

PLANNING REPORT & RECOMMENDATION

To: Malden Planning Board
From: Malden City Planner
Date: August 11, 2021
Subject: Amendments of Ch.12, Rev. Ord. of 2020 (*Section numbers herein reference this Ordinance*)
Inclusionary Zoning, Use Regulations, §12.12 (CCP 232/2021)

PROCEDURAL: The petition was made by the City Council (§12.32.050), filed by sponsors Councilors-at-Large Craig Spadafora, Steve Winslow, and Ward Councilor Peg Crowe, Ward 3 Councilor Linehan, Ward 4 Councilor Ryan O'Malley and Ward 6 Councilor David Camell. (For full text of amendments, see attached City Council Paper 232/2021 and accompanying correspondence from Mayor Christenson to City Council dated May 11, 2021).

Note 1: *The proposal was submitted to the City Council by Mayor Christenson on May 11, 2021 for review and discussion purposes; following discussion on June 15, 2021, the City Council Ordinance Committee recommended the proposal be filed and referred for joint public hearing (see CCP 320/2021 for Committee report of June 22, 2021); and the petition was filed on June 29, 2021 and referred for joint public hearing.*

PROPOSED AMENDMENTS: (summary/highlights of provisions):

1. Applicability.
 - a) All zoning districts.
 - b) Developments that result in net increase of eight (8) or more dwelling units, dwelling lots or assisted living units (= "Inclusionary Development.")
 - c) The provisions are considered use regulations and use variances are expressly prohibited.
2. Special permit: required for Inclusionary Developments.
3. Special Permit Granting Authority (SPGA): Planning Board; or other SPGA (for other/underlying special permit).
4. Mandatory Provision of Affordable Housing Units: 15% of total.
5. Affordable Housing Unit:
 - a) restricted by legal instrument to sale/rental to an "eligible household."
 - b) "price point" for housing and related costs may not exceed 30% of household's gross income.
6. Household Eligibility:
 - a)

Type	Affordable Unit	Household Income Level
Rented	Required (15%)	≤50% area median income
Rented	Additional (beyond required 15%)	≤80% area median income
Owned	Required (15%)	51% -80% area median income
Owned	Additional (beyond required 15%)	≤100% area median income
 - b) Local preference: lottery and marketing plan must include a preference for Malden residents.
7. Incentives:
 - a) Density Bonus. One additional dwelling unit per every required Affordable Housing Unit (regardless of density requirements).
 - b) Parking adjustment. One parking space/Affordable Housing Unit (regardless of number of bedrooms).
 - c) Applicable at applicant's choice/request.

8. Development Standards: Affordable Housing Units must be treated the same as market-rate units re: rental-ownership ratio, mix, siting, design and construction standards, timing of construction.
9. Alternative Methods of Compliance:
 - a) Offsite location: required Affordable Housing Units may be located in the same neighborhood (subject to SPGA approval)
 - b) Payment in Lieu to Affordable Housing Trust Fund: \$300,000 cash payment per required Affordable Housing Unit (developer's option/choice, no approval required).
10. Administration:
 - a) When filing the application, applicant/petitioner is required to submit documentation to show compliance with all requirements.
 - b) SPGA may employ an outside consultant to assist in its review of application and supporting documentation; consultant fee is paid by applicant/petitioner.
11. Compliance and Monitoring: The City may develop standards and procedures to do this.
12. Needs Assessment Review: To determine suitability and performance of this ordinance
 - a) To be done by the City of Malden and the Affordable Housing Trust Fund.
 - b) Consists of housing market assessment and financial feasibility analysis.
 - c) To be done not less than every 5 years (from date of enactment of ordinance)
 - d) Recommend amendments to the City Council.

CURRENT ZONING and History. The current zoning ordinance does not require the provision of affordable housing units. Affordable housing/Inclusionary zoning ordinances were previously proposed and considered in 2002 and 2016, but not ordained (CCP 31/2002 and CCP 335/2016).

Note 2: Previous proposals required 20% affordable housing units in developments of five or more units (CCP 335/2016) and 15% affordable housing units in developments of 10 or more units (CCP 31/2002).

