

**CITY OF SOMERVILLE**  
**ORDINANCE NO. 2016-??**  
**IN THE BOARD OF ALDERMEN: May 9, 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WHEREAS, Permits for new housing development continue to be approved and are subject only to the existing and outdated inclusionary zoning requirements, while the City develops a new zoning code which will likely include higher inclusionary requirements; and,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~~):

### **Section 13.1. Purpose.**

The purpose of this Article is to promote the public welfare by:

- a) encouraging housing opportunities for people of mixed income levels;
- b) increasing the supply of housing that is available and affordable to low- and moderate-income people, with an emphasis on the type of housing currently most needed in the City — housing for households with children and for low-income households;
- c) ensuring that such housing is affordable over the long term; and
- d) preventing the displacement of low-to-moderate income Somerville residents; and
- e) maintaining an economically integrated community; and
- f) mitigating the impacts of market-rate housing on the supply and cost of low- and moderate-income housing in that the creation of new market-rate housing:
  - 1. decreases the available supply of future developable land in the City of Somerville;
  - 2. creates upward pressure on the pricing of all housing in the City of Somerville;
  - 3. exclusive of the creation of low- and moderate-income housing, impedes the goal of maintaining an economically integrated community."<sup>u</sup>

This Article provides incentive for the voluntary development of housing affordable to low- and moderate-income households within applicable residential projects that are larger in terms of total number of dwelling units and/or density than that normally permissible by right. Developers may request approval of such development through the special permit with site plan review process set forth in Article 5 and in accordance with the provisions of this Article 13. The Special Permit Granting Authority (SPGA) shall have sole authority to review and approve such requests under the provisions of Article 5 and 13 herein.

It is intended that affordable housing units provided under the terms herein be located on-site within the proposed housing development. Off-site location or other in-lieu means of compliance with this Article may be approved by the SPGA only in strict accordance with the provisions of this Article authorizing such alternative means.

### **Section 13.2. Applicability.**

The provisions of this Article shall apply to all residential developments seeking special permits with site plan review to develop ~~eight (8)~~ **six (6)** or more dwelling units, whether new construction, substantial rehabilitation, Planned Unit Development, residential conversion, or adaptive reuse. Developments shall not be segmented or phased in a manner to avoid compliance

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.

13.3.2. *Household Income.* Inclusionary dwelling units which will be available for rental shall be affordable to low- and moderate-income households as defined below, adjusted to applicable household size:

a) ~~Low-income~~ **Tier 1** households, defined herein as earning income up to fifty percent (50%) of the ~~Boston Standard Metropolitan Statistical Area (SMSA) median household income~~ **Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development;** and

b) ~~Low-moderate-income~~ **Tier 2** households, defined herein as earning income of fifty-one percent (51%) to eighty percent (80%) of the ~~Boston SMSA median household income~~ **Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.**

**c) Tier 3 households, defined herein as earning income of eighty-one percent (81%) to one hundred ten percent (110%) of Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.**

Inclusionary dwelling units which will be available for purchase shall be affordable to low-moderate and moderate- income households as defined below, adjusted to applicable household size:

a) ~~Low-moderate-income~~ **Tier 1** households, defined herein as earning up to eighty percent (80%) of the ~~Boston Standard Metropolitan Statistical Area (SMSA) median household income~~ **Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development;** and

b) ~~Moderate-income~~ **Tier 2** households, defined herein as earning income of eighty one (81%) to one hundred and ten percent (110%) of the ~~Boston Standard Metropolitan Statistical Area (SMSA) median household income~~ **Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development;** and

**c) Tier 3 households, defined herein as earning income of one hundred and ten (110%) to one hundred and forty (140%) of the Boston SMSA median household income. Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.**

The SPGA may adopt other Federal or State income guidelines, such as those of the U.S. Department of Housing and Urban Development adjusted to applicable household size, 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. The SPGA shall conduct a public hearing in accordance with its Rules and Regulations

to receive comment prior to adopting another standard. In adopting any such separate standard(s), the SPGA shall cause such standard(s) to be published in a format available to the public, and shall utilize such standard consistently among all similar projects it reviews.

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 a household 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).
- Determine the maximum monthly income (MMI) for such household size, using income figures published annually by the U.S. Department of Housing and Urban Development (HUD) for households at eighty (80) percent and one hundred ten (110) percent of Boston area median income.
- Multiply MMI by twenty-eight (28) percent.
- Subtract the estimated cost of Private Mortgage Insurance (PMI), Real Estate Taxes (RET), Condominium Fees (CF), Homeowners Insurance (HI) if not included in the CF, and required parking fees (PF), if any, if not included in the CF, to arrive at a maximum monthly mortgage payment (MMP).
- Calculate a maximum mortgage loan (MML) based on the MMP, assuming a 30-year term and at the then current conventional interest rate.
- Multiple the MML by 1.03 to arrive at a Maximum Sales Price (MSP) based on a ninety-seven (97) percent MML.

