ON-LINE ZONING ORDINANCE DISCLAIMER

The Web version of the City of Cambridge, Massachusetts Zoning Ordinance is provided for reference and the convenience of having the Ordinance in a computer-readable format. The print version of the Zoning Ordinance, together with any amendments adopted by the City Council subsequent to the most recent update to the print version, remains the official version of the Ordinance. If any discrepancies exist between the print and web versions of the Zoning Ordinance, the print version, together with any City Council amendments, shall be considered correct. Recent amendments to the Zoning Ordinance may appear on the Web prior to being incorporated into the print version of the Ordinance.

ARTICLE 11.000 SPECIAL REGULATIONS

Text current through Ordinance #1357 of June 3, 2013.

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11.10 TOWNHOUSE DEVELOPMENT

11.11 *Statement of Purpose.* This Section 11.10 has been adopted to encourage the development of one and two family townhouses. The townhouse development use created herein is intended to promote development designs that are compatible with traditional neighborhood development patterns and sensitive to existing streetscapes, to encourage a townhouse pattern of development where higher densities are permitted and to discourage the demolition of existing residential structures as well as the excessive infill of townhouses on lots already containing residential structures.

Provisions for the townhouse development use are intended to overcome obstacles to the development of one and two family townhouses, by providing special incentives where appropriate. This section provides guidelines for both as of right and townhouse developments which require special permit review. The distinction allows for expeditious review and approvals for smaller scale infill townhouse developments, while ensuring detailed examination of the site and building plans for larger developments and consideration of their neighborhood impacts.

11.12 *Applicability of Regulations.* The development standards specified in this Section 11.10 are applicable only to townhouse developments and do not change the development standards for other uses in the Residence, Office and Business, and Industry A-1 districts. Townhouse developments which meet the requirements specified in Sections 11.14, 11.15, and 11.16 shall be allowed in Residence B, C, C-1,

C-1A, C-2, C-2A, C-2B, C-3, C-3A, C-3B, Office and Business and Industry A-1 districts as follows:

11.12.1 Construction of a townhouse development containing six (6) or more dwelling units in a Residence B district and Residence C district shall require a special permit.

11.12.2 Construction of a townhouse development containing twelve (12) or more dwelling units in a Residence C-1, Residence C-1A, Office 1, Office 2, Business A-1, Industry A-1 or Business A-3 district shall require a special permit.

11.12.3 Construction of a townhouse development in a Residence B, C, C-1, Residence C-1A, Office 1, Business A-1 or Business A-3 district which contains fewer units than specified in Section 11.12.1 or 11.12.2 shall require a special permit if both of the following conditions pertain to the development:

(1) another permit for townhouse development has been granted within the twelve (12) month period immediately preceding the date of permit application for the lot on which the development would be located or on an abutting lot;

(2) the townhouse development for which the permit is being sought would increase the total number of dwelling units on said lot(s) to the threshold specified in Section 11.12.1 or 11.12.2.

11.12.4 Construction of all townhouse development in Industry A and A-2 districts, Industry B, B-1 and B-2 district, and the Industry C district shall require a special permit granted by the Planning Board where any one of the following conditions exist:

1) The development exceeds fifty thousand (50,000) square feet of gross floor area;

2) The lot area per dwelling unit proposed is less than one thousand two hundred (1,200) square feet in an Industry C district six hundred (600) square feet in an Industry A district, or three hundred (300) square feet in an Industry A-2, Industry B, or Industry B-1 district; or

3) Twelve units or more dwelling units are proposed where any portion of the development is located within one hundred (100) feet or a Residence A-1, A-2, B, C, or C-1 district.

11.12.5 Where a townhouse development is constructed on two or more abutting lots, the requirements applicable to the development shall be determined as if the parcel were a single lot.

11.12.6 Where a townhouse development is constructed on a lot or lots with other buildings existing prior to such development, the dimensional requirements of this Section 11.10 shall apply to those structures or portions of structures on the lot(s) which constitute the townhouse development.

11.12.7 Where a townhouse development is proposed on a lot on which a preferably preserved significant building, as determined by the Cambridge Historical Commission under the

provisions of the Demolition Ordinance #965, has been demolished within the five (5) years immediately preceding the application for a building permit or a special permit or where such building is proposed to be demolished to permit the townhouse development under the provisions of this Section 11.10, the provisions of Subsections 11.14, 11.15, and 11.15.1 - 11.15.4 shall not apply; the townhouse development shall in such circumstances be subject to the dimensional requirements normally applicable in the district.

11.13 *Special Permit Granting Authority.* The Planning Board shall be the special permit granting authority for any townhouse development included in Section 11.12.1, 11.12.2, or 11.12.3. The Board of Zoning Appeal shall be the special permit granting authority for special permits required by Sections 11.15.5, 11.16.2, and 11.16.4 for any townhouse development which does not require a special permit from the Planning Board.

11.14 *Subdivided Lots.* A developer, or any subsequent owner, who desires to subdivide a townhouse development must record a subdivision plan with the Registry of Deeds of Middlesex County. A copy of the recorded subdivision plan must also be filed with the Building Commissioner. Subdivided lots may be less than five thousand (5,000) square feet and must include an individual dwelling, together with front and rear yards or rights to yards in common areas.

