

13 DEVELOPMENT BENEFITS

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2ND DISCUSSION DRAFT

13.1 AFFORDABLE HOUSING

1. Purpose

- a. To implement the housing policy objectives of the comprehensive master plan of the City of Somerville.
- b. To increase the supply of housing available to low- and moderate-income households to meet existing and anticipated future demand.
- c. To ensure long-term security of affordable dwelling units.
- d. To prevent the displacement of tenants of existing affordable dwelling units within the city.
- e. To recapture a public benefit from the increased value of land resulting from the adoption and any subsequent amendment of this Ordinance.

2. Applicability

- a. Unless otherwise specified elsewhere in this Ordinance, this section is applicable to all development choosing to provide six (6) or more dwelling units or rooming units in all zoning districts, whether new construction, substantial rehabilitation, residential conversion, or adaptive reuse.
- b. Development shall not be segmented or phased in any manner to avoid compliance with the provisions of this section.

3. Affordable Units

- a. Development subject to the provisions of this section must provide affordable dwelling units (ADUs) in accordance with Table 13.1 Required ADUs.
- b. When the calculation for required ADUs results in a fractional value, the fractional value is rounded up to the next whole number and regarded as a whole unit. As an alternative, a fractional buyout may be paid to the City or its designee (including, but not limited to, the Somerville Housing Trust Fund and/or Somerville Housing Authority; hereafter referred to as "the City") according to the provisions of §13.A.11. Buyouts & Payments.
- c. Development may provide more ADUs or provide ADUs for lower income tiers than the minimums required by Table 13.1 and Table 13.2.
- d. ADUs must be proportional in quality to on-site market-rate units with respect to unit type, unit size, number of bedrooms, size of rooms, and type of features, which may be functionally equivalent, consistent with contemporary standards for new housing.
- e. Residential development with more than thirty (30) dwelling units must include at least twenty percent (20%) of provided ADUs with a minimum of three (3) bedrooms.

4. Protection Of Existing ADUs

- a. Development that results in elimination or discontinuance of an existing ADU is required to replace the unit(s) on a one-for-one basis or provide the number of ADUs required by Table 13.1 Required ADUs, whichever is more.

5. Unit Price

- a. The price point of an ADU is set so that households with up to a certain income can afford to pay without becoming cost burdened.
- b. Actual price is calculated using the Median Family Income (MFI) for the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S Department of Housing and Urban Development (HUD).
- c. Target incomes are divided into three different tiers, based upon a percentage of MFI, as indicated on Table 13.2 Income Tiers.
- d. The income percentage of each tier is then adjusted using Table 13.3 Bedroom Count Adjustments to provide a higher income limit for larger dwelling units and a lower income limit for smaller dwelling units.
- e. The maximum monthly price for a rental ADU is calculated as follows:
 - i. The number of bedrooms provided in an ADU is substituted for the number of persons in a household, or one (1) for a studio, to determine adjusted MFI using HUD's Family Size Adjustments.
 - ii. The MFI for the appropriate price limit tier is multiplied by thirty percent (30%) to determine the maximum amount of gross income that can be spent on housing expenses by a household without becoming cost burdened.
 - iii. The estimated cost of heat and hot water, electricity, water, sewer (if any of these utilities are billed separately), and access to amenities offered at additional cost to a tenant including, but not limited to, parking and access to an onsite gymnasium is then subtracted from the result of §13.1.5.e.i (above) to arrive at the maximum monthly rent that can be charged for the dwelling unit.
- f. Maximum sale price of a homeownership ADU is calculated as follows:
 - i. The number of bedrooms in an ADU is substituted for the number of persons in a household, or one (1) for a studio to determine adjusted MFI using HUD's Family Size Adjustments.
 - ii. The adjusted MFI for the appropriate price limit tier is multiplied by twenty-eight percent (28%) to determine the maximum amount of gross income that can be spent on housing expenses by a household without becoming cost burdened.

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TABLE 13.1 Required ADUs

Dwelling Units	Required ADUs
0 to 5 units	No required ADUs
6 units	1 on-site unit OR fractional payment for 0.4 units
7 units	1 on-site unit OR fractional payment for 0.6 units
8 to 17 units	17.5% of units
18 or more units	20% of units

TABLE 13.2 Income Tiers

	Rental	For Sale
Tier 1	40% of MFI max.	70% of MFI max.
Tier 2	70% of MFI max.	100% of MFI max.
Tier 3	100% of MFI max.	130% of MFI max.

