

#### ON-LINE ZONING ORDINANCE DISCLAIMER

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**ARTICLE 11.000 SPECIAL REGULATIONS**

Text current through Ordinance #1397 of August 7, 2017.

- 11.10 TOWNHOUSE DEVELOPMENT**
- 11.20 DELETED**
- 11.30 FAST ORDER FOOD ESTABLISHMENTS**
- 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 PLAN COMPLIANCE PROCEDURE**
- 11.90 DELETED**
- 11.100 DELETED See Article 20.000**
- 11.200 AFFORDABLE HOUSING REQUIREMENTS**
- 11.300 DELETED See Article 20.000**
- 11.400 DELETED See Article 20.000**
- 11.500 PLANNING OVERLAY REQUIREMENTS**
- 11.700 DELETED See Article 20.700**
- 11.800 MEDICAL MARIJUANA**

**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,
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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 of 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
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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).
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- 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.
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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
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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); Gleditsia triacanthos inermis (Thornless Honey Locusts); Liquidambar styraciflua (Sweet Gum); Liriodendron tulipifera (Tulip Tree); Platanus occidentalis (Syamore); Quercus coccinea (Scarlet Oak); Quercus palustris (Pin Oak); Quercus rubra (Red Oak); Tilia cordata 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
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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.
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**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

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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 AND INCLUSIONARY HOUSING**

**11.201** *Purposes.*

The purposes of Sections 11.200 to 11.206 are to promote the public health, safety, and welfare by accommodating the expansion of commercial and residential opportunities throughout the city; by providing 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 by mitigating the impacts of commercial and residential development on the availability and cost of housing and especially housing affordable to low and moderate income households; by increasing the production of affordable housing to meet anticipated housing and employment needs throughout the city; by providing a mechanism through 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 by establishing standards for the use of such contributions from the application of incentive zoning and inclusionary housing provisions.

**11.202** *Incentive Zoning.* The developer or owner of an Incentive Project shall make a Housing Contribution in accordance with this Section 11.202.

- (a) Calculation of Housing Contribution. The Housing Contribution shall be calculated by multiplying the Gross Floor Area devoted to the uses that qualify the new 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 shall be the rate effective at the time the Housing Contribution is provided.
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- (b) **Housing Contribution Rate.** The Housing Contribution Rate effective on September 28, 2015 shall be twelve dollars (\$12.00) per square foot of Gross Floor Area devoted to the uses that qualify the new development as an Incentive Project. The effective rate shall be subject to annual escalation equal to annual percentage increases in the Consumer Price Index (CPI) Housing Index for Boston-Brockton-Nashua, MA-NH-ME-CT or similar index to reflect changes in dollar values over time; however, annual decreases in CPI shall not cause the contribution rate to be decreased. In addition, on September 28 each year from 2016 to 2018 inclusive, the Housing Contribution Rate shall increase by one dollar (\$1.00). The table below sets forth the Housing Contribution Rate over time.

Effective Date	Housing Contribution Rate
September 28, 2015	\$12.00 per square foot.
September 28, 2016 (Annual Adjustment)	\$13.00 per square foot.
November 16, 2016 (CPI Adjustment)	\$13.50 per square foot.

- (c) **Timing of Payment.** The developer or owner of an Incentive Project shall provide the 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 accommodating 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.
- (d) **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. Such reevaluation shall include a report provided to the City Council reviewing economic factors including but not limited to development activity, commercial rents per square foot, employment growth, housing trends measured in terms of, but not limited to, vacancy rates, production statistics, and prices for dwelling units, and the nexus between Incentive Projects and housing.