11.15 *Dimensional Standards for Townhouse Development.* The following development controls apply to the parcel of land upon which a townhouse development is constructed and are not applicable to the initial subdivision of the townhouse parcel into individual lots. The townhouse development parcel as a whole must conform to these controls. But once satisfied for the total parcel, the controls are waived for the subsequent subdivision into individual lots. The required minimum lot size for a townhouse development shall conform to the existing regulations for the district in which the townhouse development is constructed.

However, modifications to the townhouse development after a subdivision plan has been recorded in the Registry of Deeds shall be subject to the dimensional standards as set forth in this Section 11.15 applied to the individual lot lines of the subdivided lots; modifications that do not so conform may be permitted as set forth below:

a. For any townhouse development, after issuance of a building permit, projecting eaves, chimneys, bay windows, and balconies that do not project more than three and one half (3 1/2) feet.

b. For any townhouse development for which a special permit has been granted by the Planning Board, modifications specifically enumerated in the special permit. For those modifications not so enumerated, or where the special permit fails to specifically enumerate allowed modifications, after issuance of a new special permit (a Major Amendment to the original special permit) by the Planning Board to allow the proposed modification(s).

c. For any townhouse development originally constructed as of right, after issuance of a special permit by the Board of Zoning Appeal.

Where a special permit is required in paragraphs b. and c. above, all owners of lots that together constitute the original townhouse development parcel shall receive notice of the special permit public hearing, in the manner provided for in Chapter 40A for parties of interest; such owners shall be considered parties in interest, however, only as they are so defined in Section 11, Chapter 40A.

11.15.1 Minimum Lot Width. In a townhouse development there shall be no minimum lot width, except that in Residence B, Residence C, and Residence C-1 districts the minimum lot width applicable in the district shall apply.

11.15.2 Maximum Floor Area Ratio. In a townhouse development, the maximum permitted floor area ratio in districts where townhouse developments are permitted shall be as normally applicable in the district.

11.15.3 Maximum Height. In a townhouse development the maximum permitted height shall be four habitable stories and the maximum height of the cornice line shall be thirty (30) feet. Any part of a townhouse structure which projects above the cornice line shall be set below an imaginary inclined plane beginning at the thirty (30) foot cornice line on any facade of the structure facing a street or facing any lot line abutting a residentially zoned lot, and thereafter rising at a forty-five degree (45°) angle. However, portions of the building may rise above the imaginary inclined plane provided the area of those portions above the inclined plane projected onto the vertical plane does not exceed ten (10) percent of the area of the vertical plane lying between the thirty (30) foot cornice line and the maximum height of the structure, calculated for and limited to each separate plane.

However, the maximum height of any portion of a townhouse development shall be forty (40) feet, except that in a Residence B district the maximum height shall be thirty-five (35) feet.

11.15.31 In any zoning district that limits building height to thirty-five (35) feet or less, the maximum permitted height in a Townhouse Development shall be thirty-five (35) feet.

11.15.32 In all other districts the maximum permitted height in a townhouse development shall be four habitable stores and the maximum height of the cornice line shall be thirty (30) feet. Any part of a townhouse structure which projects above the cornice line shall be set below an imaginary inclined plane beginning at the thirty (30) cornice line on any façade of the structure facing a street or facing any lot line abutting a residentially zoned lot, and thereafter rising at a forty-five (45) degree angle. However, portions of the building may rise above the imaginary inclined plane provided the are of those portions above the inclined plane projected into the vertical plane does not exceed ten (10) percent of the area of the vertical plane lying between the thirty (30) foot cornice line and the maximum height of the structure, calculated for and limited to each separate plane.

However, the maximum height of any portion of a townhouse development shall be forty (40) feet, except that in a Residence B district the maximum height shall be thirty-five (35) feet.

11.15.4 Yard Requirements. The yard requirements in the district shall be applicable for each townhouse development.

11.15.5 Minimum Private Open Space. In a townhouse development the minimum ratio of private open space as defined in Article 2.000 to lot area shall be twenty-five (25) percent or that amount required in the district, whichever is greater.

(1) The minimum dimension of any area counted toward required private open space shall be fifteen (15) feet. A ten (10) foot minimum open space dimension may be allowed on special permit by the Special Permit Granting Authority upon its determination that the peculiarities of the parcel warrant such a reduction, that the smaller dimension will result in a superior site design, and that the total amount of private open space will not be reduced.

(2) Where it is proposed to subdivide a townhouse development in accordance with the requirements of Section 11.14 then the minimum ratio of private open space to subdivided lot area shall be that required for the Townhouse Development as a whole.

Where the townhouse development is not to be subdivided into individual lots and therefore the private open space in a townhouse development is not to be provided on subdivided lots but is to be provided on a common basis to be held in joint ownership by a group of townhouse owners such as a cooperative or an association, then the minimum ratio of private space to the total lot area in the townhouse development shall be that required in this Section 11.15.5.

11.16 *Parking Standards for Townhouse Development*

A Townhouse Development shall be subject to the requirements of Article 6.000 except as they may be modified below.

11.16.1 One off street parking space per dwelling unit in a townhouse development shall be provided unless a special permit is granted in accordance with Section 11.16.2(4) below.

11.16.2 Required parking spaces may be located as follows:

(1) Within the townhouse structure or a separate structure on the parcel.

(2) On a lot in accordance with the requirements of Sections 6.20 and 6.40.