~~It is understood that these guidelines are to supersede those calculations currently set forth in Section 13.3.3 until such time as they are again amended or revised.~~

The SPGA may adopt other Federal or State affordability guidelines, such as those of the U.S. Department of Housing and Urban Development adjusted to applicable household size, 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. The SPGA shall conduct a public hearing in accordance with its Rules and Regulations to receive comment prior to adopting another standard. In adopting any such separate standard(s), the SPGA shall cause such standard(s) to be published in a format available to the public, and shall utilize such standard consistently among all similar projects it reviews.

*13.3.4. Quantity and Distribution of Units.* Developers shall provide a **set percentage** ~~twelve and a half percent (12.5%)~~ of the total units in the subject development as affordable housing units, ~~with the exception that Developers in TODs shall provide affordable housing as shown in Table 6.5.F in Article 6. Not less than fifty percent (50%) of said affordable units shall serve the lower income range households and the balance of affordable housing units shall serve the higher income range households (as defined in this article at 13.3.2). Thus, not less than six and a quarter percent (6.25%) of the total units in the development shall serve low income households.~~ Nothing in this Article shall preclude a developer from providing more affordable units than the minimum ~~twelve and a half percent (12.5%)~~ **or from providing deeper subsidies the established by the ordinance.**

The percentage shall be as established in the Table 13.3.4.A, below:

<b>Table 13.3.4.A: Required Inclusionary Units</b>	
<u>Total Number of Units</u>	<u>Required inclusionary units</u>
<u>0 to <del>6</del> 5 units</u>	<u>No inclusionary requirement</u>
<u>6 units</u>	<u>1 on-site unit OR fractional payment for 0.4 units</u>
<u>7 units</u>	<u>1 on-site unit OR fractional payment for 0.6 units</u>
<u><del>7 to 19</del> 8 to 17 units</u>	<u>17.5% <del>15%</del></u>
<u><del>20-18</del> 20 or more units</u>	<u>20%</u>

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

<b>Table 13.3.4.B: Unit Bonuses</b>	
<u>Total Number of Units Permitted by <del>Dimensional</del> Tables-the Lot Area per Dwelling Unit as Established Elsewhere in the SZO</u>	<u>Reduction in Lot Area per Dwelling Unit (%)</u>
<u><del>7 to 19</del> up to 17 units</u>	<u>15% no bonus</u>
<u><del>20</del> 18 or more units</u>	<u>20% 17.5%</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 in Table 13.3.4.C:**

<b>Table 13.3.4.C: Unit Tiers</b>			
<b><u>Number of Affordable Units</u></b>	<b><u>Tier 1</u></b>	<b><u>Tier 2</u></b>	<b><u>Tier 3</u></b>
<b><u>Projects with 1 to 5 Units</u></b>			
<u>1</u>	<u>1</u>	<u>=</u>	<u>=</u>
<u>2</u>	<u>1</u>	<u>1</u>	<u>=</u>
<u>3</u>	<u>2</u>	<u>1</u>	<u>=</u>
<u>4</u>	<u>2</u>	<u>2</u>	<u>=</u>
<u>5</u>	<u>2</u>	<u>2</u>	<u>1</u>
<b><u>Each Additional 8 Units</u></b>			
<u>1<sup>st</sup></u>	<u>+1</u>		
<u>2<sup>nd</sup></u>		<u>+1</u>	
<u>3<sup>rd</sup></u>	<u>+1</u>		
<u>4<sup>th</sup></u>			<u>+1</u>
<u>5<sup>th</sup></u>		<u>+1</u>	
<u>6<sup>th</sup></u>	<u>+1</u>		
<u>7<sup>th</sup></u>		<u>+1</u>	
<u>8<sup>th</sup></u>			<u>+1</u>

- ~~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.



Construction of off-site units or other alternative methods of compliance with the normal requirement for construction of on-site affordable units is strongly discouraged, and shall be an exception to the City's policy and intention to require construction of affordable units on the same site as the proposed market rate development. The SPGA may authorize or require that affordable housing units be provided off-site, or that an alternative method of compliance be used, consistent with Section 13.4 of this Article.

*13.3.5. Disposition and SPGA Right of First Refusal/Option to Purchase.* Affordable housing units may be either for sale or for rent, consistent with the method of disposition of market-rate units. Developers may propose any method(s) of disposition of affordable units consistent with the intent and specific standards of this Article, but the SPGA alone shall have the authority to approve any proposals and may require specific methods of disposition related to its findings under special permit with site plan review.

