

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

MIDDLESEX, ss.

DOCKET NO. 25 MISC

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| _____ |) | |
| COLUMBIA ST, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | <u>COMPLAINT</u> |
| CITY OF CAMBRIDGE, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Introduction

Plaintiff Columbia St, LLC (Columbia) brings this action under G.L. c. 240, § 14A challenging the constitutionality of Section 11.203 of the City of Cambridge Zoning Ordinance (the Ordinance), titled “Inclusionary Housing.” A copy of Section 11.203 is attached as Exhibit A. Section 11.203 will be referred to below as the Inclusionary Housing Ordinance or IHO.

Under the Inclusionary Housing Ordinance, to receive a building permit, a residential developer must permanently restrict twenty percent (20%) of the total net floor area of the project’s dwelling units for use as affordable housing. The IHO requires owners and prospective developers of residential property in Cambridge to surrender fundamental property rights protected by the United States Constitution and the Massachusetts Declaration of Rights. These requirements constitute unlawful land-use conditions under settled United States Supreme Court precedent. Accordingly, Columbia requests that the Court declare the IHO unconstitutional as applied to Columbia’s proposed residential development as described below.

Parties

1. Columbia St, LLC is a limited liability company organized under the laws of the Commonwealth of Massachusetts, with a principal place of business at 41A Pleasant Street Cambridge, Middlesex County, Massachusetts. Columbia is the owner of a freehold estate in possession of the properties located at 345-349, 357, 359-361, and 363-365 Columbia Street, Cambridge, Massachusetts comprising five buildings with approximately 18,000 square feet and 20 market-rate rental units (the Columbia Property).

2. The City of Cambridge (the City or Cambridge) is a duly incorporated municipality of the Commonwealth of Massachusetts with offices at 795 Massachusetts Avenue, Cambridge, Middlesex County, Massachusetts.

Jurisdiction

3. The Court's jurisdiction derives from G.L. c. 185, § 1(j^{1/2}) and G.L. c. 240, § 14A.

Background

4. The existing buildings on the Columbia Property are older and in need of significant repairs, rendering continued operation of the property in its current condition economically unfeasible.

5. Columbia presently contemplates a redevelopment project on the Columbia Property to construct an 89,500 gross square foot residential condominium with approximately 65,750 net saleable square feet (the Project). The total estimated development cost for the Project, using a market-rate basis for the land, is approximately \$57 million.

The Inclusionary Housing Ordinance

6. By its terms, with exceptions not relevant here, the Inclusionary Housing Ordinance applies "in all zoning districts throughout the city." Sec. 11.203.1(a). In relevant part,

it specifies that it applies to “any Inclusionary Housing Project issued a special permit or, if no special permit has been issued, a building permit issued on or after December 1, 2016” Sec. 11.203.1(b). The Ordinance defines “Inclusionary Housing Project” in relevant part as “Any development of . . . multifamily . . . housing . . . that creates at least ten (10) dwelling units or at least ten thousand (10,000) of residential Gross Floor Area on one (1) lot or Development Parcel” Art. 2.00.

7. Section 11.203.2(b) of the IHO states, “For Inclusionary Housing Projects issued a special permit or, if no special permit has been issued, a building permit after June 30, 2017, twenty percent (20%) of the total Dwelling Unit Net Floor Area within the project shall be devoted to Affordable Dwelling Units.” The Ordinance defines “Dwelling Unit, Affordable,” in relevant part as, “A dwelling unit for which occupancy is restricted to an Eligible Household and whose rent or initial sale price is established by (a) in the case of an Affordable Dwelling Unit in an Inclusionary Housing project provided pursuant to Section 11.203.2, the provisions set forth in Sections 11.203.3 and 11.203.4” Art. 2.00. The Ordinance defines Eligible Household in relevant part as, “A household whose gross income does not exceed (a) in the case of an Affordable Dwelling Unit in an Inclusionary Housing Project provided pursuant to Section 11.203.2, the amounts set forth in Section 11.203.4.”