(3) On lots not more than two hundred (200) feet away from the building to be served subject to the conditions set forth in Sections 6.20 and 6.40.

(4) On street in the vicinity of the townhouses if the special permit granting authority determines that the lack of off street parking for the townhouse development will not unreasonably reduce the quantity of on street parking in the area. Applicants

for an exception from off street parking shall submit a report on parking usage and availability in the vicinity of the development with their permit application.

11.16.3 Landscaping of On Grade Open Parking

(1) On grade open parking areas should be arranged and landscaped to properly screen cars from adjacent properties as well as from streets and sidewalks and to diminish the negative environmental impacts of multiple automobiles parked on site in residential neighborhoods.

(2) Twenty-five (25) percent of the area devoted to on grade open parking shall be landscaped. The area devoted to on grade open parking shall be that portion of the lot containing parking spaces, driveways, and landscaped area located between or adjacent to parking spaces and drives. No portion of the lot required as a setback between a parking space and a building or a lot line shall be counted in computing the twenty-five (25) percent landscaping requirement.

(3) Where more than one “area devoted to on grade open parking” exists within a townhouse development twenty-five (25) percent of each such area shall be landscaped.

(4) For every two (2) on grade open parking spaces or fraction thereof there shall be a minimum of one three (3) inch caliper tree located within the area devoted to on grade open parking.

(a) The special permit granting authority may grant a special permit for a reduction of this planting requirement upon its determination that such a reduction will not prevent suitable screening of on grade parking and will result in a superior site plan. Any reduction shall require a special permit.

(b) The trees required for the landscaping of on site parking areas - whether such trees are coniferous or deciduous, flowering or nonflowering - should be tolerant to urban environmental conditions; able to screen parking areas by virtue of their size, form, density of foliage and spread; and easy to maintain. A suggested list of trees which meet these criteria is:

Deciduous. Botanical name (common name)

Acer platanoides (Norway Maple); Acer rubrum (Red Maple); Acer saccharum (Sugar Maple); Carpinus betulus (European Hornbeam); Fraxinus americana (White Ash); Ginkgo biloba (Ginkgo); Gledistsia triacanthos inermis (Thornless Honey Locusts); Liquidambar styraciflua (Sweet Gum); Liriodendron tulipfera (Tulip Tree); Platanus occidentlis (Syamore); Quercus coccinea (Scarlet Oak); Quercus palustris (Pin Oak); Quercus rubra (Red Oak); Tilia cordate greenspire (Littleleaf Linden); Tilia europea (Common Linden).

(5) On grade open parking areas located in front of the townhouse structure(s) shall maintain the visual definition of the front lot line and separation of public from private space in keeping with the appearance and character of the existing

streetscape. Such definition shall be achieved by using a change of ground materials at the front lot line and by installing at least one of the following: fences, plantings, walls, or stone monuments which mark the transition from street or sidewalk to residential lot.

11.17 Additional Requirements

(1) Fences may not exceed four (4) feet in height in any front yard unless otherwise permitted by the special permit granting authority.

(2) Any townhouse unit directly abutting a street or streets shall have a principal entrance on a facade facing a street unless otherwise permitted by the special permit granting authority.

11.30 FAST ORDER FOOD ESTABLISHMENTS

11.31 In considering applications for Special Permits for Fast Order Food Establishments and Automobile Oriented Fast Order Food Service Establishments, the Board of Zoning Appeal shall find, in addition to the other criteria specified in Section 10.40, that the following requirements are met:

(a) the operation of the establishment shall not:

(1) create traffic problems,

(2) reduce available parking,

(3) threaten the public safety in the streets and sidewalks, or

(4) encourage or produce double parking on the adjacent public street(s),

(b) the physical design, including color and use of materials, of the establishment shall be compatible with and sensitive to the visual and physical characteristics of other buildings, public spaces and uses in the particular location;

(c) the establishment fulfills a need for such a service in the neighborhood or in the city;

(d) the establishment will attract patrons primarily from walk in trade as opposed to drive in or automobile related trade; however, should the Board specifically find that the district or area within which the establishment is proposed to be located does not have significant pedestrian traffic, this requirement need not be met.

(e) the establishment shall, to the greatest extent feasible, utilize biodegradable materials in packaging the food and in the utensils and other items provided for consumption thereof;

(f) the establishment shall provide convenient, suitable and well marked waste receptacles to encourage patrons properly to dispose of all packaging materials, utensils and other items provided with the sale of food; and

(g) the establishment complies with all state and local requirements applicable to ingress, egress, and use of all facilities on the premises for handicapped and disabled persons.

11.32 Establishments seeking to relocate their operations inside the boundary line of the zoning district in which the establishment is located shall not be required to obtain a special permit if both of the following conditions will be met.

11.32.1 The new site shall be within five hundred (500) feet of the original site of the establishment.

11.32.2 There will be no increase in the gross floor area of the establishment at the new site.

11.33 A Special Permit issued for a Fast Order Food Establishment hereunder may be utilized only by the owner or operator of such establishment as described in the application documents or as those documents may be modified by the conditions of the Special Permit as granted.

In granting a Special Permit under this Section 11.30 the Board shall specifically detail in its decision the kind of Fast Order Food for which the Permit is granted and shall also identify those other aspects of the establishment as outlined in the application documents for which alterations will require the issuance of a new Special Permit.

