

CITY OF SOMERVILLE
ORDINANCE NO. _____
IN THE BOARD OF ALDERMEN: _____

AN ORDINANCE AMENDING ARTICLE 15 OF THE SOMERVILLE ZONING ORDINANCES TO MODIFY THE HOUSING LINKAGE FEE AND ESTABLISH A JOBS CREATION AND RETENTION LINKAGE FEE

WHEREAS, an established body of law supports a municipality's right to require monetary or other contributions in connection with commercial and/or residential development, including conditioning a development permit upon such payments or contributions when a "reasonable relationship" can be demonstrated between the required fee and the government's legitimate purpose;

AND WHEREAS, developing and preserving affordable housing for low- and moderate-income households, constitutes a legitimate government purpose, as indicated by authorizing state legislation;

AND WHEREAS, Somerville established and codified a housing linkage policy in 1990, and amended it in 2013, pursuant to a Nexus Study, to provide for payment of a housing linkage fee of \$5.15 per square foot of non-residential development in excess of 30,000 square feet;

AND WHEREAS, a Nexus Study commissioned by the City and completed in 2017 by a qualified consultant indicated that based on housing financing costs, a linkage rate of between \$19.73 and \$27.36 would be justified, but in order to preserve Somerville's competitive market position, recommended a housing linkage rate of \$8 to \$10 per square foot of new non-residential development; and recommended shortening the timeframe for payments by the developer from the current five years to three years;

AND WHEREAS, the City seeks to provide and enhance employment opportunities for residents of the City of Somerville;

AND WHEREAS, Section 1 of Chapter 199 of the Acts of 2016 establish the Somerville Job Creation and Retention Trust;

AND WHEREAS, Section 2 of Chapter 199 of the Acts of 2016 establish that the City may, by ordinance, require the payment of linkage fees to the Trust; and,

AND WHEREAS, a Nexus Study commissioned by the City and completed in 2017 by a qualified consultant recommended that such a jobs linkage fee be set at an amount within the range of \$2.00 to \$2.50; and that the fee be paid with a single payment on the date of the building permit to provide the upfront payment needed to fund job training in advance of building occupancy and employment;

AND WHEREAS, the aforementioned Nexus Study recommended that the housing and jobs linkage fee rates be annually adjusted to account for inflation, based on the Boston CPI or alternative index; and that the rates be reevaluated and updated based on a nexus analysis every five years;

NOW THEREFORE, be it adopted by the Board of Aldermen, in session assembled, that Article 15 of the Somerville Zoning Ordinance is amended as follows

(Additions are underlined, subtractions are ~~crossed out~~):

ARTICLE 15: LINKAGE

Section 15.1. - Purpose.

The purpose of this Article is to promote the public health, safety and welfare by:

- a) Increasing the supply of housing that is available and affordable to low and moderate income people;
- b) Ensuring that such housing is affordable over the long term;
- c) Creating and maintaining employment opportunities within the City of Somerville for the residents of the City of Somerville; and
- d) Mitigating the impact of large-scale development on the supply and cost of housing and providing training and services that will enable residents to access job opportunities that will permit them to succeed and maintain adequate incomes so they can continue to afford living in the City of Somerville.

Section 15.2. - Applicability.

Applicants seeking special permits, special permits with site plan review or site plan approval for projects of new construction or substantial rehabilitation (including Planned Unit Developments, Coordinated Development Special Permits, and Neighborhood Development Plans) to be occupied by any single use or combination of uses referenced in Article 7 except for residential, protected religious uses, buildings and uses owned by the City of Somerville, and artist studio spaces, ~~with a total of thirty thousand (30,000) gross square feet or more, including phased projects each phase of which may include less than thirty thousand (30,000) gross square feet,~~ shall contribute ~~a fee~~ the fees established in Section 15.5 ~~per gross square foot above thirty thousand (30,000) gross square feet,~~ which fees shall be referred to as the Project Mitigation Contributions (PMCs). Additions to structures shall trigger PMC. Substantial rehabilitation of square footage in buildings for which a PMCs ~~has~~ have already been made ~~is~~ are not subject to payment again.

Section 15.3. - Project Mitigation Contributions.

a) Affordable Housing linkage fee

The PMC for the affordable housing linkage fee shall be calculated by multiplying the fee established in Section 15.5 times the total number of square feet in the project over and above thirty thousand (30,000) gross square feet that are occupied by or will be covered by a certificate of occupancy for any single use or combination of uses referenced in Section 15.2, and uses that are accessory thereto.

The only purposes for which affordable housing linkage Project Mitigation Contributions may be used are those set forth in Section 15.1. These purposes include the creation of affordable rental and home ownership units in the City of Somerville as defined in Section 2.2.4 and described in Sections 13.3.2 and 13.3.3, that comply with the long-term affordability provisions of Section 13.3.6.