8. Section 11.203.3 of the IHO requires, among other things, that Affordable Dwelling Units shall: (a) be provided on site; (b) be similar in size, layout, construction materials, fixtures, amenities, and interior and exterior finishes to comparable non-Affordable Dwelling Units; (c) have similar access to common areas, facilities, and services as that enjoyed by comparable non-Affordable Dwelling Units; and (d) be dispersed throughout the project

rather than concentrated on particular floors, within sections of a building, or within particular buildings in projects with multiple buildings.

9. Section 11.203.4(a) of the IHO states, “Affordable Dwelling Units shall be rented or sold only to Eligible Households, with preference given to Cambridge residents” Section 11.203.4(b) of the IHO states, “Affordable Dwelling Units shall be created and conveyed subject to recorded covenants guaranteeing the permanent availability of the Affordable Dwelling Units for Eligible Households.”

10. As regards Affordable Dwelling Units made available for rental, Section 11.203.4(c) of the IHO specifies that:

(i) The gross household income of an Eligible Household upon initial occupancy shall be at least fifty percent (50%) and no more than eighty percent (80%) of AMI.¹ A gross household income less than fifty percent (50%) of AMI may be permitted in the case of an Eligible Household having a rental subsidy allowing it to pay a rent equivalent to that paid by an Eligible Household with a gross household income within the range set forth above.

(ii) Rent, including utilities and any other fees routinely charged to tenants and approved by the Community Development Department, shall not exceed thirty percent (30%) of the gross household income of the Eligible Household occupying the Affordable Dwelling Unit, except that in the case of Affordable Studio Dwelling Units, rent shall not exceed twenty-five percent (25%) of the gross household income of the Eligible Household occupying the Affordable Dwelling Unit.

(iii) After initial occupancy, the gross household income of an Eligible Household shall be verified annually to determine continued eligibility and rent, in accordance with policies, standards, and procedures established by the Community Development Department.

¹“AMI” stands for “Area Median Income,” which the Ordinance defines as “The Housing Area Median Family Income set forth or calculated from regulations promulgated by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, determined for the Boston-Cambridge-Quincy, MA-NH Metropolitan Statistical Area and adjusted for family size, or if such income standard no longer exists, such other equivalent income standard determined by the Community Development Department with the advice of the Affordable Housing Trust.” Ordinance, Section 2.00.

(iv) An Eligible Household may continue to rent an Affordable Dwelling Unit after initial occupancy even if the Eligible Household's gross household income exceeds eighty percent (80%) of AMI, but if the Eligible Household's gross household income exceeds one hundred percent (100%) of AMI, or a percentage promulgated in a regulation by the Community Development Department from time to time, for more than one year after that Eligible Household's gross household income has been verified to exceed such percentage, the dwelling unit shall no longer qualify as an Affordable Dwelling Unit and either the dwelling unit must be rented to a new Eligible Household or a comparable non-Affordable Dwelling Unit in the project must become an Affordable Dwelling Unit.

(v) An Eligible Household may continue to rent an Affordable Dwelling Unit after initial occupancy even if the Eligible Household's gross household income falls below fifty percent (50%) of AMI, but the Eligible Household shall pay a rent that is no less than thirty percent (30%) of forty percent (40%) of AMI or, in the case of an Affordable Studio Dwelling Unit, the Eligible Household shall pay a rent that is no less than twenty-five percent (25%) of forty percent (40%) of AMI.

11. As regards Affordable Dwelling Units made available for sale as owner-occupied units, Section 11.203.4(d) of the IHO specifies that:

- (i) The gross household income of an Eligible Household upon initial occupancy shall be no more than 100% of AMI.
- (ii) The initial sale price of an Affordable Dwelling Unit shall be determined to ensure that the monthly housing payment (which shall include debt service at prevailing mortgage loan interest rates, utilities, condominium or related fees, insurance real estate taxes, and parking fees, if any) shall not exceed thirty percent (30%) of ninety percent (90%) of monthly AMI, except that in the case of an Affordable Studio Dwelling Unit, the monthly housing payment shall not exceed twenty-five percent (25%) of ninety percent (90%) of monthly AMI.