11.40 DELETED (See Article 22.70)

11.50 DELETED (See Article 20.000)

11.60 DELETED (See Article 20.000)

11.70 DELETED (See Article 20.000)

11.80 EMPLOYMENT COMPLIANCE PROCEDURE

11.81 *Purpose.* As specified in Section 1.30, one of the purposes of this Zoning Ordinance is encouragement of the most appropriate use of land throughout the City, including appropriate economic development. Through amendments to this Ordinance and by related actions the City has established a program for promoting new economic development activity in underutilized, industrially zoned districts. As part of its economic development program, the City seeks to promote development which will provide expanded job opportunities for unemployed and underemployed citizens of Cambridge. It is the purpose of this Section 11.80 to ensure that, prior to initiating construction of new employment generating land uses, development entities demonstrate that they have considered and responded to the *"Cambridge Citizens Employment Plan."*

11.82 *Applicability.* The provisions of this Section 11.80 shall apply to new economic development activity in the Alewife Revitalization District and the South Cambridgeport Revitalization Area and in other major economic revitalization areas designated by City Council through amendments to this Subsection 11.82. The Alewife Revitalization District shall be that area contained within the comprehensive Alewife Area rezoning amendment ordained on June 16, 1980. The South Cambridgeport Revitalization Area shall be that area contained within the comprehensive South Cambridgeport Rezoning

Amendment as ordained by City Council on February 10, 1992. For purposes of this Section 11.80, the following shall be considered new economic activity:

11.82.1 Construction of any new building which will be a principal use under Subsections 4.31i-2 (hotel/motel), 4.34 (office and laboratory), 4.35 (retail business and consumer service), 4.36 (drive-in retail and service), 4.37 (light industry, wholesale business and storage) and 4.38 (heavy industry) of the table of use regulations.

11.82.2 Expansion or alteration of an existing building occupied by a principal use included in one of the use categories listed in Subsection 11.82.1, provided that such expansion or alteration will increase the gross floor area of the building by five thousand (5000) square feet or more.

11.83 *Employment Opportunity Certification.* When applying for a building permit for applicable development as specified in Subsection 11.82, the applicant for such permit shall file with the Superintendent of Buildings a certification from the City Manager, or his designee, that the applicant has prepared and filed with the City a statement indicating how the proposed development will comply with the most recently adopted *Cambridge Citizens Employment Plan.*

11.200 INCENTIVE ZONING PROVISIONS AND INCLUSIONARY HOUSING PROVISIONS

Purposes. The purposes of this Section 11.200 are to promote the public health, safety and welfare by encouraging the expansion and upgrading of the City's housing stock while accommodating the expansion of housing and commercial opportunities in the City; to provide for a full range of housing choices throughout the city for households of all incomes, ages and sizes in order to meet the City's goal of preserving diversity; to mitigate the impacts of commercial and residential development on the availability and cost of housing and especially housing affordable to low and moderate income households; to increase the production of affordable housing units to meet existing and anticipated housing and employment needs within the City; to provide a mechanism by which commercial and residential development can contribute in a direct way to increasing the supply of affordable housing in exchange for a greater density or intensity of development than that otherwise permitted as a matter of right; and to establish standards and guidelines for the use of such contributions from the application of incentive zoning and inclusionary housing provisions.

11.201 *Definitions*.

Affordable Housing Trust shall mean the entity established by Chapter 482 of the Acts of 1991.

Affordable Unit shall mean any dwelling unit for which the rent (including utilities) does not exceed thirty (30) percent of the income of the renting household or for which the mortgage payment (including insurance, utilities and real estate taxes) does not exceed thirty (30) percent of the income of the purchasing household or other standards as may be established pursuant to any city, state or federal housing program designed to assist low and moderate income households.

Converted Dwelling Unit shall mean a dwelling unit that has been converted from a non-housing use to a housing use in connection with the construction of an Inclusionary Project.

Developer shall mean any individual, corporation, business trust, estate trust, partnership or association, or any other entity or combination thereof.

Eligible Household shall mean any household whose total income does not exceed eighty (80) percent of the median income of households in the Boston Standard Metropolitan Statistical Area adjusted for family size, or such other equivalent income standard as may be determined by the Board of Trustees of the Affordable Housing Trust Fund.

Median Income shall mean the income set forth in 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 or such other equivalent income standard as determined by the Board of Trustees of the Affordable Housing Trust Fund.

Mixed Use Development shall mean a development that contains a combination of residential development and any other use.

Project, Incentive, shall mean that portion of projects containing uses listed in Sections 4.33c, 4.34, 4.35, 4.36, and 4.56 d 1 subject to the provisions of the special permits listed in Section 11.202.1.

Project, Inclusionary, shall mean any residential or mixed use development containing or creating ten or more new or converted dwelling units, including phased projects; or where fewer than ten new or converted dwelling units are created including phased projects, a residential development containing 10,000 square feet or more of gross floor area, in which case each 1,000 square feet shall be considered a dwelling unit.

Project, Phased, shall mean any residential or mixed use development or developments at one site or two or more adjoining sites in common ownership or under common control within a period of five years from the first date of application for any special or building permit for construction on the lot or lots, or for the twelve months immediately preceding the date of application for any special or building permit, where a total of no less than ten new or converted units are built.

