housing ordinance. As such, we have developed inclusionary tiers that are specifically designed to provide a balanced approach tied to the size and type of projects, gradually increasing the inclusionary zoning requirement from the current 15 percent to 25 percent.

Tier Level	1-6 new units		7-9 new units		10-20 new units		21-50 new units		51-100 new units		101+ new units	
	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner	Rental	Owner
Tier 1, up to 50% AMI	Fractional payment option (10%); or 1 unit		-	-	-	-	5.0%	-	7.5%	-	10.0%	-
Tier 2, 51%-80% AMI			15.0%	-	10.0%	-	10.0%	10.0%	10.0%	15.0%	10.0%	15.0%
Tier 3, 81%-120% AMI			-	15.0%	10.0%	20.0%	10.0%	15.0%	7.5%	10.0%	5.0%	10.0%
<b>Total</b>			<b>15.0%</b>	<b>15.0%</b>	<b>20.0%</b>	<b>20.0%</b>	<b>25.0%</b>	<b>25.0%</b>	<b>25.0%</b>	<b>25.0%</b>	<b>25.0%</b>	<b>25.0%</b>

- 3. Providing a set-aside for middle income households at 81% -120% AMI** - It is important to recognize that the incomes of this segment of the population, while above the standard affordable housing limit of 80% of area median income, are not sufficient to rent or buy the vast majority of available housing here in Newton. As such, the City has seen a decline in the number of middle-income households residing here – an economic concern for Newton as it strives to retain a strong workforce. This segment of the population may, in many ways, be best prepared to assume the attendant costs associated with affordable homeownership opportunities (i.e. down payment, maintenance, condominium fee assessments).
- 4. Discouraging off-site development** - The principal goal of the ordinance is to create affordable units as housing development occurs across the City. For that reason, the proposed ordinance would limit off-site to two unique cases:
- Where there are six or less units being developed (since 15% would be less than a unit and would result in a fractional payment) and an actual affordable unit created elsewhere, as part of a different project, would be preferable over a monetary contribution to an inclusionary zoning fund; or
  - An option to seek a Special permit where the City 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.
- 5. Revising the Elder Housing with Services Section** – To clarify and simplify the inclusionary ordinance with respect to Elder Housing with Services, we propose applying a 15% inclusionary standard to all such projects. Fifteen percent of the units in such a development would be designated affordable to elderly households with annual incomes up to 120% AMI (5 percent at 50% AMI, 5 percent at 51%-80% AMI, and 5 percent at 81%-120% AMI). Monthly housing costs, including rent or a monthly fee and

any additional service charges (medical care, personal care, meals, transportation, programming, etc.), for occupants of inclusionary units shall not exceed 50% of the occupants annual income.

While much thought and discussion has already taken place around the update of the City's Inclusionary Zoning Ordinance, we are still at the beginning stages of exploring these proposed changes with City leadership, staff, committees, boards, and the community at large. We look forward to vetting these ideas and soliciting feedback from multiple stakeholders over the next few months as we work to create an ordinance that more effectively balances our City's growing need for affordable housing units for populations at all income levels.