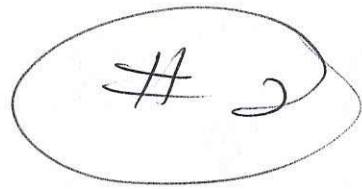


CITY OF SOMERVILLE
ORDINANCE NO. 2016-??
IN THE BOARD OF ALDERMEN: May 12, 2016



AN ORDINANCE AMENDING THE INCLUSIONARY HOUSING PROVISIONS OF THE SOMERVILLE ZONING ORDINANCE AND INCREASING REQUIRED AFFORDABLE HOUSING IN NEW DEVELOPMENTS

WHEREAS, Development pressure in Somerville is jeopardizing the affordability of our City's housing stock; causing displacement; threatening the socioeconomic and demographic diversity that is so essential to our City's character; jeopardizing the ability of Somerville families to continue their children's educations in the Somerville Public School system; and making it increasingly unaffordable to live, work, play, and raise a family in the City we call home; and,

WHEREAS, Permits for new housing development continue to be approved and are subject only to the existing and outdated inclusionary zoning requirements, while the City develops a new zoning code which will likely include higher inclusionary requirements; and,

WHEREAS, any such new zoning will not be enacted until sometime after mid-2016, causing Somerville to lose out on dozens and perhaps hundreds of new inclusionary units that would have been developed under the anticipated higher requirements; and,

WHEREAS, we anticipate that certain other changes will be made to the inclusionary housing provisions in the full zoning overhaul, but the following changes are urgent; now,

THEREFORE, be it adopted by the Board of Aldermen, in session assembled, that the below listed sections of the Somerville Zoning Ordinance are hereby amended as identified.

1. Article 6, Table 6.5F, Row K is hereby deleted.
2. Article 9, Section 9.13, is amended as follows (additions are **bolded and underlined** and deletions are ~~crossed-out~~):

Where "a through f" appears: replace "~~a through f~~" with "**a through g**"

Add, after item "f", item "g" as follows:

- g. **Inclusionary Housing: Projects incorporating inclusionary housing per Article 13 may reduce the total number of parking spaces. An applicant shall submit documentary evidence that parking is adequate to serve the development.**

3. Article 13 is hereby amended as follows (additions are **bolded and underlined** and deletions are ~~crossed-out~~):

with these provisions. No provisions of this Article shall substitute for any other provisions of this Ordinance.

Amendments to this Article shall become effective on the day of passage by the Board of Aldermen, but shall not apply to:

- **any project that has received approval for a Special Permit with Site Plan Review prior to date of the vote of the Board of Aldermen to adopt said amendment.**
- **any project on land within an area for which a Preliminary Master Plan has already been approved.**

Nothing contained in this Article shall be construed to apply to the use of land or structures for religious or educational purposes in the University District or in any other district if doing so would violate the applicable provisions of M.G.L. Chapter 40A, Section 3.

Section 13.3. General Requirements.

13.3.1. Implementation Plan. Those developers seeking special permits with site plan review for projects subject to compliance with this Article shall submit a full, written proposal of the methods to be used in providing affordable dwelling units that conform with all requirements herein. At the time of application for a special permit with site plan review for inclusionary housing, the applicant shall submit, for SPGA review and approval, an implementation plan in accordance with the Rules and Regulations established under Section 13.7.1, and shall include, at minimum:

- a) the methods of disposition of the affordable housing units,
- b) provisions for the selection of buyers or tenants of the affordable units,
- c) plans for income verification of tenants and/or buyers,
- d) plans for management of units, particularly with respect to maintenance and insurance of long-term affordability,
- e) financial information or analysis necessary to satisfy the provisions of this Article, particularly Sections 13.3.3, 13.3.5 and 13.4.2,
- f) a relocation plan for tenants affected by substantial rehabilitation projects,
- g) and any additional information the Applicant desires to present that demonstrates compliance with other provisions of this Article.

The SPGA may request additional information as an aid in its review, and may reject any application not providing the minimum implementation plan elements noted above.

13.3.3. *Affordability*. Housing affordability under this Article means:

I. Rental

Payment of housing and related costs for rental units shall be set at the following levels:

- a) in the case of ~~low-income~~ **Tier 1** households, rental costs (including utility costs for heat, electricity, water, and hot-water, and including access to all amenities that are typically offered to a tenant in the building, such as parking, access to an onsite gymnasium, and other such amenities.) shall be set at a level not to exceed the then current "LOW HOME" RENTS published by HUD for its Home Investment Partnership Program at 24 CFR 92 as they may be amended from time to time. These rents are set by HUD to be affordable to households with incomes up to fifty (50) percent of area median income.
- b) in the case of ~~low-moderate-income~~ **Tier 2** households, rental costs (including utility costs for heat, electricity, water, and hot water, and including access to all amenities that are typically offered to a tenant in the building, such as parking, access to an onsite gymnasium, and other such amenities.) shall be set at a level not to exceed the then current "HIGH HOME" RENTS published by HUD for its Home Investment Partnership Program at 24 CFR 92 as they may be amended from time to time. These rents are set by HUD to be affordable to households with up to eighty (80) percent of area median income.
- c) In the case of Tier 3 households, rental costs (including utility costs for heat, electricity, water, and hot water, and including access to all amenities that are typically offered to a tenant in the building, such as parking, access to an onsite gymnasium, and other such amenities.) shall be set at a level not to exceed the 30% of income for an individual making up to 110% of area median income. These rents are set to be affordable to households with up to one hundred ten (110) percent of area median income.

