



CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

May 14, 1982

To the Honorable, the City Council:

Enclosed please find a copy of the sixth draft of an inclusionary housing zoning ordinance that the Planning Board has been considering for the past several months. This current draft was significantly expanded in scope, after a public meeting held by the Board in March, with the inclusion of commercial development in the city as well as housing development as subject to the requirements. The Board has indicated to commercial developers and business people who have expressed concern that it will hold another public meeting to discuss the current draft before any official action is taken by the Board. It is anticipated that that public meeting will take place in the near future.

Among the issues the Board is still reviewing are the following:

- As currently set the in-lieu payment permitted is the most likely developer response to the requirements of the proposed ordinance; new actual housing units are thought by most observers to be very unlikely. If this is true the inclusionary requirements would appear to be coming close to the imposition of an illegal tax rather than a legal requirement that inclusionary housing units be provided. The Board is considering possible means of restructuring the requirements to make the provision of actual housing units more likely.
- The Board is reviewing possible alternative sequences of compliance, either through cash payment or housing construction, to minimize the financial impact of the requirements at the critical early stages of development packaging and financing.
- Serious concern has been expressed to the Board that the imposition of such new requirements on developments that have been in the planning or early development stages might seriously adversely impact the future advancement of those projects. The reasonableness of possible phasing in of the requirements are being explored by the Board.

The Board will keep you continually informed of its deliberations on this possible new ordinance.

Sincerely,

For the Planning Board

Arthur C. Parris
Arthur C. Parris
Chairman

ACP:jp
Enclosure

DRAFT VI

Create a new Section 11.90

11.90 Low and Moderate Income Household Inclusionary Housing Requirements for Residential, Office and Retail Development.

11.91 Purpose

This Section 11.90 is intended to require the provision of low and/or moderate income family housing as a component of most new housing developments in the City of Cambridge; to assist in the provision of adequate housing for all citizens of Cambridge; to encourage a reasonable mix of housing opportunities in all city neighborhoods and in commercial development and to mitigate the escalation of the cost of housing in Cambridge as a result of new large scale commercial development.

11.92 Applicability

11.921 The provision of this Section 11.90 shall apply to any residential, office and retail development containing any one or combination of the following uses:

- (a) Detached dwelling for one family (4.31 a)
- (b) Two family dwelling (4.31 b)
- (c) Townhouse development (4.31 d)
- (d) Multifamily dwellings (4.31 g)
- (e) Existing dwelling converted for more than two families (4.31 h)
- (f) Office and laboratory use (4.34)
- (g) Retail business and consumer service establishments (4.35)

11.922 The uses listed in the above Section 11.921 shall comply with the provisions of this Section 11.90 when they are created by (a) new construction; (b) conversion of a non-residential structure to residential use; (c) conversion of a non-office or retail structure to office or retail use; and (d) substantial rehabilitation of an existing residential structure where the cost of such rehabilitation exceeds fifty (50) percent of the market value of the structure before rehabilitation, where at least twenty (20) percent of the existing units are vacant at the time of the issuance of the necessary building permits, and where the rehabilitated structure will meet all applicable current building code requirements.

11.93 Quantity Requirements for Residential Uses

11.931 Any residential development subject to this Section 11.90 as determined by Section 11.92 above shall make provision for units suitable for, affordable by and available to low and moderate income households in an amount equal to at least ten (10) percent of the total number of units authorized according to the following schedule:

- (a) The first five residential units constructed after the effective date of this Section 11.90 on a lot as defined in Section 11.96 shall be exempt from the requirements of this Section 11.90.
- (b) For residential developments containing at least one (1) but less than ten (10) eligible units (any unit in excess of the first five exempt units) the following shall be provided:
 - 1) One (1) low or moderate income unit, or
 - 2) A prorata cash payment made in accordance with the requirements detailed in Section 11.951(d) below which payment shall be equal to the product of the fraction produced with the application of the 10% requirement to the number of units to be constructed, times the cash payment required in lieu of a whole unit.
- (c) For residential developments containing ten (10) or more eligible units, ten (10) percent of the authorized units shall be for low or moderate income households. Where the application of the ten percent requirement results in a fractional number, one additional inclusionary unit shall be provided. However, in lieu of the provision of the one additional unit either one of the following may be provided:
 - 1) A prorata cash payment made in accordance with the requirements detailed in Section 11.951(d) below which payment shall be equal to the product of the fraction of a unit required, times the cash payment required in lieu of a whole unit.
 - 2) The provision of at least one low or moderate income unit having more than two bedrooms.
- (d) Notwithstanding the provisions of Section 11.931(c) where the number of eligible units is twenty (20) or more, one half of the inclusionary units required (rounded down to the nearest whole unit) shall actually be provided within or outside the development.

11.94 Quantity Requirements for Office and Retail Development

11.941 Any office or retail development subject to this Section 11.90 as determined by Section 11.92 above shall make provision for residential dwelling units suitable for, affordable by and available to low and moderate income households in an amount determined by the following schedule:

- (a) The first 30,000 square feet of gross floor area constructed after the effective date of this Section 11.90 on a lot as defined in 11.96 of this Section 11.90 shall be exempt from requirements of this Section 11.90.

(b) For all eligible gross floor area in excess of 30,000 square feet, inclusionary housing shall be provided at the rate of one unit for each 12,000 square feet of gross floor area. Where the application of the requirement results in a fraction of a unit, one full unit shall be provided. However, in lieu of the provision of the one full unit, either one of the following may be provided:

- 1) A prorata cash payment made in accordance with the requirements detailed in Section 11.951(d) below which payment shall be equal to the product of the fraction of a unit required, times the cash payment required in lieu of a whole unit.
- 2) The provision of at least one low or moderate income unit having more than two bedrooms.

