



Medford City Council
Medford, Massachusetts

Administration and Finance Committee, March 26, 2024

Voting Members

Isaac B. "Zac" Bears, Chair
Kit Collins, Vice Chair
Emily Lazzaro
Matt Leming
Justin Tseng

This meeting will take place at 6:00 P.M. in the City Council Chamber, 2nd Floor, Medford City Hall, 85 George P. Hassett Drive, Medford, MA and via Zoom.

Zoom Link: <https://us06web.zoom.us/j/83485379923>

Call-in Number: +19292056099,,83485379923# US

Broadcast Live: Channel 22 (Comcast), Channel 43 (Verizon), and medfordtv.org.

To submit written comments, please email AHurtubise@medford-ma.gov.

CALL TO ORDER & ROLL CALL

ACTION AND DISCUSSION ITEMS

24-056 - Offered by Matt Leming, City Councilor

Resolution to Bring Linkage Fee Ordinance in Compliance With the State's Act Establishing the Ordinance

24-057 - Offered by Matt Leming, City Councilor

Resolution to Add Affordable Housing to the Linkage Fee Structure

PAPERS IN COMMITTEE

To view Papers in Committee, please email ahurtubise@medford-ma.gov.

Adjournment



Medford City Council
Medford, Massachusetts

MEETING DATE

March 26, 2024

SPONSORED BY

Matt Leming, City Councilor

AGENDA ITEM

24-056 - Resolution to Bring Linkage Fee Ordinance in Compliance With the State's Act Establishing the Ordinance

FULL TEXT AND DESCRIPTION

A RESOLUTION TO BRING MEDFORD'S LINKAGE FEE ORDINANCES IN COMPLIANCE WITH THE STATE'S ACT ESTABLISHING THE ORDINANCE

WHEREAS, Medford Municipal Code 94-10.1.3.6, 94-10.2.3.6, 94-10.3.3.6, and 94-10.4.3.6 state that the formula for linkage fees for parks and recreational facilities, police and fire facilities, roads and traffic facilities, and water and sewer facilities, "shall be subject to recalculation no more than three years after the effective date of this provision, and no more than every three years thereafter" by the Community Development Board after public notice and a public hearing, "based on a methodology and analysis established as a result of report(s), documentation and information prepared by the office of community development."

WHEREAS Medford's linkage fee structure were uniquely established via Home Rule Petition in 1989, Chapter 488 "An Act Establishing a Linkage Exaction Program in the City of Medford" (the "Act"), which states the following: *The level of any exaction shall be reviewed at least every three years and reset as required based upon the recommendation of the office of community development and the mayor of said city;*

WHEREAS Medford's municipal codes, in stating that these recalculations shall happen "no more than every three years", presents unclear language that is out of compliance with the Act, which states that these recalculations shall happen "at least every three years."

WHEREAS the Community Development Board is not the Office of Community Development and was never mentioned in the Act as having authority to update Medford's linkage fee schedule;

WHEREAS Medford's Office of Community Development is now merged with the Office of Planning, Development, & Sustainability;

BE IT THEREFORE RESOLVED that Medford City Council update Medford Municipal Code 94-10 to change “the Community Development Board” to “the Mayor and the Office of Planning, Development, and Sustainability”

BE IT FURTHER RESOLVED that Medford City Council update Medford Municipal Code 94-10 to change the language from “no more than every three years” to “at least every three years”;

RECOMMENDATION

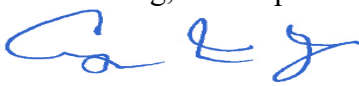
FISCAL IMPACT

ATTACHMENTS

1. KP Law Opinion - Linkage Fee
2. 1989acts0488-Established Linkage Medford
3. Medford Linkage Fee Schedule_Apr 1990

TO: Matthew Leming, City Councilor (*By Electronic Mail Only*)

CC: Nina Nizarian, Chief of Staff
Alicia Hunt, Director of Planning, Development & Sustainability

FROM: Carolyn M. Murray 

RE: Resolutions Relative to Linkage Fee Ordinance

DATE: March 5, 2024

As requested, I have reviewed the three resolutions you intend to file with the Council this week:

1. A Resolution to Add Affordable Housing to the Linkage Fee Structure;
2. A Resolution to Request Linkage fee Updates in Medford from the Community Development Board and Request a Progressive Formula for Their Update; and
3. A Resolution to Bring Medford's Linkage Fee Ordinance in Compliance with the State's Act Establishing the Ordinance.