TABLE 13.3 Bedroom Count Adjustments

1	2	3	4	5	6	7	8
70%	80%	90%	N/A	108%	116%	124%	132%

- iii. The estimated cost of Private Mortgage Insurance (PMI), Real Estate Taxes (RET), Condominium Fees (CF), Homeowners Insurance (HI) if not included in the CF, and required parking fees (PF), if any, if not included in the CF, is subtracted from the result of §13.1.5.f.i (above) to arrive at the maximum monthly mortgage payment that can be charged for the dwelling unit.
- iv. A maximum mortgage loan amount is calculated based on the result of §13.1.5.f.iii (above), assuming a 30 year term and a current conventional interest rate.
- v. The maximum mortgage loan amount is multiplied by 1.03 to determine the maximum price that can be charged for the ADU.
- g. The price of an ADU must remain affordable to the originally designated income group in perpetuity, or for as long as legally permissible. Sale prices, resale prices, initial rents, and rent increases for the ADUs must be restricted by legally permissible instruments such as, but not limited to, deed covenants or restrictions, contractual agreements, or land trust arrangements.
- h. The Review Boards may establish alternative standards for determining the price of an ADU based on the recommendations of the Director of Housing.
 - i. Alternative standards may be approved only after a public hearing is held in accordance with §X.

TABLE 13.4 ADU Price Point

Number of ADUs	Tier 1	Tier 2	Tier 3
Up to the first five (5) ADUs			
1	+1	-	-
2		+1	-
3	+1		-
4		+1	-
5			+1
After the first five (5) ADUs			
1st	+1		
2nd		+1	
3rd	+1		
4th			+1
5th		+1	
6th	+1		
7th		+1	
8th			+1

- ii. If an alternative standard is established, it must be published on the city website and utilized consistently amongst all development subject to the provisions of this section.

6. Unit Delivery

- a. ADUs must be provided at different price tiers according to Table 13.4, ADU Price Point.
- b. Unless otherwise specified elsewhere in this Ordinance, ADUs must be provided on-site, intermixed with the market rate units of a residential building or residential portion of a building.
- c. ADUs may be provided as either for sale or for rent, consistent with the type of market-rate units of a residential building or residential portion of a building.

7. Implementation Plan

- a. Prior to the issuance of any zoning compliance certificate for development subject to the provisions of this section, an affordable housing implementation plan must be approved by the Housing Division of the Mayor’s Office of Strategic Planning and Community Development.
- b. An affordable housing implementation plan must include all applicable information required by the Housing Division and established in the Regulations and Standards per §13.1.12.A.
- c. The review board and the Housing Division may request additional information in its review of

an implementation plan, and may reject any implementation plan not deemed complete or adequate to meet the standards of this section and the Regulations and Standards per §13.1.12.A.

8. Household Selection

- a. The selection of households for rental and homeownership ADU's is subject to a lottery-based selection system administered by the Housing Division of the Mayor's Office of Strategic Planning and Community Development.
- b. The Housing Division shall establish preference criteria for the lottery-based selection system, to the extent permitted by state and federal law, that includes, at minimum, preference for the following households:
 - i. Current or recently displaced residents of the City of Somerville;
 - ii. Current tenants of a rental property in Somerville undergoing substantial rehabilitation; and
 - iii. Former tenants of rental properties in Somerville that were converted to for-sale condos.
- c. Households selected must meet the income eligibility requirements of this section, and any other certification requirements established by the Housing Division, at the time of any purchase or execution of any lease agreement.
- d. The eligibility of households is calculated using the Median Family Income (MFI) for the Boston-Cambridge- Quincy, MA-NH HUD Metro FMR Area published annually by the U.S Department of Housing and Urban Development (HUD).
- e. MFI eligibility for each tier is indicated on Table 13.5. Income Eligibility Tiers.
- f. The income percentage of each tier is then adjusted using Table 13.6 Household Size Adjustments, resulting in higher income eligibility for larger households and lower income eligibility for smaller households.

TABLE 13.5 Income Eligibility Tiers

	Rental	For Sale
Tier 1	Up to 50%	Up to 80%
Tier 2	51%-80%	81%-110%
Tier 3	81%-110%	111%-140%

TABLE 13.6 Household Size Adjustments

1	2	3	4	5	6	7	8
70%	80%	90%	N/A	108%	116%	124%	132%

9. Right Of First Refusal

- a. The City reserves the right of first refusal and option to purchase at the time of the original sale and any

subsequent resale of individual ADUs and any sale of a formerly for rental ADU.

- b. A review board may, as a condition of development approval, require for-sale ADUs to be sold to the City at a price per unit set per §13.1.5.f, and may subsequently sell or lease these units at an equivalent or lower income level than required by this section.