Project, Voluntary Inclusionary, shall mean any residential or mixed use development containing less than ten new or converted dwelling units, including phased projects where the developer chooses to comply with the provisions of Section 11.203.2.

Residential Development shall mean single, two family and multi-family homes, townhouse development, elderly oriented congregate housing and lodging and rooming house dwellings as set forth in Section 4.31 a-h, and i(3).

11.202 *Applicability.*

11.202.1 *Applicability of Incentive Zoning Provisions*. Where a developer chooses to seek to obtain a special permit pursuant to the sections listed below, which special permit authorizes an increase in the permissible density or intensity of a particular use in the proposed development, the developer shall be subject to the applicable provisions of this Section 11.200 et al. Increases in density or intensity of use shall include an increase in gross floor area or height, a reduction or waiver of parking requirements, or a change in dimensional requirements or the addition of uses that result in an increase in density or intensity of use.

Section 6.35	Reduction in required parking for nonresidential development
Section 20.108	Divergence from dimensional requirements, North Massachusetts Avenue Overlay District
Section 20.54.2(2)	Additional height, Harvard Square Overlay District
Section 20.54.4(2)	Waiver of parking and loading requirements, Harvard Square Overlay District
Section 20.54.5(2)	Exemption from yard requirements, Harvard Square Overlay District
Section 20.63.7	Divergence from dimensional requirements, Parkway Overlay District
Section 20.95.1	Maximum Floor Area Ratio
Section 20.95.2	Maximum Permitted Height
Section 20.95.34	Waiver of Yard Requirements
Section 20.95.4	Dwelling Unit Density
Section 20.304.2(2), (3)	Additional height, Central Square Overlay District
Section 20.304.4	Waiver of setback requirements, Central Square Overlay District
Section 20.304.6	Waiver of parking requirements, Central Square Overlay District
Section 17.13.1(b)	Additional FAR, Special District I
Section 17.17	Transfer of Development Rights, Special District I
Article 13.00	PUD Districts, all permits.

11.202.2 Applicability of Inclusionary Housing Provisions. The provisions of this Section 11.200 shall apply to any Inclusionary Project and may be applied to any Voluntary Inclusionary Project. These provisions shall apply with respect to developments in all zoning districts of the city except those governed by the provisions of Article 15.000.

11.203 *Requirements*

11.203.1 Requirements for Incentive Zoning Contributions. A developer of an Incentive Project shall either make a Housing Contribution in accordance with this Section 11.203.1 (a) or shall create or cause to be created housing, in accordance with this Section 11.203.1 (b).

(a) Housing Contribution. For any project that is in whole or in part an Incentive Project, and that is, in total, less than thirty thousand (30,000) square feet of gross floor area, no contribution shall be required.

For any project of thirty thousand (30,000) square feet of gross floor area or more, the developer shall contribute four dollars and forty-four cents ($4.44) [Note: current adjust figure as of 6/29/12] for every square foot of gross floor area over two thousand five hundred (2500) square feet of that portion of the project authorized by the Special Permit that is an Incentive Project.

Before the Superintendent of Buildings issues the first occupancy permit for the Incentive Project the developer of the Incentive Project shall deliver the Housing Contribution to the then Managing Trustee of the Affordable Housing Trust or its designee.

The amount of the Housing Contribution shall be subject to review and recalculation three (3) years after the effective date of this provision and every three (3) years thereafter by the Cambridge City Council based on a consideration of current economic trends including but not limited to development activity, commercial rents per square foot, employment growth, and housing trends measured in terms of, but not limited to, vacancy rates, production statistics, and prices for dwelling units. The Board of Trustees for the Affordable Housing Trust may adjust the amount annually based on CPI or a similar standard to reflect changes in inflation rates.

(b) Housing Creation Option. The Developer of an Incentive Project required to make a Housing Contribution in Subsection 11.203.1 (a) above may create or cause to be created affordable units for occupancy exclusively by eligible households, or may donate land to be used exclusively for the development of affordable units. These units or land donation, must be of equivalent benefit toward addressing the City's affordable housing need as the housing contribution otherwise required.

When this option is chosen a Developer shall obtain a report from the Board of Trustees of the Affordable Housing Trust, which report shall accompany the special permit application and shall advise the special permit granting authority as to whether the proposed Housing Creation conforms to the intent and purposes of this Section 11.200 et al. The report shall also recommend such conditions, if any, as the Trustees may find appropriate to the issuance of the special permit to assure full compliance with the intent of this Section 11.200.

The special permit granting authority shall give due consideration to the report of the Board of Trustees in granting any special permit subject to this Section 11.200 et al., and, in its discretion may approve the developers use of the Housing Creation Option.

11.203.2 *Requirements for Inclusionary Housing .*

(a) Any Inclusionary Project shall provide 15% percent of the total number of dwelling units up to the maximum allowed as of right as Affordable Units. Where the

application of that formula results in a fractional dwelling unit, a fraction of one half of a dwelling unit or more shall be considered as one Affordable Unit. Each Affordable Unit shall meet the standards established in Section 11.204.