### **11.203 Inclusionary Housing.**

#### **11.203.1 Applicability.**

- (a) Except as otherwise provided, this Section 11.203 shall apply in all zoning districts throughout the city.
- (b) The requirements of this Section 11.203 shall apply to any Inclusionary Housing Project issued a special permit or, if no special permit has been issued, a building permit on or after December 1, 2016, (the date of the first advertisement of the most recent amendment to this Section 11.203)

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

**11.203.2 Inclusionary Housing Requirement.**

- (a) For Inclusionary Housing Projects issued a special permit or, if no special permit has been issued, a building permit on or after December 1, 2016 (the date of the first advertisement of the most recent amendment to this Section 11.203) but on or before June 30, 2017, fifteen percent (15%) of the total Dwelling Unit Net Floor Area within the project shall be devoted to Affordable Dwelling Units.
- (b) For Inclusionary Housing Projects issued a special permit or, if no special permit has been issued, a building permit after June 30, 2017, twenty percent (20%) of the total Dwelling Unit Net Floor Area within the project shall be devoted to Affordable Dwelling Units.
- (c) The City shall initiate a reevaluation of the Inclusionary Housing Requirement at an interval of no more than five (5) years from the time the Inclusionary Housing Requirement was last amended. Such reevaluation shall include a report provided to the City Council reviewing factors such as changes in demographic characteristics and residential development activity, housing trends measured in terms of, but not limited to, vacancy rates, production statistics, prices for dwelling units, and affordability, and the relationship between Inclusionary Housing Projects and all housing in Cambridge. The Community Development Department shall also conduct an annual review and report on the Inclusionary Housing Program.

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

- (a) Affordable Dwelling Units shall be provided on-site.
- (b) Affordable Dwelling Units shall be similar in size, layout, construction materials, fixtures, amenities, and interior and exterior finishes to comparable non-Affordable Dwelling Units in the project.
- (c) Affordable Dwelling Units shall have similar access to common areas, facilities, and services as that enjoyed by comparable non-Affordable Dwelling Units in the project including but not limited to outdoor spaces, amenity spaces, storage, parking, bicycle parking facilities, and resident services.
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- (d) Affordable Dwelling Units shall be dispersed throughout the project rather than concentrated on particular floors, within sections of a building, or within particular buildings in a project with multiple buildings.
  - (e) Except as specified below for Family-Sized Dwelling Units, the proportionate amounts of Affordable Dwelling Units defined by size and number of bedrooms within the total amount of Affordable Dwelling Units shall be similar to the proportionate amounts of non-Affordable Dwelling Units defined by size and number of bedrooms within the total amount of non-Affordable Dwelling Units in the project.
  - (f) The ratio of Family-Sized Affordable Dwelling Units to all Affordable Dwelling Units shall be greater than or equal to the ratio of non-Affordable Family-Sized Dwelling Units to all non-Affordable Dwelling Units in the project, notwithstanding that in some cases this may result in a smaller proportion of Affordable Dwelling Units that are not Family-Sized Dwelling Units in the project and a smaller proportion of total Affordable Dwelling Units in the project in order to meet the required percentage of Dwelling Unit Net Floor Area devoted to Affordable Dwelling Units in the project.
  - (g) Townhouse or multifamily residential projects of at least thirty thousand (30,000) square feet of Dwelling Unit Net Floor Area shall provide Family-Sized Affordable Dwelling Units at a ratio of at least one dwelling unit per every six thousand (6,000) square feet of required Affordable Dwelling Unit Net Floor Area in the project, rounded to the nearest whole unit with fractions of 0.5 unit or more rounded up and fractions of less than 0.5 unit rounded down, or the ratio derived from paragraph (f) above, whichever is greater.
  - (h) The ratio of rental to owner-occupied Affordable Dwelling Units shall mirror the ratio of rental to owner-occupied non-Affordable Dwelling Units in the project except that no Affordable Dwelling Units shall be rental Affordable Dwelling Units where a majority of all dwelling units in the project are initially offered for sale.
  - (i) In cases where the owner and the Community Development Department agree that the above standards, as applied, result in a total Dwelling Unit Net Floor Area of all Affordable Dwelling Units that is less than the Affordable Dwelling Unit Net Floor Area required to be provided pursuant to the Inclusionary Housing Requirement, the remainder of the Inclusionary Housing Requirement shall be met through a monetary contribution to the Affordable Housing Trust equal to the amount of subsidy necessary to create an equivalent amount of Affordable Dwelling Unit Net Floor Area in a project assisted by the Affordable Housing Trust. The Affordable Housing Trust shall periodically provide to the Community Development Department a report on projects it has assisted from which the Community Development Department shall calculate the amount of subsidy necessary to create a square foot of Dwelling Unit Net Floor Area in an affordable housing project assisted by the Affordable Housing Trust. Such calculation may be adjusted by the Community Development Department from time to time. Prior to issuance of a building permit for the project, the Community Development Department shall multiply the calculated per-square-foot amount by the outstanding Affordable Dwelling Unit Net Floor Area necessary to satisfy the Inclusionary Housing Requirement to determine the necessary monetary contribution,
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which shall be made prior to the issuance of any certificate of occupancy for the project.