In my opinion, these resolutions are consistent with the enabling act, Chapter 488 of the Acts of 1989, An Act Establishing a Linkage Exaction Program in the City of Medford (the "Act"), with one potential exception. In the second to last paragraph of the second resolution identified above, you request that the Community Development Board conduct a study on a progressive linkage fee formula "such that a new study every three years in not necessarily required." In contrast the Act, at Section 2(B)(5) requires that "the level of exaction shall be reviewed at least every three years." Accordingly, if your resolution results in the Community Development Board developing a formula that only warrants review every five or ten years, for example, then I recommend that the Act be amended to be consistent with the increment of review.

In my further opinion, if either the first or the third resolution is adopted by the Council, Section 94-10 of the City's Ordinances will have to be amended to incorporate the linkage fee for affordable housing, similar to how the ordinance currently provides for parks and recreation and other facilities. You have also proposed to amend Section 94-10 of the Ordinances to change references to the Office of Community Development contained within the existing Ordinance to the Office of Planning, Development, and Sustainability to clarify the current name of the department with authority to promulgate rules and regulations or to study changes in the amount of linkage fees. In my opinion, the City may wish to review this matter further in light of the current organizational structure of the department. I note that the Act at Section 2(B)(5) currently requires the "office of community development" to study and recommend changes to linkage fees. Moreover, Chapter 2, Article III, Divisions 8 and 9 of the City's Charter and Article IV, Division 11 of the City's Ordinances establish the Community Development Authority, Community Development Board, and Office of Community Development, respectively. To avoid confusion, I do not recommend amending Section 94-10 to incorporate

the new name of the Office of Planning, Development, and Sustainability until such time as the Charter and the Act are also amended to reflect the updated name of the department. Lastly, I note that the Community Development Board's Linkage Rules and Regulations also reference the Office of Community Development.

Similarly, you have inquired as to whether Section 94-10 of the Ordinances should be amended to change the periodic reviews of linkage fees from "no more than every three years" to "at least every three years." I agree that Section 94-10 should be amended in order to be consistent with Section 2(B)(5) of the Act.

Finally, you have asked about a formula with an automatic escalating clause that might serve to avoid having to study the fees at least every three years. In my opinion, this is possible and refer you to Chapter 302 of the Acts of 2022, whereby the City of Watertown adjusts increases in its linkage fee to the Consumer Price Index, but still reviews the fees every five years.

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Chapter 488. AN ACT ESTABLISHING A LINKAGE EXACTION PROGRAM IN THE CITY OF MEDFORD.

Be it enacted, etc., as follows:

SECTION 1. *Purpose and Findings*- The city of Medford is undergoing a period of substantial growth in new, expanded, enlarged and rehabilitated residential, commercial and industrial structures. This growth has resulted in numerous direct and indirect impacts on the city and its ability to adequately address those impacts due to the influx of people that move to Medford to live and work in these new developments. The city has experienced development related impacts requiring capital improvements to school facilities attended by children of new residents; accelerated deterioration in the level of service of its streets and roadways; increased stress on city facilities and infrastructures such as water and sewer lines; increased need for capital improvements to its parks, playgrounds and other recreational facilities and the need for providing affordable housing for its residents. Development related impacts must be paid for by fair share exactions from developers so that the city can provide adequate services and infrastructure to support future development.