(b) To facilitate the objectives of this Section 11.200, modifications to the dimensional requirements in any zoning district, as set forth in Section 5.30, shall be permitted as of right for an Inclusionary Project, as set forth below:

(i) The FAR normally permitted in the applicable zoning district for residential uses shall be increased by thirty (30) percent for Affordable Units as set forth in Section 11.203.2 (a) above, and at least fifty percent of the additional FAR should be allocated for the Affordable Units. In a Mixed Use Development, the increased FAR permitted in this paragraph (i) may be applied to the entire lot; however, any gross floor area arising from such increased FAR shall be occupied only by residential uses, exclusive of any hotel or motel use.

(ii) The minimum lot area per dwelling unit normally required in the applicable zoning district shall be reduced by that amount necessary to permit up to two additional units on the lot for each one Affordable Unit required in Section 11.203.2 (a) above. The additional units on a lot permitted by this paragraph (ii) shall not be considered in determining the threshold by which a special permit is required in Section 4.26 - Multifamily Special Permit Applicability and Section 11.10 - Townhouse Development of the Zoning Ordinance.

(c) For any Inclusionary Project that includes a total number of dwelling units that exceeds the maximum allowed as of right, the number of affordable units shall be no less than 15% percent of the total number of dwelling units in the project; however, the number of additional units permitted under Section 11.203.2 (b) (ii) above shall not be further increased.

(d) For any Voluntary Inclusionary Project that proposes to provide one Affordable Unit, the provisions of Section 11.203.2 (b) (i) and (ii) may be applied after the issuance of a special permit from the Planning Board. In issuing a special permit the Planning Board shall find that the additional dwelling units or gross floor area permitted will not create a development significantly different in scale, density, or placement on the lot than can be found on adjacent lots or in the surrounding neighborhood; or if the development is significantly more dense, larger in scale or closer to the lot lines than can be found on adjacent lots, the Board shall find that the size or shape of the lot, the characteristics of development on abutting lots, and the nature of the design proposed on the subject lot mitigate any negative impact that such additional development may impose. In making its findings the Planning Board shall consider the other kinds of dimensional relief that the development may require and the extent to which such relief varies from the requirements of the zoning district.

(e) Affordable Units required by this Section 11.203.2 shall be provided on-site. However, approval for alternate means of compliance may be granted by the Planning Board in certain exceptional circumstances. In granting such approval, the Planning Board must find that the property owner has demonstrated that building the required affordable units on-site would create a significant hardship. A significant hardship shall

be defined as being of such significance that the property can not physically accommodate the required affordable units and/or related requirements, such as height, setbacks, or parking. To have such a request considered, the burden of proof shall be on the property owner, who must make full disclosure to the Planning Board of all relevant information. Any request for alternate means of compliance shall be reviewed by the Affordable Housing Trust, which shall then forward its recommendation on the request to the Planning Board. The Affordable Housing Trust's recommendation shall be based upon whether the alternate means of compliance shall be of comparable value to the affordable unit that would have otherwise been provided in a comparable Inclusionary Project. The Planning Board's approval of the request shall be based upon the Affordable Housing Trust's recommendations, and the demonstration of hardship made by the property owner. The Planning Board may, in its sole discretion, use other information to determine the validity of the property owner's request. Approval of alternate means of compliance shall be only for payment of a sum equivalent to the value of the provision of an on-site Affordable Unit, which payment shall be made to the Affordable Housing Trust.

11.204 *Standards for Construction and Occupancy of Affordable Units*.

The following standards are intended to provide guidance to the special permit granting authority in instances where the Housing Creation Option is chosen to meet the requirements of this Section 11.200, to the Board of Trustees of the Trust in making any report it may make to the special permit granting authority or in authorizing the expenditure of any Housing Contribution funds, and to the Developer of any Inclusionary Project or Voluntary Inclusionary Project. In granting any special permit the special permit granting authority may allow for deviations from, or further define, these standards consistent with the purpose of this Section 11.200.

(a) Affordable Units in an Incentive Project shall be generally comparable in size and materials to dwelling units in the neighborhood or in the projection which it is located.

(b) To ensure livability, Affordable Units in an Inclusionary Project shall be generally comparable in size and materials to the other units in the overall project and consistent with local needs for affordable housing as approved by the Trust

For Inclusionary Projects or Incentive Projects where appropriate exteriors of affordable units shall closely resemble the exteriors of other units in a project, and shall be reasonably distributed throughout the project.

(c) The Affordable Units shall, to a reasonable extent, serve eligible households of diverse incomes, including very low income, and diverse sizes throughout the city.

(d) The Affordable Units shall be subject to deed restrictions providing that they shall:

1) be occupied by eligible households.

2) be conveyed subject to restrictions, which to the extent legally possible shall guarantee the permanent availability of the Affordable Units to eligible households. Such restrictions shall include but not be limited to limited equity deed restrictions. In general, to meet this requirement, affordable rent levels shall be maintained for a minimum of 50 years from the date of initial

occupancy in accordance with current practices of the City. With for-sale units, the City's current system of deed restrictions controlling resale prices shall be observed.

3) to the extent possible, give preference to eligible households who are Cambridge residents.

4) be rented or sold to Eligible Households, using marketing and selection guidelines customarily employed by the Community Development Department in selecting tenant and homeowner households under other City, state or federal housing assistance programs.

(e) The rental or ownership of affordable units shall mirror the project as a whole. For example, affordable units should be sold, not rented, where a majority of units will be offered for sale.