II. Homeownership: The maximum sale price for an inclusionary unit shall be set at a level that allows a household at the designated Tier ~~eighty (80) percent or one hundred ten (110) percent of Boston area median income, as the case may be,~~ to pay no more than twenty-eight (28) percent of household income for housing costs. The maximum sales price shall be calculated as follows:

- Determine the maximum household size for an inclusionary unit based on one (1) person per bedroom (one (1) person in the case of a studio).

<u>Table 13.3.4.A: Required Inclusionary Units</u>	
<u>Total Number of Units</u>	<u>Required inclusionary units</u>
<u>0 to 6 units</u>	<u>No inclusionary requirement</u>
<u>7 to 19 units</u>	<u>15%</u>
<u>20 or more units</u>	<u>20%</u>

For projects in all zoning districts other than RA and RB zones, which contain on-site inclusionary units, additional housing units may be permitted by adjusting the permitted lot area per dwelling unit as established in Table 13.3.4.B, below:

<u>Table 13.3.4.B: Unit Bonuses</u>	
<u>Total Number of Units Permitted by Dimensional Tables Elsewhere in the SZO</u>	<u>Reduction in Lot Area per Dwelling Unit (%)</u>
<u>7 to 19 units</u>	<u>15%</u>
<u>20 or more units</u>	<u>20%</u>

Inclusionary dwelling units within a development shall be affordable to households based on the income tiers, as set forth in Section 13.3.2 and provided as follows:

- a. **The first unit in a development shall be at Tier 1**
- b. **The second unit in a development shall be at Tier 2**
- c. **The third unit in a development shall be at Tier 1**
- d. **The fourth unit in a development shall be at Tier 2**
- e. **The fifth unit in a development shall be at Tier 3**
- f. **The sixth unit in a development shall begin this pattern again, with every five units following the pattern above until all inclusionary units in a development are assigned to a specific Tier.**

In determining the total number of affordable units required, calculation of a fractional unit of 0.5 or more shall be regarded as a whole unit. When less than a fractional unit of 0.5 is required, the developer may satisfy his/her obligation by means of the alternative methods of compliance specified in Section 13.4.

In general, affordable units provided under terms of this Article shall be provided on-site in the subject residential development. The affordable housing units shall be intermixed with the market rate units, dispersed throughout the building(s) on the development site, and shall be comparable to market-rate units in every respect, including location, quality and character, room size, and external appearance. The bedroom distribution in the affordable units should be consistent with the purposes of this Article and should include two- (2) and three- (3) bedroom units.

13.3.6. Long-term Affordability. Units required by and provided under the provisions of this Article shall remain affordable to the designated income group in perpetuity, or for as long as legally permissible. Sales prices, resale prices, initial rents, and rent increases for the affordable units shall be restricted by legally permissible instruments such as, but not limited to, deed covenants or restrictions, contractual agreements, or land trust arrangements to ensure long-term affordability and compliance with this Article.

The SPGA, or its designee (Office of Housing and Community Development or other entity), shall require that buyers or lessees of affordable units meet income and other certification requirements initially and then upon any subsequent resale or renewal of lease terms (at least annually), with income based on the provisions of Section 13.3.2. The SPGA or its designee may require a developer or property owner renting directly to low and low moderate-income tenants to submit an annual statement and documentation as to the rental income derived from the affordable housing units. In the longer term, a developer or owner shall be responsible for reporting compliance to the enforcement entity(-ies) established per Section 13.7.1 of this Article. The SPGA shall administer these provisions through Rules and Regulations established under Section 13.7.1 herein.

Section 13.4. Alternative Methods of Compliance.

13.4.1. Establishment and Finding of Need. Though it is intended that affordable units be included on-site in a subject development, the SPGA may authorize or require that the provisions of this Article be met through an alternative method(s) of compliance in cases where there is establishment of a need(s) including, but not limited to:

- a) a finding that provision of on-site units is not in the best interest of the City and low/moderate-income households in particular, or
- b) a finding that provision of off-site units or some other method of compliance is desirable and in keeping with the intent of this Article and with the plans, goals and objectives of the City.
- c) those projects where the number of affordable units to be provided is calculated to include a fractional number not rounding up to the next whole number (see Section 13.3.4), in which case a cash payment shall be made for the fractional unit in accordance with Section 13.4.2. As an example, a ~~fifty (50)~~ **twenty-six (26)** unit project would require ~~6.25~~ **5.2** units (12.5% ~~of 50~~ **20% of 26**), and the last 0.25 unit would require the appropriate cash payment described in Section 13.4.2.