12. As applied to Columbia's contemplated Project to redevelop the Columbia Property as a condominium, the Inclusionary Housing Ordinance – if valid and enforceable – would effectively require Columbia to permanently restrict, through a recorded covenant, 20% of the units in the Project, such that those units could be sold only to Eligible Households with an income not exceeding 100% of AMI, at a price low enough to ensure that the purchaser's total monthly housing payment does not exceed 30% of 90% of the monthly AMI or, in the case of a

studio unit, 25% of 90% of AMI. Such a covenant amounts to a requirement that Columbia convey directly to the City, for no compensation, valuable private property rights as a condition of obtaining a building permit.

13. The IHO effectively mandates that the required affordable units be sold at approximately \$275 per square foot, totaling approximately \$3.6 million for the 20% of the Dwelling Unit Net Floor Area of the Project (13,150 square feet) that the IHO restricts. The fair market value of this square footage is approximately \$15 million. If the IHO is valid and applies to the Project, it will impose on Columbia an uncompensated cost of approximately \$11.4 million.²

14. Should Columbia decide to redevelop the Columbia Property as a rental project, the Inclusionary Housing Ordinance – if valid and enforceable – would effectively require, among other things, that Columbia rent units only to Eligible Households whose gross household income, upon initial occupancy, is at least 50% but not more than 80% of AMI for tenants without a rental subsidy. The rent, including utilities and other fees, that Columbia could charge would be limited to a maximum of 30% of the tenant's gross household income, or in the case of a studio unit a maximum of 25% of the tenant's gross household income. The IHO would further require that the tenant's gross household income be verified annually, both to determine the tenant's continued eligibility and to recalculate the amount of rent to which Columbia is then entitled. After initial occupancy, an Eligible Household could continue to rent the unit if its gross household income increased to between 80% and 100% of AMI, but if it increased beyond

²The IHO does not account for the cost of constructing circulation, common areas, and parking associated with the affordable units, which totals 23,750 square feet. At a development cost of approximately \$636 per square foot, this represents an additional uncompensated cost to Columbia of approximately \$3 million.

100% of AMI, the dwelling unit would no longer qualify as an Affordable Dwelling Unit and Columbia would be required to either rent the unit to a new Eligible Household or convert an existing non-Affordable Dwelling Unit into an Affordable Dwelling Unit. If the tenant's gross household income were to fall below 50% of AMI, the tenant could continue to rent the unit for a rent of no less than 30% of 40% of AMI, or in the case of a studio unit no less than 25% of 40% of AMI.

Applicable Constitutional Principles

15. The Fifth Amendment to the United States Constitution states, in relevant part, “private property [shall not] be taken for public use, without just compensation.” In a series of landmark decisions applying this “Takings Clause,” beginning with *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994), the U.S. Supreme Court established what is known as the “unconstitutional conditions doctrine.” This doctrine provides that, to avoid a violation of the Takings Clause, conditions imposed on land-use permits must have a direct, “essential nexus” to a legitimate public interest that the condition “substantially advances,” and the conditions’ impact on the landowner must be “roughly proportional,” in both nature and extent, to the negative impact of the proposed development on that public interest. More recently, in *Sheetz v. County of El Dorado*, 601 U.S. 267 (2024), the Court clarified that the unconstitutional conditions doctrine applies not only to ad hoc conditions imposed on particular applicants in particular permits, but to conditions of broad application imposed by regulation or legislation.

16. The IHO runs afoul of the unconstitutional conditions doctrine and cannot lawfully be applied to the Project. To do so would constitute a taking of private property for public use without just (or any) compensation, and would violate both the Fifth Amendment to

the U.S. Constitution and Article 10 of the Massachusetts Declaration of Rights. As the Supreme Court has stated, “One of the principal purposes of the Takings Clause is ‘to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.’” *Dolan, supra* at 384, *quoting Armstrong v. United States*, 364 U.S. 40, 49 (1960).

17. The City has established and applies the IHO without any attempt to show that its need for affordable housing is caused by or reasonably related to any particular project, including the Project. The City cannot show that the exactions imposed by the IHO have a substantial nexus, or are roughly proportional, to any demonstrated impacts or increased needs for affordable housing caused by Columbia or the Project.

18. The City’s enactment and imposition of the IHO violates the unconstitutional conditions doctrine, resulting in a taking of private property without just compensation under the Takings Clause of the Fifth Amendment to the U.S. Constitution, made applicable here by the Fourteenth Amendment. It also violates Part One, Article 10 of the Massachusetts Declaration of Rights, which provides protections co-extensive with those of the Fifth Amendment.