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

- (a) Affordable Dwelling Units shall be rented or sold only to Eligible Households, with preference given to Cambridge residents, in accordance with standards and procedures related to selection, transfers, asset limits, and marketing established by the Community Development Department.
  - (b) Affordable Dwelling Units shall be created and conveyed subject to recorded covenants guaranteeing the permanent availability of the Affordable Dwelling Units for Eligible Households.
  - (c) For rental Affordable Dwelling Units:
    - (i) The gross household income of an Eligible Household upon initial occupancy shall be at least fifty percent (50%) and no more than eighty percent (80%) of AMI. A gross household income less than fifty percent (50%) of AMI may be permitted in the case of an Eligible Household having a rental subsidy allowing it to pay a rent equivalent to that paid by an Eligible Household with a gross household income within the range set forth above.
    - (ii) Rent, including utilities and any other fees routinely charged to tenants and approved by the Community Development Department, shall not exceed thirty percent (30%) of the gross household income of the Eligible Household occupying the Affordable Dwelling Unit, except that in the case of Affordable Studio Dwelling Units, rent shall not exceed twenty-five percent (25%) of the gross household income of the Eligible Household occupying the Affordable Dwelling Unit.
    - (iii) After initial occupancy, the gross household income of an Eligible Household shall be verified annually to determine continued eligibility and rent, in accordance with policies, standards, and procedures established by the Community Development Department.
    - (iv) An Eligible Household may continue to rent an Affordable Dwelling Unit after initial occupancy even if the Eligible Household's gross household income exceeds eighty percent (80%) of AMI, but if the Eligible Household's gross household income exceeds one hundred percent (100%) of AMI, or a percentage promulgated in a regulation by the Community Development Department from time to time, for more than one year after that Eligible Household's gross household income has been verified to exceed such percentage, the dwelling unit shall no longer qualify as an Affordable Dwelling Unit and either the dwelling unit must be rented to a new Eligible Household or a comparable non-Affordable Dwelling Unit in the project must become an Affordable Dwelling Unit.
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- (v) An Eligible Household may continue to rent an Affordable Dwelling Unit after initial occupancy even if the Eligible Household's gross household income falls below fifty percent (50%) of AMI, but the Eligible Household shall pay a rent that is no less than thirty percent (30%) of forty percent (40%) of AMI or, in the case of an Affordable Studio Dwelling Unit, the Eligible Household shall pay a rent that is no less than twenty-five percent (25%) of forty percent (40%) of AMI.
  - (vi) Where an optional parking fee exists, it shall not exceed the lesser of the following amounts for Affordable Dwelling Units:
    - (vii) an amount calculated by applying to the rent of the Affordable Dwelling Unit the ratio of optional parking fee to rent for comparable non-Affordable Dwelling Units with the lowest non-affordable rent in the project, or
    - (viii) an amount which, when added to the rent for an Affordable Dwelling Unit, shall not exceed thirty-three percent (33%) of the renting Eligible Household's gross household income or, in the case of an Affordable Studio Dwelling Unit, twenty-eight percent (28%) of the renting Eligible Household's gross household income.
  - (ix) Notwithstanding the requirements set forth in (i) through (vi) above, an owner may voluntarily choose to charge a lower rent than as provided herein for Affordable Dwelling Units or to rent Affordable Dwelling Units to Eligible Households with lower gross household incomes than as provided herein.
- (d) For owner-occupied Affordable Dwelling Units:
- (i) The gross household income of an Eligible Household upon initial occupancy shall be no more than one hundred percent (100%) of AMI.
  - (ii) The initial sale price of an Affordable Dwelling Unit shall be determined to ensure that the monthly housing payment (which shall include debt service at prevailing mortgage loan interest rates, utilities, condominium or related fees, insurance, real estate taxes, and parking fees, if any) shall not exceed thirty percent (30%) of ninety percent (90%) of monthly AMI, except that in the case of an Affordable Studio Dwelling Unit, the monthly housing payment shall not exceed twenty-five percent (25%) of ninety percent (90%) of monthly AMI.