10. Alternative Compliance

- a. Location
 - i. Applicants may request to provide one or more required ADUs at an alternative location within the City of Somerville by Special Permit. This Special Permit is only authorized in extremely rare circumstances.
 - ii. In its discretion to approve or deny a special permit authorizing one or more ADUs to be provided off-site, the review board shall consider the following:
 - a). Any proposed alternative method of compliance is advantageous to the City in creating or preserving affordable housing and does not result in undue geographic concentration of affordable units;
 - b). Location and accessibility to schools and other services;
 - c). Whether off-site units would provide more appropriate family housing than on-site units would;
 - d). Proximity to public transportation and availability of parking;
 - e). Availability of usable open space;
 - iii. The review board shall require the following as conditions of an approved Special Permit:
 - a). Off-site units must be compatible to or better than the market rate units built on site in all respects, including quality and character, construction value, and site amenities (yards, parking, laundry facilities, etc.).
 - b). A substantial proportion of off-site units must be designed to house three- (3) person or larger households, even if the market rate units are designed primarily to house one- and two-person households.
- b. In-Lieu Payment
 - i. Applicants may request to make a payment to the City in lieu of providing one or more required ADUs by Special Permit. This Special Permit is only authorized in extremely rare circumstances.
 - ii. In its discretion to approve or deny a special permit authorizing a cash payment in lieu of on-site ADUs, the review board shall consider the following:
 - a). The current funding level of the Somerville Housing Trust Fund;
 - b). That any proposed alternative method of

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compliance is advantageous to the City in creating or preserving affordable housing.

11. Buyouts & Payments

- a. The dollar value of any fractional buyout or in lieu payment for an ownership ADU is calculated as $(A \times B \times C)$ where:
 - i. A is the amount of ADUs not provided;
 - ii. B is the difference between the average sales price of comparable market-rate units sold within the City of Somerville over the previous twelve (12) months; and,
 - iii. C is the sale price of an ADU in the tier that would have been provided, as calculated according to §15.1.5 Unit Price.
- b. The dollar value of any fractional buyout or in lieu payment for a rental ADU is calculated as $(A \times B \times C)$ where:
 - i. A is the amount of ADUs not provided;
 - ii. B is the net operating income / capitalization rate which is the market value of the property then divided by the total number of bedrooms in the project then multiplied by the average bedroom size; and,
 - iii. C is the difference between the affordable rent that would be charged for an ADU at the appropriate tier based upon §13.1.5 Unit Price and the rent charged for a market rate dwelling unit with a bedroom count that is prevalent for the units provided in a building or residential portion of a building.
- c. The Review Boards may establish alternative standards for calculating buyouts and payments based on the recommendations of the Director of Housing.
 - i. Buyouts and payments must be paid to the Somerville Housing Trust Fund unless the review board approves an alternative recipient based on the recommendations of the Director of Housing.

12. Compliance & Enforcement

- a. General
 - i. The Housing Division of the Mayor's Office of Strategic Planning and Community Development shall establish Regulations and Standards to determine compliance with this Section, subject to approval by the Planning Board.
- b. Certificates of Occupancy
 - i. All covenants, contractual agreements, and other documents necessary to ensure compliance with this section must be approved and executed prior to and as a condition of the issuance of any certificate of occupancy for an ADU.
 - ii. No certificates of occupancy shall be issued for any market rate units in a development subject to the

provisions of this section until:

- a). A proportional number of the required ADUs have obtained certificates of occupancy, or a bond or equivalent security arrangement has been provided, as required by the Housing Division; or
 - b). Payment for any equivalent buyout required by this section has been made to the Somerville Housing Trust Fund or a definitive schedule for payment(s) must be approved by the Building Official or Review Board.
- c. Annual Reporting
 - i. The Housing Division may require property owners renting directly to tenants of an ADU to submit an annual report detailing compliance with this section and the rental income derived from ADUs.
 - d. Fines & Penalties
 - i. Failure to comply with the provisions of this section shall be punished with a fine according to the provisions of §1.1.7. Fines & Penalties.
 - a). Fines must be paid to the Somerville Housing Trust Fund.

13. Performance Review

- a. Suitability and performance of the provisions of this section shall be analyzed for potential revision and/or improvement prior to June 30, 2018 and then not less than every five (5) years thereafter, and shall require completion of a Housing Needs Assessment and financial feasibility analysis by the Housing Division.
- b. The provisions of a Needs Assessment and Financial Feasibility Analysis shall be set forth in the Regulations and Standards per §13.1.12.a.
- c. Recommended changes to the provisions of this section shall be submitted to the Board of Aldermen for consideration.

