

Zoning and Planning Committee

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SECTION 5.11 INCLUSIONARY ZONING

Outline

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- Overview and history of inclusionary zoning in Newton
- Basics of the Ordinance (Section 5.11)
- Opportunities for strengthening existing Ordinance
- Questions and discussion
- Next Steps

Overview and History

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Inclusionary Zoning

- Leverages private development to create affordable housing
 - On-Site Units
 - Off-Site Units
 - Fee-in-Lieu Payments
- Increasingly popular across the United States
 - More than 500+ municipalities have adopted some type of ordinance
 - Ordinances/policies vary widely by municipality

Overview and History

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Inclusionary Zoning in Newton

- City has a leadership history both nationally and across the State
 - Informal policy in 1960s & 1970s negotiated by Alderman
 - Codified in 1970 as “10% Ordinance”
 - Targets low- and moderate income households; current ordinance is consistent with State regulations defining affordability
- Current ordinance was Adopted in 2003 when Sec. 30-24(f) was amended
 - Increased percentage of inclusionary units from 10% to 15%
 - Allowed fee-in-lieu payments on projects with 6 units or less
 - Off-site units allowed when developer partners with a nonprofit

Overview and History

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Inclusionary Zoning Production Accomplishments

Total Units Created and/or Permitted	~330
Total Units in Service	156
Total Units with Affordability Period Expired	82
Under Construction	13
Permitted, Not Built	82

Basics of the Ordinance

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Section 5.11.3 Scope

1. Residential development requiring a special permit;
2. Business of mixed-use development requiring a special permit that includes residential development beyond that allowable as of right;
3. Development requiring a special permit where the development is proposed to include or may include new or additional dwelling units totaling more than two households whether by new construction, rehabilitation, conversion of a building or structure;
4. Open space preservation development requiring a special permit;

Basics of the Ordinance

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Section 5.11.4(A) Inclusionary Zoning Unit Calculation

# of Units in Development	Inclusionary Zoning Requirement	Inclusionary Unit Calculation	# of Inclusionary Units Required
5	15%	0.75	1
6	15%	0.9	1
7	15%	1.05	1
8	15%	1.2	1
9	15%	1.35	1
10	15%	1.5	2

“For the purposes of calculating the number of inclusionary units required in a proposed development, any fractional unit $\frac{1}{2}$ or greater shall be deemed to constitute a whole unit.”

Basics of the Ordinance

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Section 5.11.5(B) Fee-In-Lieu Payment

- Allowed in projects with no more than 6 units; City Council approval required if more than 6 units and “unusual net benefit to achieving City’s housing objectives” is achieved;
 - 12% of sale proceeds from the sale of market rate units, exclusive of the first two units in the development issued a CO
 - 12% of the assessed value of rental units in project, exclusive of the first two units in the development issued a CO

# of Units in Development	Sale Price of Market Rate Unit	# of Units Subject to Fee-in-Lieu Calculation	Fee-In-Lieu Payment
5	\$900,000	3	\$324,000
6	\$900,000	4	\$432,000

Basics of the Ordinance

Section 5.11.6(B) Off-Site Development

- Allowed only if partnering with a nonprofit development partner
- Development plan submitted to Department of Planning and Development prior to submission to the City Council for review and approval
- Off-site inclusionary units shall be completed no later than the market rate units;
 - Temporary and final occupancy permits for market rate units are contingent upon completion of the inclusionary units;

Opportunities for Strengthening Ordinance

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Opportunities for Strengthening Ordinance

1. Clarify sections of the ordinance to ease interpretation and implementation
2. Improve inclusionary zoning as a tool for creating affordable housing
3. Consider expanding the definition of affordability and percentage of inclusionary units
 - Docket Item #109-15

Opportunities for Strengthening Ordinance

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Section 5.11.2 Definitions

- Household Income Limit
- Inclusionary Units
- Area Median Income

Potential Areas for Consideration

City staff believes that is section of the ordinance could be strengthened by explicitly defining the maximum income limit for inclusionary units.