(f) The affordable units shall be affordable to households having a target income of 65% of the area median income, or if the household has access to a rent subsidy, a lower income. The Trust shall have the discretion to approve a mix of higher and lower rents or sale prices, the average of which approximates an affordable price for a household at the target income level.

(g) The intent of the Inclusionary Housing provisions is that the Affordable Units required hereunder not use public funds to create; these provisions however, are not intended to discourage the use of public funds to generate a greater number of affordable units than are otherwise required.

(h) One parking space for each Affordable Unit in an Inclusionary Project shall be provided. If there is fewer than one parking space provided for each unit in the development, then the number of parking spaces provided for the Affordable Units shall be in the same proportion as the number provided to the market rate units. If there is no parking fee for the market rate units in an Inclusionary Project, then there shall be no parking fee for the Affordable Units. If there is a parking fee for the market rate units in an Inclusionary Project subject to Section 11.200, then the maximum parking fee for the Affordable Units shall not exceed the lesser of the following:

1) That fee which is in the same proportion of parking fee to rent as for those market rate units of equivalent size to the Affordable Units and having the lowest rent in the Inclusionary Project, or

2) That fee which, when combined with the maximum rent permitted of an Affordable Unit as defined in Section 11.201, does not exceed thirty three (33) percent of the Eligible Household's income.

11.205 *Affordable Housing Trust.*

Pursuant to the provisions of Chapter 482 of the Acts of 1991, an Affordable Housing Trust Fund was established. To facilitate the implementation of the provision of this Section 11.200, the Affordable Housing Trust Fund receives funds generated by this Section 11.200 and specifically Section 11.203.1(a), as well as other funds generated from other sources.

11.205.1 Uses of the Affordable Housing Trust. The Trust property may be made available for, but shall not be limited to, the following uses.

1. Creation of Affordable Units. To encourage the development of Affordable Units through a variety of means, including, but not limited to, the provision of favorable financing terms or direct write down of costs for either nonprofit or for profit developers or to subsidize the purchase of sites, existing structures, or affordable units within a larger development.
2. Multifamily Rehabilitation Programs. To finance the substantial rehabilitation of deteriorated properties in a manner that preserves the affordability of units through interest rate subsidies, loan guarantees or write down of project costs. Multifamily housing owned by nonprofit entities that ensure maximum long-term affordability shall receive priority-funding consideration.
3. Limited Equity Cooperative or Condominium Conversion. For acquisition and rehabilitation of potential cooperatives or condominiums through low interest blanket loans, share loans or direct cost write down.

11.205.2 Administration of the Affordable Housing Trust and its Activities. The Trust property may be made available to fund reasonable administrative expenses necessary to support Trust activities, including but not limited to consulting services such as legal, appraising or engineering, as well as other project related expenses. The Community Development Department shall provide the Board of Trustees with technical and administrative assistance.

11.205.3 Board of Trustees of Affordable Housing Trust. 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 representatives from different sectors of the community with housing policy, and may include members of City Boards and agencies, nonprofit housing organizations and community representatives. The trustees, with concurrence of the City Manager, shall establish regulations for the operations of the Trust and Board of Trustees, and procedures for the implementation of this Subsection 11.205.

1) The Board of Trustees shall manage and administer the Affordable Housing Trust Fund including the disbursement of all funds, units and land conveyed to the City of Cambridge.
2) The Board of Trustees shall review and approve or disapprove proposals submitted for use of the Housing Trust Fund. The Board shall develop policies and standards appropriate to and consistent with the Incentive Zoning and Inclusionary Housing provisions, section 11.200.
3) The Board shall explore the feasibility of and assist in the establishment of new programs designed to meet Cambridge affordable housing needs. These programs may include a city wide Land Bank program and Home Mortgage Pool.
4) The Board of Trustees shall provide assistance and necessary reports where appropriate to any special permit granting authority authorized to issue a special permit for any development making use of funds from the Affordable Housing Trust or subject to any provisions under this Section 11.200.

11.206 *Enforcement*

The Community Development Department shall certify in writing to the Superintendent of Buildings that all conditions of this Section 11.200, including any conditions that may be established by the special permit granting authority in issuing a special permit under this Section 11.200, have been met before issuance of the first building permit for any Incentive Project, Inclusionary Project, or Voluntary Inclusionary Project. Before the issuance of the first Certificate of Occupancy for such development the Trust shall certify in writing to the Superintendent of Buildings that all documents have been filed and actions taken that are necessary to fulfill the conditions of this Section 11.200 and any special permit authorized herein.

11.500 PLANNING OVERLAY REQUIREMENTS

Purpose. The purpose of this section is to provide temporarily for review of large scale development in order to ensure conformance with the Cambridge Growth Policy Document, "Towards a Sustainable Future: and guarantee that the city infrastructure can support potential increases in traffic.

11.501 *Term of Effect.* The provisions of this Section 11.500 apply to any building permit granted between Wednesday, July 1, 1998 and Monday, February 12, 2001, inclusive.

11.502 *Applicability.* The provisions of this Section 11.500 apply to all new construction of 50,000 square feet or more of gross floor area or new construction of a parking facility which will cause such facility to have a net increase of more than 150 in the number of nonresidential parking spaces, involving a change of category of use, such categories being defined as those numbered and bolded in Section 4.30 of this Ordinance. The provisions of this section also apply to any project that will bring the total construction on the lot, or an abutting lot or lots that are or have been in common ownership at any time since May 1, 1998, to 50,000 square feet of more gross floor area during the effective period of this section. This section shall not apply to any housing projects with a substantial component of affordable units (defined as more than 25% of units affordable by households making 110% or less of median income). The provisions of this section apply to all zoning district in the City without exception.