The SPGA or its designee (the Affordable Housing Trust Fund, Somerville Housing Authority, or other entity) reserve the right of first refusal or option to purchase all "affordable" for-sale units at the point of original sale or any subsequent resale. This also applies to any subsequent sale of a rental property or units in a rental property.

A. Rental Units. Developers may rent affordable units to eligible low- and/or moderate- income tenants consistent with the provisions of Sections 13.3.2, 13.3.3 and 13.3.4 of this Article. Priority shall be **established by the SPGA and incorporated in the Rules and Regulations per Section 13.7.1. Priority for units shall be granted to current or recently displaced residents of the City of Somerville to the extent permitted by state and federal law given to selection of tenants from the Somerville Housing Authority (SHA) waiting lists;** however, in the case of a substantial rehabilitation, current resident tenants meeting appropriate income qualifications of Section 13.3.2 shall be given priority.

~~Developers may also lease units to the SPGA or its designee (the Affordable Housing Trust Fund, Somerville Housing Authority, or other entity) for residential use. The lease rate shall not exceed thirty percent (30%) of the resident(s)' income, unless the unit is rented under a state or Federal rent subsidy program, in which case the maximum rent shall be that maximum allowable rent under the applicable program.~~

B. For-Sale Units. The SPGA may require developers to sell inclusionary affordable units to the Somerville Housing Authority (SHA) or its designee (the Affordable Housing Trust Fund or other entity) at a price per unit equivalent to that price affordable to a household with an income of eighty-five percent (85%) of the Boston SMSA median income. The SPGA/designee may resell the units to low/moderate- or moderate-income households at a price which shall not exceed the maximum sales price calculated in accordance with § 13.3.3-II. Alternatively, the SPGA/designee may rent the units to low income households, consistent with Sections 13.3.2 and 13.3.3.

If the SPGA/Designee does not exercise its right of first refusal/option to purchase inclusionary units, the developer/owner shall submit a plan of disposition for SPGA approval, and such plan shall ensure that the required percentage of low-income affordable units will be maintained in the

development and made available for sale to low moderate and moderate- income households as defined in this Ordinance.

**Priority shall be established by the SPGA and incorporated in the Rules and Regulations per Section 13.7.1. Priority for units shall be granted to current or recently displaced residents of the City of Somerville to the extent permitted by state and federal**

*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 **of an ownership unit** or renewal of lease terms (at least annually), **of a rental unit** 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.

#### *13.4.2. Compliance.*

A. Alternative Methods. The SPGA may approve compliance through one or more of the methods below or through a combination of these methods and provision of on-site units. In all cases utilizing said alternative methods, the SPGA shall find that any proposed alternative method of compliance is advantageous to the City in creating or preserving affordable housing and does not result in undue geographic concentration of affordable units.

Affordable units provided through the alternative methods below shall comply in all respects other than on-site location with the requirements of this Article.

1) Off-site location. Affordable units may be located on an alternative site(s) in Somerville suitable for housing use, preferably in the same neighborhood as the on-site development. Affordable off-site units may be located in an existing structure, provided that their construction constitutes a net increase in the number of affordable dwelling units contained in the structure. The number of off-site units shall be, at minimum, equal to that number of units otherwise required to be provided on-site. Off-site units shall be compatible in all respects with the market rate units built on-site, including quality and character, construction value, and site amenities (yards, parking, laundry facilities, etc.); however, inclusionary units should generally be designed to house three- (3) person or larger households, even if the market rate units are designed primarily to house one- and two- person households. Any units provided in an off-site development should also be compatible with the off-site neighborhood, in terms of design, to the degree practical.

2) Cash payment. Developers may make a cash payment to the SPGA or its designee. Cash payments shall be used only for purposes of providing affordable housing for low- and moderate-income persons as defined by and pursuant to this Article, with payment determined by the SPGA using the method below as a guideline.

3) Conveyance of land and/or buildings. Developers may donate to the SPGA or its designee (Affordable Housing Trust Fund or other entity) land and/or buildings suitable for housing use, preferably in the same neighborhood as the on-site development. Developers shall document fee simple title ownership of said land and/or buildings at the time of application for a special permit with site plan review for inclusionary housing development. Such land and/or buildings shall have a current appraised fair market value no less than that value determined in accordance with the method below. Donations of land and/or buildings shall be conveyed to the SPGA or its designee and shall be used only for purposes of providing housing affordable to low and moderate income persons as defined by and pursuant to this Article.