SECTION 2. *Establishment of a Linkage Exaction Ordinance* - (A) The city council of the city of Medford may, by ordinance, require the payment of a linkage exaction as a condition of approval of a development impact project plan, as defined by the ordinance, for any future development within the jurisdiction of this act. The linkage exaction shall only be imposed on the construction, enlarging, expansion, substantial rehabilitation, or change of use of non-residential and residential projects that require some form of zoning relief or exceed a threshold which shall be established by the city council. The linkage ordinance shall be used solely for the purposes of defraying the costs of capital improvements provided by the city caused by and necessary to support future development such as, but not limited to the following: capital improvements to school facilities, public facilities, roads, sewers, water supply lines, affordable housing, child care facilities, job training facilities, public safety service and facilities, and parks, playgrounds and other recreational facilities.

(B) The linkage exaction ordinance may be enacted if the following criteria are met:

(1) A rational nexus shall be established that shows the relationship between the creation of new residential dwelling units, and office, commercial and industrial structures and their impact on the following services including, but not limited to, school facilities, public facilities, roads, sewers, water supply lines, affordable housing, child care facilities, job training facilities, public safety facilities, and parks, playgrounds and other recreational facilities.

(2) The city shall develop and prepare a study that evaluates existing capital improvement plans for public facilities. The study shall analyze potential build-out in the city, the impacts of future development and the need for public facility improvements as a result of future development. Any exaction which may be established pursuant with this act shall be set in accordance with the methodology set forth in the study.

(3) The exaction shall be established on the basis of the cost projections in the capital improvement plans and study as described in clause (2) of subsection B of section two and the expected level of allowed development pursuant to the city's zoning ordinance, as it may be amended.

(4) The city shall have the authority to create distinct and separate revolving trust accounts for each linkage ordinance enacted by the city for the services delineated in clause (1) of subsection B of section two for necessary improvements resulting from future development. No exaction shall be paid to the city's general treasury or used as general revenues subject to the provisions of section fifty-three of chapter forty-four of the General Laws.

(5) The level of any exaction shall be reviewed at least every three years and reset as required based upon the recommendation of the office of community development and the mayor of said city.

(6) Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assigns, be returned to such landowner with interest from the fee's deposit in an interest bearing account, provided that the applicant or his assigns submits an application for a refund to the office of community development within one hundred and eighty days of the expiration of the six year period.

SECTION 3. This act shall take effect upon its passage.

Approved November 7, 1989.

**Chapter 489. AN ACT AUTHORIZING THE TOWN OF DIGHTON TO
RAISE CERTAIN DEFICITS OVER A PERIOD OF YEARS.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Dighton is hereby authorized to carry its overlay deficit and appropriation deficit, as it existed as of June thirtieth, nineteen hundred and eighty-nine, and to raise said overlay deficit and appropriation deficit on the following ratio: one-third of said deficits in fiscal nineteen hundred and ninety, one-third of said deficits in fiscal nineteen hundred and ninety-one, and the remaining of said deficits in fiscal nineteen hundred and ninety-two.

CITY OF MEDFORD

LINKAGE PROGRAM

FEE SCHEDULE

Pursuant to Special Enabling Legislation and in accordance with Section 94-381 through 94-479 of Chapter 94 of the Revised Ordinances of the City of Medford, the Community Development Board has established the following fee schedule for Parks and Recreational Facilities, Police Facilities, Fire Facilities, Roads and Traffic Facilities, Water and Sewer Facilities.

Schedule of Fees:

Sector	Residential (fee per unit)	Hotel (fee per room)	Office	Commercial (per 1,000 sq. feet gross floor area)	Industrial
Water	\$1,989.00	\$26.94	\$510.00	\$510.00	\$510.00
Sewer	552.61	7.47	140.00	140.00	140.00
Roads *	52.78	103.72	141.04	800.14	62.17
Parks	1,186.00	N/A	N/A	N/A	N/A
Police	24.52	19.50	33.79	50.53	10.34
Fire	99.06	78.77	134.87	204.10	41.77
Total (within southeastern Medford)	\$3,903.97	\$236.40	\$959.70	\$1,704.77	\$764.28
Total (outside southeastern Medford)	\$3,851.19	\$132.68	\$819.70	\$ 904.63	\$702.11

* Fees for Roads and Traffic Facilities shall be applied within southeastern Medford only.