11.503 *The Planning Overlay Special Permit*

11.510 A Planning Overlay Special Permit shall be required from the Planning Board for all projects subject to this Section 11.502. The Planning Board may request reports from the Community Development Department, Conservation Commission, Historical Commission or other pertinent boards and commissions regarding compliance with Growth Policies 13, 27, 39, and 66 as set forth in Section 11.512. Before a building permit for a project to which paragraph 11.502 applies can be issued, the project must receive a "Planning Overlay Special Permit." The application for the Planning Overlay Special Permit may be simultaneous with the application to the Planning Board for other special permits. No application for this permit will be accepted unless it is accompanied, at a minimum, by the following documents:

(a) The information required by the Large Project Submittal Requirements as described in Paragraph 1.45 of this Ordinance.

(b) A traffic study certified as being done in a complete and reliable manner by the Traffic, Parking and Transportation Department. The required traffic study shall include information on Parking Transportation Demand Management measures, which may mitigate projected traffic impacts. Such certifications must be issued or denied within twenty-one (21) days of its request and must only certified the methodology used, not necessarily the accuracy of the data.

Any applicant who has been granted a special permit prior to the effective date of this amendment must apply for a "Planning Overlay Special Permit" by no later than 60 (sixty) days after the issuance of the original special permit.

11.511 *Criteria for Special Permit*

A. In granting a planning overlay special permit the Planning Board will ensure that the project conforms with the following growth policies as set forth in the Cambridge Growth Policy Document, "Towards a Sustainable Future":

Growth Policy #13. A pace of development or redevelopment should be encouraged that permits the maintenance of a healthy tax base, allows for adjustment and adaptation to changing economic conditions, and is consistent with the City's urban design and other physical development objectives yet does not unreasonably disrupt the daily activities of the city's neighborhoods and residents or overburden the city's water and sewer infrastructure.

Growth Policy #27. Where possible, construct new affordable housing that fits neighborhood character. In existing residential neighborhoods housing should be built at scale, density, and character consistent with existing development patterns. Permit reconstruction of affordable housing (defined as more than 50% of units rented or owned by households at 80% or less than median income) that serves a wide range of incomes and groups at previous nonconforming density where reconstruction is less expensive than rehabilitation. Emphasize construction of affordable housing designed for families with children.

Growth Policy #39. Development patterns in all nonresidential areas must be planned to minimize negative impact on abutting residential neighborhoods.

Growth Policy #66. New open space facilities, including larger ones for organized activities, should be considered for those private developments where the size of the development, the amount of and area and/or the ownership patterns provide the flexibility to accommodate such a facility without loss of economic value for other uses.

B. Additionally, the Planning Board shall, before issuing a special permit, find that the project will have no substantial adverse impact on city traffic. In determining whether there is a substantial adverse impact, the Planning Board shall apply criteria for

measuring traffic impact based on the best available measures of traffic volumes and level of service, as recommended by the Traffic, Transportation and Parking Department. These criteria shall be updated as new data on existing traffic volumes and level of service are compiled.

11.512 *Enforcement.* The Superintendent of Buildings will require certification from the Planning Board that it has issued a special permit to the applicant to which paragraph 11.502 applies before issuing a building permit to that applicant.

11.513 *Expiration.* A Planning Overlay Special Permit will expire one (1) year if construction on the project has not begun and no extension has been granted by the Planning Board. Such extension may only be granted for good cause. If expiration takes place the Superintendent of Buildings will revoke any building permit granted under the special permit effective the date of expiration.

11.700 INTERIM REGULATIONS FOR MEDICAL MARIJUANA USES

11.701 *Purpose*. This section is intended to provide restrictions that will allow the City adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and, if so, where and under what conditions. Given that a law permitting the medical use of marijuana in the Commonwealth of Massachusetts shall be in effect beginning January 1, 2013, and that the Massachusetts Department of Public Health has yet to promulgate the regulations by which facilities that produce or dispense medical marijuana shall be registered and administered, a restriction on the establishment of such facilities in Cambridge shall provide the opportunity to study their potential impacts on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures.

11.702 *Definition*. A Medical Marijuana Treatment Center shall mean any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

11.703 *Exclusion of Other Marijuana Uses*. Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly registered and licensed in accordance with

applicable state and local laws and regulations, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Medical Marijuana Treatment Center.

11.704 *Exclusion of Accessory Uses.* In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any use.

11.705 *Interim Restriction*. Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the City of Cambridge so long as this Section 11.700 is effective, as set forth in Section 11.706 below. Use variances shall be strictly prohibited.

11.706 *Expiration*. The provisions of this Section 11.700, in their entirety, shall no longer apply after one hundred eighty (180) days have elapsed since May 1, 2013. However, if the Massachusetts Department of Public Health has failed to promulgate regulations with regard to the certification and administration of Medical Marijuana Treatment Centers by May 1, 2013, the provisions of this Section 11.700 shall continue to apply until one hundred eighty (180) days have elapsed since the date on which such regulations will have been promulgated, or until June 30, 2014, whichever date is earlier.