11.95 General Requirements for All Inclusionary Units

11.951 To fulfill the requirements of this Section 11.90 any one or combination of the following mechanisms may be employed:

- (a) Provision of the unit(s) on site which may include participation in any federal, state or city program which will guarantee the provision of housing units for low and moderate income households.
- (b) Provision of the units in new construction on scattered sites elsewhere in Cambridge provided the general intent of this Section 11.90 and specifically subsection 11.953 are met.
- (c) Acquisition and rehabilitation to current building code standards of existing vacant dwelling units or units undergoing a change in tenancy provided the general intent of this Section 11.90 and specifically subsection 11.953 are met.
- (d) Cash payment to the City of Cambridge, administered by the Community Development Department, to be used to make available housing units for low and moderate income households in a manner and at locations in conformance with policies adopted by the Cambridge City Council. The amount of such payment shall be \$25,000, which amount shall be adjusted annually by the Community Development Department using the Consumer Price Index for the Boston metropolitan area as published by the United States Department of Labor, and which shall be paid for each inclusionary unit required.

The required payments shall constitute a lien on the property and shall be paid before the granting of a certificate of occupancy for the development or any part thereof.

- 11.952 The required low and moderate income units shall be intended and designed for families and shall contain a minimum of two bedrooms. For the purpose of this Section 11.90 a family shall be three or more persons related by blood, marriage or operation of law, or as defined by any public subsidy program employed.

Where a multifamily dwelling is to be devoted exclusively to elderly residents the above restrictions in this Section 11.952 as to unit size and type of household shall not apply.

- 11.953 The required units shall be dispersed throughout the development and not concentrated in any one location.
- 11.954 For the purposes of this section, low and moderate income households shall be as defined by guidelines established from time to time by the Federal Department of Housing and Urban Development or any successor agency, or as defined in any program used under Section 11.951(a) above. All households occupying the low and moderate income units shall be certified as eligible by the Cambridge Housing Authority where the units are to be rented, by the Community Development Department, any duly organized non-profit housing assistance corporation, designated by it where the units are to be sold; or as required by any subsidy program employed. Units shall be offered so that eligible households shall pay no more than twenty-five (25) percent of their eligible maximum household income for the units provided (monthly rent or mortgage and taxes for purchased units).
- 11.955 The applicant shall establish such restrictions, conditions, and/or limitations as are necessary to ensure that the units intended for low and moderate income households, or equivalent units located in or out of the development, will be permanently available for low and moderate income households.

Where the units are proposed to be sold to eligible low or moderate income households such assurance shall be made through any one or more of the following mechanisms:

- (a) a right to repurchase each such unit for its original cost plus reasonable adjustments for inflation and owner improvements, by the City or any non-profit housing assistance corporation designated by it,
- (b) a right to participate in the net cash profits realized from sale of the unit to a successor family not qualifying as a low or moderate income family, by the city or any non-profit housing assistance corporation designated by it where the right in Section 11.955(a) above have not been exercised. The city or its designated agent shall receive one half of all profits realized up to a maximum amount equal to the in-lieu payment detailed in Section 11.951(d),
- (c) sale to a qualifying low or moderate income family,

- (d) co-tenancy agreements,
- (e) limited equity cooperatives,
- (f) any other similar mechanism.

Except as to any such conditions the issuance of a building permit shall be conclusive determination of the compliance with the provisions of Sections 11.93, 11.94, 11.951, 11.952 and 11.953.

No requirement in this Section 11.955 shall apply where it is in conflict with any rule, requirement or provision of a subsidy program employed under Section 11.951 provided the intent of this Section 11.955 is met.

11.956 Where the housing is to be constructed in stages the required low and moderate income units shall be provided in each stage in the same proportion as required for the total development.

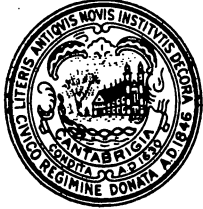
11.96 Property Subject to this Section

The provisions of this Section 11.90 shall apply to all new, substantially rehabilitated, or converted dwelling units constructed on a lot subsequent to the effective date of this Section 11.90. For the purpose of this Section 11.90 a lot shall be a lot or series of adjacent lots in the same ownership at the time of the effective date of this Section 11.90 regardless of any subsequent change in ownership or subdivision of such lots. The provisions of Section 11.93 and 11.94 shall be applied to the cumulative number of units constructed after the effective date of Section 11.90 as determined by this Section 11.96.

11.97 Compliance

All deeds, agreements, site plans, and other documents necessary to comply with the provisions of this Section 11.90 shall be submitted to the Community Development Department for review prior to a formal application for a building permit. Within sixty-five (65) days of such submittal the Department shall make a report to the Superintendent of Buildings as to whether all requirements of this Section 11.90 have been met. Each application for a building permit for any residential development subject to this Section 11.90 shall be accompanied by such written report from the Community Development Department.

Where residential development requires a Special Permit from the Planning Board, that Board shall enforce the provisions of this Section 11.90 as a condition of the Special Permit.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 498-9011


EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

May 17, 1982

To the Honorable, the City Council:

Enclosed please find copy of a communication from the Cambridge Planning Board and a copy of the sixth draft of an inclusionary housing zoning ordinance.

Very truly yours,


Robert W. Healy
City Manager

RWH/mbf
Enc.

Re: sixth draft of an inclusionary housing zoning ordinance submitted by the Planning Board.

In City Council,
May 17, 1982

5/17/82
Returned to the
Planning Board
&
Ordinance Committee
for
Hearing and Report