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# CITY OF CAMBRIDGE

Community Development Department

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**IRAM FAROOQ**

*Acting Assistant City Manager  
for Community Development*

## MEMORANDUM

**To:** Richard Rossi, City Manager  
**From:** Iram Farooq, Acting Assistant City Manager for Community Development  
**Date:** June 10, 2015  
**Re:** Council Order #0-6 dated May 18, 2015 on preparing appropriate zoning language for recommended changes to the Incentive Zoning provisions

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In response to the above-referenced Council Order enclosed as requested for the City Council's consideration please find a proposed zoning amendment that would amend the Incentive Zoning provisions set forth in Section 11.200 of the Zoning Ordinance. The intent of these proposed changes is to implement changes recommended by the recently completed Incentive Zoning Nexus Study. The City Council's Housing Committee discussed the study's recommendations and recommended that a zoning petition to implement the recommended changes be prepared. If the City Council votes to refer this proposed zoning amendment to the Planning Board and the Ordinance Committee for a hearing and report, the proposed amendment would proceed as a City Council zoning petition.

The Incentive Zoning provisions have been in place since 1988 and require that large non-residential developments make funding contributions to the Affordable Housing Trust to address the impacts of these development on the need for affordable housing. The recent nexus study examined the impact of new non-residential development of demand for affordable housing among low-, moderate-, and middle income households. The study recommended increasing the housing contribution rate, expanding the applicability of the incentive requirements and removing the special permit requirement so that the requirements would apply more broadly to all large non-residential developments.

The proposed zoning changes address these recommendations. Specific changes include:

- Removing the current special permit trigger so that housing contributions would be made by all projects with 30,000 or more square feet of uses subject to the Incentive Zoning provisions;

- Expanding the definition of an incentive project to add seven new uses for which housing contributions would be required (in addition to the current uses of office, lab and retail): hotel/motel, radio/TV studios, institutional, health care, social services, light industry/wholesale, and heavy industry;
- Increasing the contribution rate to \$12 per square foot, with an annual rate increase of \$1 per year over the next three years;
- Making automatic the annual adjustment of the contribution rate based on changes in the Consumer Price Index (CPI);
- Requiring that the City initiate a periodic reevaluation of the housing contribution by initiating an updated nexus study after three years;
- Eliminating the current deduction of the first 2,500 square feet from the calculation of the contribution;
- Establishing a definition of a “Middle Income Household” and adding language to make clear that the Affordable Housing Trust can use resources generated to assist Middle Income Households.

We will plan to initiate a new nexus study three years from any change in the Incentive Zoning provisions so that that updated study can be made available to a future City Council within five years from any such change.

We look forward to the City Council’s consideration of the important policy changes in this proposed zoning amendment and to making incentive zoning housing contributions a more significant source of funding for the Affordable Housing Trust to assist in its efforts to advance the City’s affordable housing goals.

**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.

***Incentive Project*** shall mean any new or substantially rehabilitated development that consists of at least thirty thousand (30,000) square feet of Gross Floor Area devoted to one or more of the following uses as listed in Section 4.30 of the Zoning Ordinance: Sections 4.31 i-1 (Hotel or motel), 4.32 f (Radio and television studio), 4.33b(5) (College or University not exempt by statute), 4.33c (Noncommercial Research Facility), 4.33d (Health Care Facilities), 4.33e (Social Service Facilities), 4.34 (Office and Laboratory Use), 4.35 (Retail and Consumer

**Service Establishments), 4.36 (Open Air or Drive In Retail Service), 4.37 (Light Industry, Wholesale Business and Storage), and 4.38 (Heavy Industry). Incentive Project shall also include an existing development that consists of at least thirty thousand (30,000) square feet of Gross Floor Area whose use is changed from a use not included in the above list to a use included in the above list. In no case shall Gross Floor Area devoted to a Municipal Service Facility or Other Government Facility be considered an Incentive Project.**

~~**Project, Inclusionary Project**~~ 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.

**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.

**Middle Income Household shall mean any household whose total income exceeds that of an Eligible Household as defined in this Section 11.200 but does not exceed one hundred twenty (120) 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.**

**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, Phased Project**~~, 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 within** 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.