In making its finding, the SPGA shall consider such factors as location, accessibility to schools and other services, whether off-site units would provide more appropriate family housing than on-site units would, availability of parking, proximity to public transportation, availability of usable open space, etc.

2) Cash payment (or equivalent value in land/buildings) in lieu of providing 0.5 or more affordable units shall be based on the formula below multiplied by two (2), **and shall use sales of new construction units only to calculate "B" in the formula below.**

3) Formula

"A" multiplied by ("B" minus "C")

where, "A" equals the number of affordable units not constructed, in lieu of a cash payment and/or donation of land/buildings.

"B" equals the median market sales price for comparable unit types over the preceding four quarters. This data shall be available to the public through a published source identified in the SPGA Rules and Regulations.

"C" equals the purchase price affordable to a moderate-income household with an income of sixty-five percent (65%) of the ~~Boston area SMSA median income~~ **Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development**, consistent with the provisions of Section 13.3.3.

The above is meant to serve as a guideline. The SPGA may approve use of another accepted method of valuation, but only after consideration of any comments offered by the Planning Board, Planning Office, and the Office of Housing and Community Development on the appropriateness of any such alternative method.

Section 13.5. Incentives for Provision of Additional Affordable Housing Units.

Developers providing more than ~~twelve and a half percent (12.5%)~~ **the required percentage** of the total units in the development as affordable units may apply for an additional density bonus under the terms of this Article, and in accordance with the special permit with site plan review provisions of Article 5. Bonuses may be awarded on the basis of a two-to-one ratio of market rate units to affordable housing units. For every additional affordable unit provided beyond the **minimum** ~~twelve and a half percent (12.5%)~~ required, two (2) additional market rate units may be authorized. The additional affordable units provided shall continue to be offered at the rate of not less than fifty percent (50%) affordable to lower income range households and the remainder affordable to moderate income range households, as stipulated in Section 13.3.4. Any bonus may be awarded only by the SPGA, and shall not exceed twenty percent (20%) of the number of units normally permissible under the lot area per dwelling unit requirements of Article 8 and Article 16 of this Ordinance. This incentive shall not apply in Residence A or Residence B zoning districts.

In determining any density bonus, the SPGA shall consider relevant facts and make findings as to the following:

- a) that the affordable units provide housing to households with children;

- b) Projects including ~~twelve and a half percent (12.5%)~~ **twenty percent (20%)** or more ~~low-income~~ **Tier 1** affordable units as set forth in this Article 13, provided that all such units (excluding a fractional unit of less than 0.5) are on-site with the market rate development.
- c) Projects including ~~fourteen percent (14%)~~ **twenty-two percent (22%)** or more affordable housing units, provided that a minimum of ~~half seven percent (7%)~~ of the total **inclusionary** project units shall serve ~~low-income~~ **Tier 1** households as defined in this Article 13
- d) Projects including ~~twenty-five percent (25%)~~ **forty percent (40%)** or more affordable housing units.

Fast-tracking of projects begins when the first application for special permit with site plan review is submitted. The applicant must identify the project as qualifying for and request fast-tracking at the point of this application. No project shall be allowed to request fast-tracking after the review process has begun, unless the review process begins again with a new application for the project.

Fast-tracked projects shall be subject to every legal requirement for notices and hearings, but every effort shall be made to expedite public review. The project shall be scheduled for appropriate review on the first available agenda (of the appropriate Board) after the application date which allows for proper notifications to occur. The SPGA shall adopt additional measures to streamline and expedite review of a fast-track project within its Rules and Regulations.

~~13.6.3. Fee Waiver. In cases where a project includes fourteen percent (14%) or more affordable housing units and where a minimum of seven percent (7%) of the total project units are provided for low-income households, various permit and hearing fees may be waived at twice the percentage of affordable housing provided (e.g. fourteen (14) percent affordable/ twenty-eight (28) percent fees waived) for projects which include up to twenty-four percent (24%) affordable units. For projects which include twenty-five percent (25%) or more affordable units, one hundred percent (100%) of fees may be waived. The SPGA shall establish guidelines for administration and applicability to various fees in its adopted Rules and Regulations.~~

Section 13.7. Implementation, Compliance and Enforcement.

13.7.1. Rules and Regulations. The SPGA shall promulgate Rules and Regulations necessary to implement the requirements of this Article, including designation of an appropriate entity (Office of Housing and Community Development or other entity/entities) to enforce such Rules and Regulations.

13.7.2. General Compliance and Enforcement. All deed covenants, contractual agreements, and other documents necessary to ensure compliance with this Article shall be submitted to and approved by the SPGA or its designee (Office of Housing and Community Development or other entity). Such documents shall be executed prior to and as a condition of the issuance of any occupancy permit.

President