COUNT I

(G.L. c. 240, §14A – Violation of Fifth Amendment to U.S. Constitution)

19. The preceding paragraphs are incorporated herein by reference.

20. The IHO imposes unconstitutional conditions on Columbia. “One of the principal purposes of the Takings Clause is ‘to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.’” *Dolan v. City of Tigard*, 512 U.S. 374, 384 (1994), *quoting Armstrong v. United States*, 364 U.S. 40, 49 (1960).

21. Application of the IHO will result in the permanent taking of 20% of the net dwelling space of Columbia's Project without justification or compensation. "[A] unit of government may not condition the approval of a land-use permit on the owner's relinquishment of a portion of his property unless there is a 'nexus' and 'rough proportionality' between the government's demand and the effects of the proposed land use." *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 599 (2013).

22. The City has not made any determination or factual finding regarding the relationship between the Project and the need for affordable housing in Cambridge, and is unable to do so. "[T]he [City] must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development." *Dolan*, 512 U.S. at 391.

23. As applied to the Project, the IHO effects an unconstitutional taking of Columbia's private property without just compensation in violation of the Fifth Amendment to the U.S. Constitution.

COUNT II

(G.L. c. 240, §14A – Violation of Massachusetts Declaration of Rights)

24. The preceding paragraphs are incorporated herein by reference.

25. Under Part One, Article 10 of the Massachusetts Declaration of Rights, state actors are prohibited from taking private property for public use without providing "reasonable compensation" to the property owners.

26. The IHO effects a taking of Columbia's private property without just compensation in violation of Article 10 of the Massachusetts Declaration of Rights, which affords protections co-extensive with those of the Fifth Amendment to the U.S. Constitution. Blair v. Department of Conservation and Recreation, 457 Mass. 634, 642 (2010).

PRAYERS FOR RELIEF

WHEREFORE, Columbia respectfully prays that this Court enter judgment as follows:

- (a) Under Counts I and II, declaring that the Inclusionary Housing Ordinance imposes an unconstitutional condition and therefore is invalid as applied to the Project;
- (b) Awarding Columbia its costs and reasonable attorneys' fees; and
- (c) Granting such other and further relief as the Court deems just and proper.

COLUMBIA ST, LLC,

By its attorneys,

/s/ Paul R. Johnson

Paul R. Johnson, BBO No. 546165

paul.johnson@pioneerlegal.org

Pioneer New England Legal Foundation

185 Devonshire Street, Suite 1101

Boston, Massachusetts 02110

(617) 819-1010

– and –

/s/ Donald R. Pinto, Jr.

Donald R. Pinto, Jr., BBO No. 548421

dpinto@pierceatwood.com

Kathleen M. Heyer, BBO No. 685380

khey@pierceatwood.com

PIERCE ATWOOD LLP

100 Summer Street

Boston, Massachusetts 02110

(617) 488-8100

Dated: December 2, 2025

EXHIBITA

Contribution Rate report first appeared on a City Council regular meeting agenda. Such reevaluation shall include a report provided to the City Council reviewing economic factors including but not limited to development activity, commercial rents per square foot, employment growth, housing trends measured in terms of, but not limited to, vacancy rates, production statistics, and prices for dwelling units, and the nexus between Incentive Projects and housing.

(Memo. of 11-18-2019(1); Ord. No. 1421, 3-16-2020; Ord. No. 2022-14, 10-17-2022; Ord. No. 2022-18, 11-21-2022; Memo. of 3-11-2024)

11.203 *Inclusionary Housing.*

11.203.1 Applicability.

- (a) Except as otherwise provided, this Section 11.203 shall apply in all zoning districts throughout the city.
- (b) The requirements of this Section 11.203 shall apply to any Inclusionary Housing Project issued a special permit or, if no special permit has been issued, a building permit on or after December 1, 2016, (the date of the first advertisement of the most recent amendment to this Section 11.203).
- (c) For any Inclusionary Housing Project that has been issued a Special Permit for a Planned Unit Development by the Planning Board prior to December 1, 2016, (the date of the first advertisement of the most recent amendment to this Section 11.203), an amendment to that Special Permit that relates to modification of the street layout or other aspects of the Final Development Plan directly resulting from a delay, cancellation, or change in a state controlled infrastructure project shall be subject to the Inclusionary Housing provisions in effect at the time of the issuance of the original Special Permit or any amendment thereto issued prior to December 1, 2016, (the date of the first advertisement of the most recent amendment to this Section 11.203.) In no case shall this provision allow an increase of gross floor area, an increase in the number of units above what is allowed by the Special Permit, or an increase of the maximum height allowed by zoning for the Project.