**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).

~~**Project, Voluntary Inclusionary Project**~~, 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

**Proposed Amendments to Incentive Zoning (Contributions to Affordable Housing Trust)**  
*Markup version. Current text of Section 11.200 is unformatted. Proposed additions and creations are underlined, deletions in ~~strikeout~~. See following section for changes in list form.*

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**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.~~

**11.202.12** *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*

**Proposed Amendments to Incentive Zoning** (Contributions to Affordable Housing Trust)  
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**11.203.1** ~~Requirements for Incentive Zoning Contributions.~~ A The developer or owner 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).~~

1. **Calculation of Housing Contribution.** The Housing Contribution shall be calculated by multiplying the Gross Floor Area devoted to the uses that qualify the development as an Incentive Project by the Housing Contribution Rate effective at the time the Superintendent of Buildings issues the first building permit for the Incentive Project. If a building permit is not required, the Housing Contribution Rate in effect shall be the effective rate at the time the Housing Contribution is provided.
2. **Housing Contribution Rate.** The Housing Contribution Rate effective on June 15, 2015 [TO BE REPLACED WITH DATE OF ADOPTION] shall be twelve dollars (\$12.00) per square foot of Gross Floor Area. The applicable rate shall be adjusted annually and in perpetuity by the Consumer Price Index or similar index to reflect changes in dollar values over time. In addition, on [CALENDAR DATE OF ADOPTION] each year from 2016 to 2018, inclusive, the Housing Contribution Rate shall increase by one dollar (\$1.00) per square foot. The table below sets forth the Housing Contribution Rate over time.

<u>Effective Date</u>	<u>Housing Contribution Rate</u>
<u>[DATE OF ADOPTION TO BE ENTERED]</u>	<u>\$12.00 per square foot.</u>

3. **Timing of Payment.** The developer or owner of an Incentive Project shall provide its Housing Contribution to the Managing Trustee of the Affordable Housing Trust or its designee, who shall certify to the Superintendent of Buildings that the requirements of this Section are met prior to issuance of a certificate of occupancy for the Incentive Project. If the Gross Floor Area of an Incentive Project is subsequently increased with uses that qualify as Incentive Project uses, then notwithstanding the size of the increase, a Housing Contribution calculated in the manner set forth in this Section shall be provided for every square foot of that increase.
4. **Reevaluation of Housing Contribution Rate.** The City shall initiate a reevaluation of the Housing Contribution Rate and any other aspect of these Incentive Zoning Provisions at an interval of no less than three (3) years from the time the rate was last amended by the City Council. A report shall be provided to the City Council on economic factors 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.

## Proposed Amendments to Incentive Zoning (Contributions to Affordable Housing Trust)

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~~(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 fifty-eight cents (\$4.58) [Note: current adjust figure as of 2/27/14] 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.

**Proposed Amendments to Incentive Zoning (Contributions to Affordable Housing Trust)**

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(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

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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 a~~ special permit granting authority ~~or in authorizing the expenditure of any Housing Contribution funds,~~ **in connection with a special permit application** 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.~~

(a) 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.~~

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

(c) 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

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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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.

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**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 new rental or ownership Affordable Units for Eligible Households and Middle Income Households. 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 non-profit 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.
4. Preservation of existing affordable housing. To provide acquisition and/or financing assistance to preserve affordability of existing housing at risk of losing its affordability.

**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.

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- 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.

**Proposed Amendments to Incentive Zoning (Contributions to Affordable Housing Trust)**  
*List version. Description of proposed changes. See previous section for markup version.*

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Amend Section 11.200 of the Zoning Ordinance as listed below.

1. In Section 11.201, Definitions:

- Delete the current definition of “Project, Incentive” and replace with the following definition of Incentive Project:  
“*Incentive Project* shall mean any new or substantially rehabilitated development that consists of at least thirty thousand (30,000) square feet of Gross Floor Area devoted to one or more of the following uses as listed in Section 4.30 of the Zoning Ordinance: Sections 4.31 i-1 (Hotel or motel), 4.32 f (Radio and television studio), 4.33b(5) (College or University not exempt by statute), 4.33c (Noncommercial Research Facility), 4.33d (Health Care Facilities), 4.33e (Social Service Facilities), 4.34 (Office and Laboratory Use), 4.35 (Retail and Consumer Service Establishments), 4.36 (Open Air or Drive In Retail Service), 4.37 (Light Industry, Wholesale Business and Storage), and 4.38 (Heavy Industry). Incentive Project shall also include an existing development that consists of at least thirty thousand (30,000) square feet of Gross Floor Area whose use is changed from a use not included in the above list to a use included in the above list. In no case shall Gross Floor Area devoted to a Municipal Service Facility or Other Government Facility be considered an Incentive Project.”
- Create a definition of Middle Income Household as follows:  
“*Middle Income Household* shall mean any household whose total income exceeds that of an Eligible Household as defined in this Section 11.200 but does not exceed one hundred twenty (120) 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.”
- Replace the terms “Project, Inclusionary,” “Project, Phased” and “Project, Voluntary Inclusionary” with “Inclusionary Project,” “Phased Project” and “Voluntary Inclusionary Project,” respectively, and re-alphabetize the listing.
- Replace the current phrase that currently reads “or for the twelve months” to read “or within the twelve months” in the definition of Phased Project.