Calculating Dollar Value. For alternative methods (2) and (3) above, the following shall serve as guidelines for determining dollar value of any cash payment or donation of land/buildings:

- 1) Cash payment (or equivalent value in land/buildings) in lieu of providing ~~less than 0.5~~ **fractional** affordable units (see Section 13.4.1.(c)) shall be based on the formula below.
- 2) Cash payment (or equivalent value in land/buildings) in lieu of providing ~~0.5 or more~~ **entire** 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

**For rental units: (A x B x 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 current low HOME rent for the average bedroom size in the project/ market rate rent charged for the average bedroom size in the project**

- **C= Net Operating Income/ Capitalization Rate = Market Value of the Property/total number of bedrooms in the project = per bedroom price x average bedroom size**

**For ownership units:** "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 otherwise** permissible under the lot area per dwelling unit requirements of Article 8 and Article 16 **and Table 13.3.4.B** 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) that the affordable units provide rental units;
- c) that analysis of the financial feasibility of the project demonstrates that award of bonus market-rate unit(s) will in part finance the affordable unit(s) such that there need not be full reliance on public subsidies to support rent payments for the affordable unit(s), regardless of whether such subsidies are available;
- d) that the proposed development site plan is designed in its site location, proportions, orientation, materials, landscaping and other features as to provide a stable and desirable character, complimentary and integral with the site's natural features and neighborhood context;
- e) that such development is generally consistent with the purposes of the Somerville Zoning Ordinance, and the density increase or relaxation of zoning standards has no material detrimental effect on the character of the neighborhood; and
- f) that the proposed development is consistent with relevant municipal plans and objectives.

### **Section 13.6. Procedures.**

*13.6.1. General.* All developments subject to the provisions of this Article require special permit with site plan review. Applicants shall submit applications in accordance with the procedures for special permit with site plan review specified in Article 5 of this Ordinance. In reviewing

applications under this Article, the SPGA may require modifications, conditions and safeguards, including documentation regarding permanent affordability and funding commitments, reasonably related to the requirements of this Article.

The Applicant(s) are strongly encouraged to meet with the Planning Director or his/her designee and the Office of Housing and Community Development's Housing Director or designee at least three (3) weeks prior to formal submission of an application, to help determine applicable informational requirements and discuss project compliance in a preliminary sense. At the time of such meeting, the applicant is encouraged to submit plans showing the number and size of the affordable units, their proposed sale prices and/or rent levels, method(s) of financing and/or subsidy, proposed mechanisms to ensure long-term affordability, proposals for alternative methods of compliance (if applicable), and such other information as the Planning Director, his/her designee, or the Office of Housing and Community Development may request as pertinent to the SPGA's review of the merits of the application.

*13.6.2. Fast-Tracking of Permit Process.* Development proposals providing affordable housing units in the following amounts shall qualify for fast-tracking of the permit process:

- a) Projects including more than ~~twelve and a half percent (12.5%)~~ **the required number of** affordable housing units, provided that all affordable units (excluding a fractional unit of less than 0.5) are on-site with the market rate development and provided the developer is not seeking an additional density bonus under the provisions of Section 13.5
- 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.

No certificate of occupancy shall be issued for any market-rate units in a development subject to the requirements of this Article until:

- a) all of the required affordable units have obtained a certificate of occupancy, or bonding or other equivalent security arrangements have been made satisfactory to the SPGA to ensure the provision of such units;
- b) any required cash payment has been made to the SPGA or its designee or, in the alternative, the SPGA has approved a definitive schedule for payment(s); and/or
- c) any land required to be donated to the SPGA or its designee has been conveyed in fee simple title, or contracted for conveyance in fee simple, or in a manner acceptable to the SPGA and the City Solicitor.

Any violation of this ordinance either prior to or following the issuance of a Certificate of Occupancy is subject to the maximum fine per day set forth in Section 3.1.8 and the other penalties contained in Article 3. Violations of this Ordinance following issuance of a Certificate of Occupancy imposed as the result of proceedings brought under Article 3 must be imposed at the maximum level set in Section 3.1.8. Fines imposed as a result of proceedings brought under Article 3 must be paid to the Somerville Housing Trust to be used for affordable housing purposes.

**Section 13.8. Needs Assessment Review.**

The Planning Board, in cooperation with the SPGA, the Office of Housing and Community Development, and relevant agencies, shall undertake an economic and housing market needs assessment and financial feasibility analysis prior to June 30, 2018, and then not less than every fifth calendar year ~~from the date of enactment of this Ordinance thereafter~~. The purposes of said assessment shall be to assess the performance of the provisions herein in terms of resultant affordable housing units, 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 in the City. Provisions subject to review shall include, at minimum: revisions to applicability requirements of this Article, revisions to percentage requirements of affordable units in inclusionary housing developments, revisions to income and affordability guidelines, and revisions to methodologies for monetary payments or other in lieu of means of compliance with provision of on-site units.

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 in the City. The Planning Board shall also recommend to the SPGA any improvements deemed necessary in the SPGA's Rules and Regulations pertaining to this Article.

**4. Severability / Reversion Clause:**

Approved by the Board of Aldermen:

\_\_\_\_\_  
President