11.203.2 Inclusionary Housing Requirement.

- (a) For Inclusionary Housing Projects issued a special permit or, if no special permit has been issued, a building permit on or after December 1, 2016 (the date of the first advertisement of the most recent amendment to this Section 11.203) but on or before June 30, 2017, fifteen percent (15%) of the total Dwelling Unit Net Floor Area within the project shall be devoted to Affordable Dwelling Units.
- (b) For Inclusionary Housing Projects issued a special permit or, if no special permit has been issued, a building permit after June 30, 2017, twenty percent (20%) of the total Dwelling

Unit Net Floor Area within the project shall be devoted to Affordable Dwelling Units.

- (c) The City shall initiate a reevaluation of the Inclusionary Housing Requirement at an interval of no more than five (5) years from the time the Inclusionary Housing Requirement was last amended. Such reevaluation shall include a report provided to the City Council reviewing factors such as changes in demographic characteristics and residential development activity, housing trends measured in terms of, but not limited to, vacancy rates, production statistics, prices for dwelling units, and affordability, and the relationship between Inclusionary Housing Projects and all housing in Cambridge. The Community Development Department shall also conduct an annual review and report on the Inclusionary Housing Program.

11.203.3 Standards for Providing Affordable Dwelling Units Created through Inclusionary Housing.

- (a) Affordable Dwelling Units shall be provided on-site.
- (b) Affordable Dwelling Units shall be similar in size, layout, construction materials, fixtures, amenities, and interior and exterior finishes to comparable non-Affordable Dwelling Units in the project.
- (c) Affordable Dwelling Units shall have similar access to common areas, facilities, and services as that enjoyed by comparable non-Affordable Dwelling Units in the project including but not limited to outdoor spaces, amenity spaces, storage, parking, bicycle parking facilities, and resident services.
- (d) Affordable Dwelling Units shall be dispersed throughout the project rather than concentrated on particular floors, within sections of a building, or within particular buildings in a project with multiple buildings.
- (e) Except as specified below for Family-Sized Dwelling Units, the proportionate amounts of Affordable Dwelling Units defined by size and number of bedrooms within the total amount of Affordable Dwelling Units shall be similar to the proportionate amounts of non-Affordable Dwelling Units defined by size and number of bedrooms within the total amount of non-Affordable Dwelling Units in the project.
- (f) The ratio of Family-Sized Affordable Dwelling Units to all Affordable Dwelling Units shall be greater than or equal to the ratio of non-Affordable Family-Sized Dwelling Units to all non-Affordable Dwelling Units in the project, notwithstanding that in some cases this may result in a smaller proportion of Affordable Dwelling Units that are not Family-Sized Dwelling Units in the project and a smaller proportion of total Affordable Dwelling Units in the project in order to meet the required percentage of Dwelling Unit Net Floor Area devoted to Affordable Dwelling Units in the project.
- (g) Townhouse or multifamily residential projects of at least thirty thousand (30,000) square

feet of Dwelling Unit Net Floor Area shall provide Family-Sized Affordable Dwelling Units at a ratio of at least one dwelling unit per every six thousand (6,000) square feet of required Affordable Dwelling Unit Net Floor Area in the project, rounded to the nearest whole unit with fractions of 0.5 unit or more rounded up and fractions of less than 0.5 unit rounded down, or the ratio derived from paragraph (f) above, whichever is greater.