BACKGROUND INFORMATION:

Affordable Housing Stock. According to the state Department of Housing and Community Development current Chapter 40B Subsidized Housing Inventory record, 10.2% of the housing units in Malden are Affordable, which exceeds the statutory threshold (M.G.L. c. 40B). This is based on the 2010 U.S. Census data and is determinative at this time.

2020 U.S. Census data for cities and towns is expected to be released in May 2022.

General Land Area Minimum Calculation. According to the analysis conducted in 2019 by the Metropolitan Area Planning Council (MAPC), Malden's ratio is 3.13%, which exceeds the statutory threshold (1.5%) required to assert "safe harbor" (M.G.L. c.40B).

Malden Housing Needs Assessment (2019). A housing needs assessment was undertaken by the City to understand the City's housing stock, supply and needs. According to the Assessment completed by the MAPC, Malden has "significant current unmet housing needs;" many Malden residents are "housing cost-burdened" (=paying more than 30% of their incomes on housing); 56% of Malden households are low-income and 67% of those are housing cost-burdened; housing demand and housing costs are expected to increase.

Inclusionary Zoning Feasibility Study (2021). A financial feasibility study was undertaken by the City to analyze the impacts of an inclusionary zoning ordinance on new development. According to the Study prepared by Levine Planning Strategies, LLC with Colliers International, the Malden housing market can sustain a "reasonable inclusionary zoning requirement;" and the proposed ordinance (CCP 232/2021) incorporates the requirements of one of three options recommended by the Study.

Affordable Housing Trust Fund (§3.08.030, Ch. 3, Revised Ordinances of 2020): Established in 2019, the Fund is funded through the Expendable Trust Fund (CCP 321/2019); may be funded by other sources, such as Community Preservation Act (CPA) and development mitigation fees; and would be funded from Payments In-Lieu made under the proposed ordinance (Alternative Methods of Compliance, §12.12.200.G.2-30

Affordable Housing Trust Fund Board of Trustees (§2.16.005, Ch. 2, Revised Ordinances of 2020): Established in 2019, the Board administers the Affordable Housing Trust Fund to create and preserve affordable housing and pursue other strategies to support the City's affordable housing goals (CCP 320/2019).

Affordable Housing Trust Fund Action Plan (2021). The Plan identifies goals re: Malden's housing affordability needs; describes priority initiatives in the areas of funding, advocacy and capacity building; and contains a five-year Action Plan that includes an implementation schedule and budget.

APPLICATION and EXEMPTIONS: The amendments will apply to new construction and new use/occupancy of existing buildings, unless exempt by M.G.L. c. 40A, §6 and §12.28.010; the express language of the amendment; the subject of a building permit or special permit issued before the first publication of notice of the public hearing (July 23, 2021); or land part of an approved and endorsed Approval Not Required or Definitive subdivision plan.

The following projects are exempt from the proposed amendments, given issuance of a special permit before the first publication of hearing notice:

1. 54 Eastern Avenue. 14 units (Special Permit Case #20-16, granted December 9, 2020).
2. 368 Pleasant Street. 30 units (Special Permit Case #20-01, granted January 8, 2020)

Note 3: Per state statute, applications for permits that are in the processing stage when publication occurs are not protected; historically, the City interprets, in consideration of any pending petitioner's good faith reliance on current regulations, that proposed amendments do not apply to applications filed prior to the first publication of notice of public hearing (July 23, 2021). There are no applications in the processing stage.

Note 4: The effective date is the date of City Council's vote to ordain the amendment (§12.32.050.F).

STANDARD of REVIEW: The Planning Board's review and recommendation of the proposed zoning changes should be directed by *substantive planning objectives, community need and general welfare.*

The proposed amendments are consistent with the findings, goals and recommendations identified in the following various plans:

1. Malden Vision (2008).
2. Malden Master Plan (2010).
3. Malden Housing Needs Assessment (2019).
4. Inclusionary Zoning Feasibility Study (2021).
5. Affordable Housing Trust Fund Action Plan (2021).

PLANNING RECOMMENDATION: (*Made prior to the public hearing*) That the Planning Board recommends to the City Council:

1. Approval of the amendments in City Council Paper 232/2021 as submitted.