2. Delete Subsection 11.202.1 in its entirety. Renumber current Subsection 11.202.2 as 11.202.1.

3. Replace Subsection 11.203.1 in its entirety, including subordinate Paragraphs (a) and (b), with the following text, with applicable dates to be entered upon adoption of the amendments to the Ordinance:

“*11.203.1 Incentive Zoning Contributions.* The developer or owner of an Incentive Project shall make a Housing Contribution in accordance with this Section 11.203.1.

*1. Calculation of Housing Contribution.* The Housing Contribution shall be calculated by

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multiplying the Gross Floor Area devoted to the uses that qualify the development as an Incentive Project by the Housing Contribution Rate effective at the time the Superintendent of Buildings issues the first building permit for the Incentive Project. If a building permit is not required, the Housing Contribution Rate in effect shall be the effective rate at the time the Housing Contribution is provided.

*2. Housing Contribution Rate.* The Housing Contribution Rate effective on June 15, 2015 [TO BE REPLACED WITH DATE OF ADOPTION] shall be twelve dollars (\$12.00) per square foot of Gross Floor Area. The applicable rate shall be adjusted annually and in perpetuity by the Consumer Price Index or similar index to reflect changes in dollar values over time. In addition, on [CALENDAR DATE OF ADOPTION] each year from 2016 to 2018, inclusive, the Housing Contribution Rate shall increase by one dollar (\$1.00) per square foot. The table below sets forth the Housing Contribution Rate over time.

Effective Date	Housing Contribution Rate
[DATE OF ADOPTION TO BE ENTERED]	\$12.00 per square foot.

*3. Timing of Payment.* The developer or owner of an Incentive Project shall provide its Housing Contribution to the Managing Trustee of the Affordable Housing Trust or its designee, who shall certify to the Superintendent of Buildings that the requirements of this Section are met prior to issuance of a certificate of occupancy for the Incentive Project. If the Gross Floor Area of an Incentive Project is subsequently increased with uses that qualify as Incentive Project uses, then notwithstanding the size of the increase, a Housing Contribution calculated in the manner set forth in this Section shall be provided for every square foot of that increase.

*4. Reevaluation of Housing Contribution Rate.* The City shall initiate a reevaluation of the Housing Contribution Rate and any other aspect of these Incentive Zoning Provisions at an interval of no less than three (3) years from the time the rate was last amended by the City Council. A report shall be provided to the City Council on economic factors 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.”

4. In Section 11.204, Standards for Construction and Occupancy of Affordable Units:

- Amend the first paragraph to read as follows:  
“The following standards are intended to provide guidance to the Board of Trustees of the Trust in making any report it may make to a special permit granting authority in connection with a special permit application 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.”
- Delete the current subordinate Paragraph (a) and renumber the subsequent paragraphs beginning with (a).

**Proposed Amendments to Incentive Zoning (Contributions to Affordable Housing Trust)**  
*List version. Description of proposed changes. See previous section for markup version.*

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5. In Subsection 11.205.1, Uses of the Affordable Housing Trust:

- Amend subordinate Paragraph 1 to read as follows:  
“1. Creation of new rental or ownership Affordable Units for Eligible Households and Middle Income Households. 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 non-profit or for-profit developers or to subsidize the purchase of sites, existing structures, or affordable units within a larger development.”
- Create a new subordinate Paragraph 4 to read as follows:  
“4. Preservation of existing affordable housing. To provide acquisition and/or financing assistance to preserve affordability of existing housing at risk of losing its affordability.”