- (h) The ratio of rental to owner-occupied Affordable Dwelling Units shall mirror the ratio of rental to owner-occupied non-Affordable Dwelling Units in the project except that no Affordable Dwelling Units shall be rental Affordable Dwelling Units where a majority of all dwelling units in the project are initially offered for sale.
- (i) In cases where the owner and the Community Development Department agree that the above standards, as applied, result in a total Dwelling Unit Net Floor Area of all Affordable Dwelling Units that is less than the Affordable Dwelling Unit Net Floor Area required to be provided pursuant to the Inclusionary Housing Requirement, the remainder of the Inclusionary Housing Requirement shall be met through a monetary contribution to the Affordable Housing Trust equal to the amount of subsidy necessary to create an equivalent amount of Affordable Dwelling Unit Net Floor Area in a project assisted by the Affordable Housing Trust. The Affordable Housing Trust shall periodically provide to the Community Development Department a report on projects it has assisted from which the Community Development Department shall calculate the amount of subsidy necessary to create a square foot of Dwelling Unit Net Floor Area in an affordable housing project assisted by the Affordable Housing Trust. Such calculation may be adjusted by the Community Development Department from time to time. Prior to issuance of a building permit for the project, the Community Development Department shall multiply the calculated per-square-foot amount by the outstanding Affordable Dwelling Unit Net Floor Area necessary to satisfy the Inclusionary Housing Requirement to determine the necessary monetary contribution, which shall be made prior to the issuance of any certificate of occupancy for the project.

11.203.4 Standards for Eligibility, Rent, Initial Sale Price, and Parking Fees for Affordable Dwelling Units Created through Inclusionary Housing.

- (a) Affordable Dwelling Units shall be rented or sold only to Eligible Households, with preference given to Cambridge residents, in accordance with standards and procedures related to selection, transfers, asset limits, and marketing established by the Community Development Department.
- (b) Affordable Dwelling Units shall be created and conveyed subject to recorded covenants guaranteeing the permanent availability of the Affordable Dwelling Units for Eligible Households.

(c) For rental Affordable Dwelling Units:

- (i) The gross household income of an Eligible Household upon initial occupancy shall be at least fifty percent (50%) and no more than eighty percent (80%) of AMI. A gross household income less than fifty percent (50%) of AMI may be permitted in the case of an Eligible Household having a rental subsidy allowing it to pay a rent equivalent to that paid by an Eligible Household with a gross household income within the range set forth above.
- (ii) Rent, including utilities and any other fees routinely charged to tenants and approved by the Community Development Department, shall not exceed thirty percent (30%) of the gross household income of the Eligible Household occupying the Affordable Dwelling Unit, except that in the case of Affordable Studio Dwelling Units, rent shall not exceed twenty-five percent (25%) of the gross household income of the Eligible Household occupying the Affordable Dwelling Unit.
- (iii) After initial occupancy, the gross household income of an Eligible Household shall be verified annually to determine continued eligibility and rent, in accordance with policies, standards, and procedures established by the Community Development Department.
- (iv) An Eligible Household may continue to rent an Affordable Dwelling Unit after initial occupancy even if the Eligible Household's gross household income exceeds eighty percent (80%) of AMI, but if the Eligible Household's gross household income exceeds one hundred percent (100%) of AMI, or a percentage promulgated in a regulation by the Community Development Department from time to time, for more than one year after that Eligible Household's gross household income has been verified to exceed such percentage, the dwelling unit shall no longer qualify as an Affordable Dwelling Unit and either the dwelling unit must be rented to a new Eligible Household or a comparable non-Affordable Dwelling Unit in the project must become an Affordable Dwelling Unit.
- (v) An Eligible Household may continue to rent an Affordable Dwelling Unit after initial occupancy even if the Eligible Household's gross household income falls below fifty percent (50%) of AMI, but the Eligible Household shall pay a rent that is no less than thirty percent (30%) of forty percent (40%) of AMI or, in the case of an Affordable Studio Dwelling Unit, the Eligible Household shall pay a rent that is no less than twenty-five percent (25%) of forty percent (40%) of AMI.
- (vi) Where an optional parking fee exists, it shall not exceed the lesser of the following amounts for Affordable Dwelling Units:
 - i. an amount calculated by applying to the rent of the Affordable Dwelling Unit the

ratio of optional parking fee to rent for comparable non-Affordable Dwelling Units with the lowest non-affordable rent in the project, or