13.2 LINKAGE

1. Affordable Housing

- a. Purpose
 - i. To mitigate the increased demand for affordable housing generated by employees of new commercial development wanting to live within Somerville.
 - ii. To recapture a public benefit from the increased value of land resulting from the adoption of this Ordinance.
- b. Applicability
 - i. This section is applicable to all commercial development requiring site development plan approval or a special permit, except the following:
 - a). Real property owned by the City of Somerville
 - b). Religious & Educational Uses Protected by M.G.L. 40A, Sec. 3
 - c). Work/Live Creative Studios
 - d). Accessory Vehicular Parking
- c. Fees
 - i. General
 - a). All applicable development must pay an affordable housing linkage fee (hereafter referred to as "linkage fee") of five dollars and fifteen cents (\$5.15) per square foot, except as follows:
 - i). Development with less than thirty thousand (30,000) square feet is exempt.
 - ii). The first thirty thousand (30,000) square feet of development with more than thirty thousand (30,000) square feet is exempt.
 - b). Modifications to an existing structure that increases the total gross floor area to more than thirty thousand (30,000) square feet must pay the linkage fee for the additional square footage.
 - ii. Payment
 - a). Linkage fees must be paid to the Somerville Housing Trust Fund, in five (5) equal annual installments.
 - b). No certificate(s) of occupancy shall be issued for real property that has not paid the first installment of the linkage fee.
 - c). Linkage fee payments shall be paid annually on the anniversary of the first payment, or the next business day if that date falls on a weekend or federal, state, or local holiday.
- d. Compliance
 - i. All covenants, contractual agreements, and other documents necessary to ensure compliance with this section shall be executed prior to and as a condition of the issuance of a certificate of occupancy.

- e. Enforcement
 - i. In accordance with §1.1.7. Fines & Penalties, each day shall be considered a separate offense for development not in compliance with the provisions of this Section.
 - ii. Fines must be paid to the Somerville Housing Trust Fund.
- f. Formula Recalculation
 - i. The Planning Board shall prepare a Nexus Study every five (5) years to determine the suitability and performance of the provisions of this section and recommend any possible revisions or improvements necessary to address changing demand for affordable housing to the Board of Aldermen.

2. Employment

- a. Purpose
 - i. To mitigate the impact of large-scale developments by ensuring that Somerville residents have job opportunities that will permit them to succeed and maintain adequate incomes to continue to afford living in Somerville.
 - ii. To expand resident access to employment opportunities provided by new commercial development.
 - iii. To recapture a public benefit from the increased value of land resulting from the adoption of this Ordinance.
- b. Applicability
 - i. This section is applicable to all commercial development requiring site development plan approval or a special permit, except the following:
 - a). Real property owned by the City of Somerville
 - b). Religious & Educational Uses Protected by M.G.L. 40A, Sec. 3
 - c). Work/Live Creative Studios
 - d). Accessory Vehicular Parking
- c. Fees
 - i. General
 - a). All applicable development must pay a job creation and retention linkage fee (hereafter referred to as "linkage fee") of XXX dollar and XXX cents (\$XXX.XX) per square foot, except as follows:
 - i). Development with less than thirty thousand (XX,000) square feet is exempt.
 - ii). The first thirty thousand (XX,000) square feet of development with more than thirty thousand (XX,000) square feet is exempt.
 - b). Modifications to an existing structure that increases the total gross floor area to more than thirty thousand (XX,000) square feet must pay the linkage fee for the additional square

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Linkage

- footage.
- ii. Payment
 - a). Linkage fees must be paid to the Somerville Municipal Job Creation and Retention Trust Fund, in XXX (X) equal annual installments.
 - b). No certificate(s) of occupancy shall be issued for real property that has not paid the first installment of the linkage fee.
 - c). Linkage fee payments shall be paid annually on the anniversary of the first payment, or the next business day if that date falls on a weekend or federal, state, or local holiday.
- d. Compliance
 - i. All covenants, contractual agreements, and other documents necessary to ensure compliance with this section shall be executed prior to and as a condition of the issuance of a certificate of occupancy.
- e. Enforcement
 - i. In accordance with §1.1.7. Fines & Penalties, each day shall be considered a separate offense for development not in compliance with the provisions of this Section.
 - ii. Fines must be paid to the Somerville Municipal Job Creation and Retention Trust Fund.
- f. Formula Recalculation
 - i. The Planning Board shall prepare a Nexus Study every five (5) years to determine the suitability and performance of the provisions of this section and recommend any possible revisions or improvements necessary to address changing need for job training to the Board of Aldermen.

3. Green Line

- a. Reserved