#### **11.203.5 Relaxation of Dimensional Requirements for Inclusionary Housing Projects.**

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

- (a) The Gross Floor Area permitted by the applicable zoning may be increased by thirty percent (30%), as long as such additional Gross Floor Area is used for residential uses not including hotel or motel use.
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- (b) The number of dwelling units permitted by the applicable zoning through rules for minimum lot area per dwelling unit or other applicable rules may be increased by thirty percent (30%).
  - (c) The additional Gross Floor Area or dwelling units permitted herein shall be counted toward the determination of any applicable threshold triggering the requirement of a special permit, including but not limited to Section 19.20 Project Review Special Permit, Section 4.26 Multifamily Special Permit, and Section 11.10 Townhouse Development Special Permit.

**11.204** Implementation of Incentive Zoning and Inclusionary Housing.

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

**11.205** Enforcement of Incentive Zoning and Inclusionary Housing.

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

**11.206** Affordable Housing Trust.

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

**11.206.1** Board of Trustees.

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

**11.206.2** Receipt and Use of Funds and Property.

- (a) The Affordable Housing Trust may receive funds and property generated by the provisions of Sections 11.200 to 11.206 as well as funds and property generated from other sources.
- (b) The funds and property of the Affordable Housing Trust may be used for, but shall not be limited to, the following:
  - (i) Creation of rental or owner-occupied Affordable Dwelling Units through such mechanisms as favorable financing terms, capital grants to write down project costs, subsidies for land acquisition, subsidies for acquisition of existing structures, and subsidies for acquisition of Affordable Dwelling Units within a larger development;
  - (ii) Substantial rehabilitation of distressed multifamily residential properties in a manner that preserves the affordability of units through favorable financing terms or capital grants to write down project costs, interest rate subsidies, and loan guarantees with priority funding consideration given to multifamily housing owned by non-profit housing entities that ensure maximum long-term affordability;
  - (iii) Acquisition and rehabilitation of potential limited equity housing cooperatives or condominium conversions using low interest loans, share loans, or capital grants to write down project costs;
  - (iv) Preservation of existing affordable housing by providing acquisition and/or financing assistance for Affordable Dwelling Units that are part of a larger development; and
  - (v) Reasonable administrative expenses necessary to support Affordable Housing Trust activities, including but not limited to payment for consulting services such as legal, appraising, or engineering services, and other project related expenses.

**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.

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**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*

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- 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 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.

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**11.700 deleted (see Article 20.700)**

**11.800 MEDICAL MARIJUANA**

**11.801** Statement of Purpose. The purpose of this section is to provide for the limited establishment of Registered Marijuana Dispensaries as they are authorized pursuant to state regulation set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana. That is the intent of this ordinance, subject to state regulation, that any approved medicinal marijuana facility shall not physically incorporate a future recreational marijuana facility within the same location to the extent permitted by law.

**11.802** Requirements

**11.802.1** Use. Notwithstanding the use limitation of the base zoning district or any overlay zoning district, a Registered Marijuana Dispensary shall be allowed upon the granting of a special permit by the Planning Board, subject to the requirements set forth in this Section.

**11.802.2** Registration. All permitted Registered Marijuana Dispensaries shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 and shall comply with all applicable state and local public health regulations and all other applicable laws, rules and regulations at all times. No Building Permit or Certificate of Occupancy shall be issued for a Registered Marijuana Dispensary that is not properly registered with the Massachusetts Department of Public Health.