- ii. an amount which, when added to the rent for an Affordable Dwelling Unit, shall not exceed thirty-three percent (33%) of the renting Eligible Household's gross household income or, in the case of an Affordable Studio Dwelling Unit, twenty-eight percent (28%) of the renting Eligible Household's gross household income.
- (vii) Notwithstanding the requirements set forth in (i) through (vi) above, an owner may voluntarily choose to charge a lower rent than as provided herein for Affordable Dwelling Units or to rent Affordable Dwelling Units to Eligible Households with lower gross household incomes than as provided herein.
- (d) For owner-occupied Affordable Dwelling Units:
 - (i) The gross household income of an Eligible Household upon initial occupancy shall be no more than one hundred percent (100%) of AMI.
 - (ii) The initial sale price of an Affordable Dwelling Unit shall be determined to ensure that the monthly housing payment (which shall include debt service at prevailing mortgage loan interest rates, utilities, condominium or related fees, insurance, real estate taxes, and parking fees, if any) shall not exceed thirty percent (30%) of ninety percent (90%) of monthly AMI, except that in the case of an Affordable Studio Dwelling Unit, the monthly housing payment shall not exceed twenty-five percent (25%) of ninety percent (90%) of monthly AMI.

11.203.5 Relaxation of Dimensional Requirements for Inclusionary Housing Projects.

The following relaxations of the dimensional requirements in any zoning district, including base or overlay zoning districts, shall be permitted as-of-right for an Inclusionary Housing Project:

- (a) If a limitation on GFA or FAR is applicable within the district, the Gross Floor Area permitted by the applicable zoning may be increased by thirty percent (30%), as long as such additional Gross Floor Area is used for residential uses not including hotel or motel use.
- (b) If a limitation on the number of dwelling units is applicable within the district, the number of dwelling units permitted by the applicable zoning through rules for minimum lot area per dwelling unit or other applicable rules may be increased by thirty percent (30%).
- (c) The additional Gross Floor Area or dwelling units permitted herein shall be counted toward the determination of any applicable threshold triggering the requirement of a special permit, including but not limited to Section 19.20 Project Review Special Permit.
- (d) In a Residence C-1 district, the maximum height of buildings or portions of buildings used

as Residences may be increased to a maximum of 6 stories above grade and 74 feet above grade per the provisions of Section 5.40, Paragraph (2) of this Zoning Ordinance.

11.204 Implementation of Incentive Zoning and Inclusionary Housing.

- (a) The City Manager shall have the authority to promulgate regulations for the implementation of the provisions of Sections 11.200 to 11.205. There shall be a thirty day review period, including a public meeting, to receive public comments on draft regulations before final promulgation.
- (b) The Community Development Department may develop standards and procedures appropriate to and consistent with the provisions of Sections 11.200 to 11.205.

11.205 Enforcement of Incentive Zoning and Inclusionary Housing.

The Community Development Department shall certify in writing to the Superintendent of Buildings that all applicable provisions of Sections 11.200 to 11.205 have been met before issuance of any building permit for any Incentive Project or Inclusionary Housing Project, and shall further certify in writing to the Superintendent of Buildings that all documents have been filed and all actions taken necessary to fulfill the requirements of Sections 11.200 to 11.205 before the issuance of any certificate of occupancy for any such project.

11.206 Affordable Housing Trust.

The entity "Cambridge Affordable Housing Trust Fund" was established by Chapter 482 of the Acts of 1991, and has been thereafter identified and known as the Cambridge Affordable Housing Trust or the Affordable Housing Trust.

11.206.1 Board of Trustees.

- (a) The City Manager shall appoint and chair a nine (9) member Board of Trustees of the Affordable Housing Trust. The Board of Trustees shall be composed of the City Manager and representatives from different sectors of the community concerned with housing policy, including members of City boards and agencies, individuals affiliated with Cambridge non-profit housing organizations, and Cambridge community representatives.
- (b) The Trustees shall establish regulations for the operations of the Trust.
- (c) The Trustees shall administer the Affordable Housing Trust, whose activities shall include but not be limited to the following:
 - i. Disburse funds and property pursuant to the provisions of Sections 11.200 to 11.206;
 - ii. Review and approve or disapprove proposals submitted for use of funds and property;
 - iii. Advise on the establishment of new programs designed to meet the City's affordable housing needs;
 - iv. Provide assistance and reports where appropriate to any special permit granting