Opportunities for Strengthening Ordinance

Section 5.11.3 Scope

1. Residential development requiring a special permit;
2. Business or mixed-use development requiring a special permit that includes residential development beyond that allowable as of right;
3. Development requiring a special permit where the development is proposed to include or may include new or additional dwelling units totaling more than two households whether by new construction, rehabilitation, conversion of a building or structure; and
4. Open space preservation development requiring a special permit

Potential Areas for Consideration

City staff believes that consideration should be given to creating a threshold by which as of right residential development in business and mixed-use zoning districts would be subject to the provisions of the ordinance; the Scope could be further clarified by applying a uniform threshold for projects based on the number of residential units in a project

Opportunities for Strengthening Ordinance

Section 5.11.4(A) Inclusionary Units Number Required

- 15% minimum requirement for inclusionary units

HH Size	1-Person	2-Person	3-Person	4-Person	5-Person	6-Person
50% AMI	\$34,350	\$39,250	\$44,150	\$49,050	\$53,000	\$56,900
80% AMI	\$51,150	\$58,450	\$65,750	\$73,050	\$78,900	\$84,750

Potential Areas for Consideration

Increase minimum requirement for inclusionary units to 20%, with additional 5% increment dedicated to “middle income” households

HH Size	1-Person	2-Person	3-Person	4-Person	5-Person	6-Person
100% AMI	\$68,700	\$78,500	\$88,300	\$98,100	\$106,00	\$113,800
120% AMI	\$82,440	\$94,200	\$105,960	\$117,720	\$127,200	\$136,560

Opportunities for Strengthening Ordinance

Section 5.11.4(A) Inclusionary Units Number Required **Cont.....**

- 15% minimum requirement for inclusionary units is applied uniformly, regardless of project size;

Potential Areas for Consideration

Applying the same inclusionary requirement to all projects, regardless of their size, may not be the most efficient means to support housing production. For example, applying a higher inclusionary requirement, beyond the existing 15%, to large development projects could support additional housing production without compromising the financial viability of the project.

Opportunities for Strengthening Ordinance

Section 5.11.4(A) Inclusionary Units Cont...

- Fractional unit calculation

# of Units in Development	Inclusionary Zoning Requirement	Inclusionary Unit Calculation	# of Inclusionary Units Required
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9	15%	1.35	1
10	15%	1.5	2

Potential Areas for Consideration

City staff believes this section of the ordinance should be evaluated to better understand how the fractional unit calculation impacts both market rate and affordable housing production.

Opportunities for Strengthening Ordinance

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Section 5.11.6 Off-Site Development

- Ordinance allows for off-site inclusionary units if developer partners with a nonprofit

Potential Areas for Consideration

Evaluate effectiveness of this provision to understand the degree to which it supports affordable housing production.

Opportunities for Strengthening Ordinance

Section 5.11.11 Elder Housing with Services

- Establishes provisions for elder housing and supportive services
 - Residential care
 - Continuing care retirement communities
 - Assisted living
 - Independent living
 - Congregate care
- Fee-in-lieu payment or units/beds – Discretion of City Council

Potential Areas for Consideration

City staff believes Section 5.11.11 should be amended to provide clear guidance to developers and owners regarding the Maximum Contribution required of projects where a cash payment is made

Opportunities for Strengthening Ordinance

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Section 5.11.15 Incentives

- Density bonus of 1 unit for each additional inclusionary unit provided above the 15% requirement
- Expedited application and review procedures for projects with a minimum of 30% inclusionary units

Potential Areas for Consideration

Incentives should be evaluated to determine their utilization and effectiveness

Questions and Discussion

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Questions and Discussion

- Perceived strengths of ordinance
- Perceived weaknesses of ordinance
- Highest and lowest priorities for amendments

Next Steps

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Next Steps

- Feedback from the Committee
- Staff outreach to the development community, interest groups, and public
- Staff outreach to neighboring municipalities regarding recent experience
- Draft language prepared for second meeting in May