

CITY OF NEWTON

IN BOARD OF ALDERMEN

ORDINANCE NO. A-37

March 17, 2014

BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2012, as amended, be and are hereby further amended relative to Sec. 30-24(f) *Inclusionary Zoning* of Chapter 30 as follows:

1. In 30-24(f)(1) Definitions.

Delete in its entirety subsection a) "Eligible Household" and substitute in place thereof the following:

"a) "Household Income Limit" at any given percentage of the area median income (AMI) shall be defined as being the income limit adjusted by household size at that percentage as published by the U.S. Department of Housing and Urban Development (HUD) for the designated statistical area that includes the city of Newton or, for percentage levels not published by HUD, as calculated by the city based on the HUD AMI calculation."

And

Delete in its entirety subsection b) "Inclusionary Unit(s)" and substitute in place thereof the following:

"b) "Inclusionary Unit(s)" shall mean any finished dwelling unit that meets the provisions of Section 30-24(f)(3) Inclusionary Units."

2. Delete subsection 30-24(f)(9) Public Funding Limitation. in its entirety and substitute in place thereof the following:

(9) Public Funding Limitation. An applicant shall not use public development funds to construct Inclusionary Units required under this section. Public development funds shall mean funds for housing construction or rehabilitation if provided through a program eligible to serve as a 'subsidy' under 760 CMR 56.00 Comprehensive Permit: Low or Moderate Income Housing. However, the applicant may use public development funds to construct those Inclusionary Units that are found by the director of planning and development to be consistent with any of the following:

- a) Those that represent a greater number of affordable units than are otherwise required by this subsection;
 - b) Those that are lower than the maximum eligible income limit for some or all inclusionary units by at least ten percentage points below that stipulated in §30-24(f)(1);
 - c) Those that exceed regulatory requirements in providing for persons having disabilities.
3. Delete in its entirety subsection 30-24(f)(3) Inclusionary Units, in its entirety and substitute in place thereof the following:

“(3) Inclusionary Units.

- a) *Number required.* Where a special permit is required for development as described in section 30-24(f)(2), inclusionary units shall be provided equaling no fewer than 15% of the number of dwelling units proposed to be added by the development, exclusive of existing dwelling units to be retained. For purposes of calculating the number of inclusionary units required in a proposed development, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit. Inclusionary units shall comprise at least 15% of the units to have been offered for sale or rental at each point in the marketing of the development.
- b) *Rent and sale price limits.* Rent and sale price limits for inclusionary units shall be set based on the assumption that household size equals the number of bedrooms plus one, regardless of the actual number of persons occupying the unit, as may be further specified in guidelines provided by the city in its then-current Affordable Rent or Sales guidelines or, if not specified there, as specified by DHCD in its Local Initiative Guidelines for ‘Maximum Sales and Rents,’ as most recently revised at the time of marketing.
 - i) *Sales unit price limit.* Inclusionary units for sale shall be priced to be affordable to a household having an income ten (10) percentage points lower than the Household Income Limit for that unit as provided in subparagraphs (ii) and (iii) below and the assumed household size based on paragraph b) above. The price is ‘affordable’ if the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner’s association fees, hazard insurance, and one parking space do not exceed 30 percent of the monthly income of a household at the assumed household size. Buyers will be eligible so long as their total housing cost including the services identified above does not exceed 38% of their income.
 - ii) *Purchaser income eligibility limit: fewer than three for-sale units.* Where fewer than three Inclusionary Units are provided in a development under

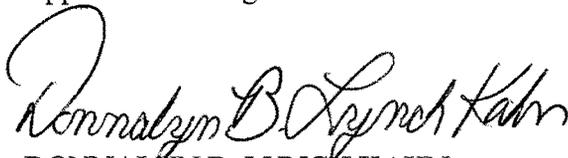
section 30-24(f)(3), the Household Income Limit for those units shall be 80% of the AMI and the Inclusionary Units shall be priced for affordability to households having incomes of not more than 70 per cent of the AMI at the time of marketing of the Inclusionary Units in question.

- iii) *Purchaser income eligibility limit: three or more for-sale units.* Where three or more inclusionary units are provided in a development under section 30-24(f)(3), for at least two-thirds of the inclusionary units offered for sale (rounded to the nearest whole number) the Household Income Limit shall be not more than 80% of the AMI and the sales price shall be affordable at not more than 70% of the AMI at the time of marketing. The sales price for the remaining inclusionary units may be set based on any level(s) up to a Household Income Limit of 120% and a sales price affordable at 110% of the AMI at the time of marketing.
 - iv) *Rental unit price limit.* Inclusionary rental units are to be priced to be affordable to a household having an income at the Household Income Limit for that unit as provided in subparagraphs (v) and (vi) below. For Inclusionary Units, the monthly rent payment, including one parking space and including heat, hot water, and electricity shall not exceed 30 percent of the applicable household income limit for the Inclusionary Unit, adjusted downward for any of those services not included. For a household with a Section 8 voucher, the rent and income limits are to be as established by the Newton Housing Authority with the approval of the U.S. Department of Housing and Urban Development.
 - v) *Renter income eligibility limit: two or more rental units.* Where two or more Inclusionary Units are provided for rental in a development under §30-24(f)(3), the percentage of AMI used for establishing rent and income limits for all inclusionary units in the development shall average no more than 65 percent of the AMI. Alternatively, where two or more Inclusionary Units are provided for rental in a development under section 30-24(f)(3), they may be provided such that at least fifty percent (50%) of such units are priced for households having incomes at 50% of the area median income, and all other remaining Inclusionary Units are priced for households having incomes at 80% of the AMI.
 - vi) *Renter income eligibility limit: one rental unit.* Where only one Inclusionary Unit is provided in a development under section 30-24(f)(3), the Inclusionary Unit shall be priced for a Household Income Limit and rental affordability at not more than 80 percent of the AMI.
- c) *Qualification as Local Action Units.* Inclusionary units must be qualified as 'Local Action Units' pursuant to the requirements of the *Comprehensive Permit Guidelines* of the Massachusetts Department of Housing and Community

Development, Section VI.C Local Action Units, as in effect June 1, 2009 as the same may be amended from time to time, unless:

- i) The Household Income Limit for the unit exceeds 80% of the AMI, or
- ii) The unit is exempted from this requirement by another provision of section 30-24(f), or
- iii) The unit is exempted from this requirement by a provision included in the special permit authorizing the development, based on special circumstances applicable to that development, or based on changes in the DHCD regulations or guidelines.”

Approved as to legal form and character:



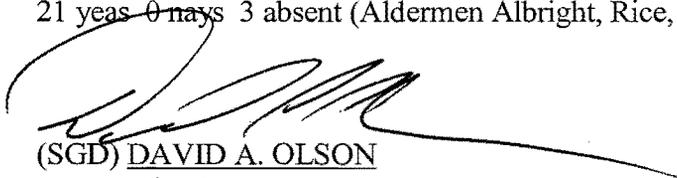
DONNALYN B. LYNCH KAHN

City Solicitor

Under Suspension of Rules

Readings Waived and Adopted

21 yeas ~~0~~ nays 3 absent (Aldermen Albright, Rice, and Sangiolo)



(SGD) DAVID A. OLSON

City Clerk



(SGD) SETTI D. WARREN

Mayor

Date 4/4/14