Applicants who obtain a certificate of occupancy for one (1) phase of a project at a time, shall be required to pay a fee that is based on the number of square feet of space, in excess of thirty thousand (30,000) gross square feet for which the certificate of occupancy has been obtained. In the event that certificates of occupancy have been or will be obtained for two (2) or more phases totaling more than thirty thousand (30,000) gross square feet, the thirty thousand (30,000) gross square foot exemption shall be based on the combined square footage of phases.

~~The PMC shall be paid~~ The affordable housing linkage fee shall be paid to the Somerville Housing Trust Fund established pursuant to Ordinance No. 1989-3 in three (3) equal annual installments, the first of which shall be payable upon the issuance of a certificate of occupancy and the remaining two (2) of which shall be payable annually on the anniversary of the first payment. ~~five (5) equal annual installments upon the issuance of a~~

~~certificate of occupancy. The remaining four (4) payments of the PMC shall be due and payable annually on the anniversary of the first payment.~~

b) Jobs Creation and Retention linkage fee

The PMC for the Jobs Creation and Retention linkage fee shall be calculated by multiplying the fee established in Section 15.5 times the total number of square feet in the project over and above 15,000 gross square feet that are occupied by or will be covered by a certificate of occupancy for any single use or combination of uses referenced in Section 15.2, and uses that are accessory thereto.

The only purposes for which Jobs Creation and Retention linkage Project Mitigation Contributions may be used are those set forth in Section 15.1. These purposes include the development of programs to support job opportunities for Somerville residents.

Applicants who obtain a certificate of occupancy for one (1) phase of a project at a time, shall be required to pay the fees that are based on the number of square feet of space, in excess of 15,000 gross square feet for which the certificate of occupancy has been obtained. In the event that certificates of occupancy have been or will be obtained for two (2) or more phases totaling more than 15,000 gross square feet, the 15,000 gross square foot exemption shall be based on the combined square footage of phases.

The job creation and retention linkage fee shall be paid to the Somerville Municipal Job Creation and Retention Trust established pursuant to Chapter 199 of the Acts of 2016 in two (2) equal installments, the first of which shall be payable upon the issuance of the initial building permit and the second of which shall be payable upon the issuance of a certificate of occupancy.

Section 15.4. - Compliance and Enforcement.

All covenants, contractual agreements and other documents necessary to ensure compliance with this Article shall be executed prior to and as a condition of the issuance of a certificate of occupancy.

All violations of this Ordinance are subject to the maximum fine per day set forth in Section 3.1.8 and the other penalties contained therein. Any fines collected as the result of proceedings brought under Article 3 must be divided between paid to the Somerville Housing Trust Fund and the Somerville Municipal Job Creation and Retention Trust, to be used for affordable housing and job training purposes.

Section 15.5. - Formula Recalculation.

The amount of the Project Mitigation Contribution shall be as follows:

- a. ~~five dollars and fifteen cents (\$5.15)~~ Ten dollars (\$10) shall be paid to the Somerville Housing Trust; and
- b. Two dollars and forty-six cents (\$2.46) shall be paid to the Somerville Municipal Job Creation and Retention Trust

~~and subject to recalculation every three (3) years from the effective date of this ordinance. The Planning Board after public notice and hearing may recommend changes to the Board of Aldermen based on a consideration of the current impact of new commercial development on the cost and supply of housing in the City of Somerville.~~

The Planning Board, in cooperation with the SPGA, the Office of Housing and Community Development, and relevant agencies, shall undertake an economic, housing market and job training needs assessment and financial feasibility analysis prior to January 31, 2020, and then not less than every third calendar year thereafter. The purposes of said assessment shall be to assess the performance of the provisions herein, to assess any need for improved rules and regulations regarding implementation, and to ascertain the need for revision of any

provisions of this Ordinance relative to the provision of affordable housing units and job training programs in the city. Provisions subject to review shall include, at minimum: revisions to applicability requirements of this Article, and revisions to the PMC.

Notwithstanding any such revisions, the PMC shall be adjusted on March 1 of each year, beginning on March 1, 2019, by adjusting the fee based on the change in the Boston Consumer Price Index over the previous calendar year.

Upon completing its assessment, the Planning Board shall recommend to the Board of Aldermen any amendments to this Ordinance deemed necessary to improve the means of providing affordable housing and job training programs in the City, including any recommended changes to the PMC. The Planning Board shall also recommend to the SPGA any improvements deemed necessary in the SPGA's Rules and Regulations pertaining to this Article.

Section 15.6. - Administration.

The SPGA shall promulgate rules and regulations to govern the administration of this Article.

Approved:

President, Board of Aldermen