**11.802.3** Limitation of Approval. A special permit authorizing the establishment of a Registered Marijuana Dispensary shall be valid only for the registered entity to which the special permit was issued, and only for the site on which the Registered Marijuana Dispensary has been authorized by special permit. If the registration for a Registered Marijuana Dispensary has not been renewed or has been revoked, transferred to another, controlling entity, or relocated to a different site, a new special permit shall be required prior to issuance of a Certificate of Occupancy.

This ordinance will be reconsidered by the Ordinance Committee if upcoming recreational marijuana regulations created by the Commonwealth of Massachusetts impacts the location and desirability of medical marijuana facilities, in particular the possibility of having a joint location for both now allowed medical services and future recreational services.

**11.802.4** Building. A Registered Marijuana Dispensary shall be located only in a permanent building and not with any mobile facility. All sales shall be conducted either within the

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building or by home deliveries to qualified clients pursuant to applicable state and local regulations.

**11.802.5** Dimensional Requirements. Except where it is explicitly stated otherwise in this Section 11.800, a Registered Marijuana Dispensary shall conform to the dimensional requirements applicable to non-residential uses within the base and overlay districts.

**11.802.6** Parking and Loading. Notwithstanding anything to the contrary in Article 6.000 of this Ordinance, the required number of parking and bicycle parking (both long term and short term) spaces and the required number of loading bays for a Registered Marijuana Dispensary shall be determined by the Planning Board based on the transportation analysis and other information related to operational and security plans provided by the applicant. Except as set forth above, all parking, bicycle parking and loading facilities shall conform to the requirements set forth in Article 6.000.

**11.802.7** Signage. All signage shall conform to the requirements of Article 7.000 of this Ordinance. The Planning Board may impose additional restrictions on signage as appropriate to mitigate any aesthetic impacts.

**11.802.8** Location. Registered Marijuana Dispensaries shall be allowed only by Planning Board Special Permit within the Business A, Business B, Business B-1, Business B-2, Business C, Industry A-1, Industry B-1, and Industry B-2 districts. No Registered Marijuana Dispensaries shall be allowed within one thousand and eight hundred (1,800) feet of another Registered Marijuana Dispensary.

**11.803** Application Requirements. An application to the Planning Board shall include, at a minimum, the following information:

- (a) Description of Activities: a narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused product (MIPs), on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities..
  - (b) Service Area: A map and narrative describing the area proposed to be served by the Registered Marijuana Dispensary and the anticipated number of clients that will be served within that area. This description shall indicate where any other Registered Marijuana Dispensaries exist or have been proposed with the expected service area.
  - (c) Transportation Analysis: A quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site.
  - (d) Context Map: A map depicting all properties and land uses within a one thousand (1,000) foot radius (minimum) of the project site, whether uses are located in Cambridge or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs.
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- (e) Site Plan: A plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of automobile and bicycle parking, the location of pedestrian, bicycle and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design.
  - (f) Building Elevations and Signage: Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required.
  - (g) Registration Materials: Copies of registration materials issued by the Massachusetts Department of Public Health and any materials submitted to the Massachusetts Department of Public Health for the purpose of seeking registration, to confirm that all information provided to the Planning Board is consistent with the information provided to the Massachusetts Department of Public Health.

**11.804 Special Permit Criteria.** In granting a special permit for a Registered Marijuana Dispensary, in addition to the general criteria for issuance of a special permit as set forth in Section 10.43 of this Ordinance, the Planning Board shall find that the following criteria are met:

- (a) The Registered Marijuana Dispensary is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other Registered Marijuana Dispensaries, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
  - (b) The site is located at least five hundred (500) feet distant from a school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate or if not located at such a distance, it is determined by the Planning Board to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the Registered Marijuana Dispensary.
  - (c) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.
  - (d) Traffic generated by client trips, employees trips, and deliveries to and from the Registered Marijuana Dispensary shall not create a substantial adverse impact on nearby residential uses.
  - (e) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
  - (f) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.
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