Adopted: April 24, 1990



Medford City Council
Medford, Massachusetts

MEETING DATE

March 26, 2024

SPONSORED BY

Matt Leming, City Councilor

AGENDA ITEM

24-057 - Resolution to Add Affordable Housing to the Linkage Fee Structure

FULL TEXT AND DESCRIPTION

WHEREAS Medford's linkage fee structure was uniquely established via a Home Rule Petition in 1989 - Chapter 0488, "An Act Establishing Linkage Exaction Program In The City Of Medford."

WHEREAS "An Act Establishing Linkage Exaction Program In The City Of Medford" allows for the funding of affordable housing:

The linkage ordinance shall be used solely for the purposes of defraying the costs of capital improvements provided by the city caused by and necessary to support future development such as, but not limited to the following: capital improvements to school facilities, public facilities, roads, sewers, water supply lines, affordable housing, child care facilities, job training facilities, public safety service and facilities, and parks, playgrounds and other recreational facilities.

WHEREAS the implementation of this in Medford Municipal Code 94-10 only allocated linkage fees for parks and recreational facilities, police and fire facilities, roads and traffic facilities, and water and sewer facilities, and not for affordable housing;

WHEREAS, in 2023, pursuant to M.G.L. Ch. 44. Sec. 55C, Medford established an Affordable Housing Trust as a tool to combat the ongoing housing shortage, and there is a need to for long-term, sustainable revenue streams to fund this Trust;

WHEREAS, on the topic of home prices, the Medford Housing Production Plan, published in September 2022 and prepared by the Office of Planning, Development, and Sustainability, makes the need for affordable housing very clear: "Medford has seen some of the highest price increases of any community in Massachusetts....There is currently a \$280,000 gap between what a household earning the median income could afford and the median sales price for a single-family home. Less than 5 percent of single-family homes are considered affordable to households earning Medford's median income;"

BE IT THEREFORE RESOLVED that Medford City Council update Municipal Code 94-10 to establish a fifth linkage bucket for the Affordable Housing Trust;

BE IT FURTHER RESOLVED that this resolution be referred to committee for further discussion.

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. 94-10.0 Update

SECTION 94-10.0. DEVELOPMENT LINKAGE FEES

Sec. 94-10.1. Parks and recreational facilities.

94-10.1.1 Purpose. The purpose of this section is to promote the public health, safety, convenience and welfare; to prevent the deterioration of existing parks and public recreational facilities; to establish a balance between real estate development and the open space and recreational needs of city residents; and to mitigate the impacts of future development on the deterioration of parks and public recreational facilities, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of parks and public recreational facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of parks and public recreational facilities, and the need for new capital improvements.
2. Provide a fund for parks and public recreational facility capital improvements through a linkage grant to the park and recreational facilities trust, as a condition of the approval of any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit, or zoning map amendment that is requested for a project of 5,000 square feet or more except those that are exempt pursuant to section 94-10.1.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.
3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.
4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula.
5. The provisions of this section shall be construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

94-10.1.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.1.3 Procedures. The ~~mayor or the office of community development~~~~community development board~~ shall be empowered to promulgate regulations and establish fees it deems necessary to implement this section. For a development impact project, no building permit or density bonus, variance, special permit or zoning amendment shall be granted or adopted unless the following requirements are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by the office of community development, then the applicant shall prepare and submit to the office of community development an

independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall show the basis upon which the independent fee calculation was made, and shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.

3. The person or persons making application for a building permit or a density bonus, variance, special permit or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay a park and recreational facilities linkage fee. For each development impact project, except for those exemptions found in section 94-10.1.4, a park and recreational facilities linkage fee will be paid as reviewed and approved by the office of community development.
4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee payment agreement as provided for herein .
5. The park and recreational facilities linkage fee shall be paid to, and eventually withdrawn from, the park and recreational facilities trust based upon a schedule of fees and rules and regulations established by the community development board.
6. The formula (amount and rate of payment) for the park and recreational facilities linkage fee shall be subject to recalculation ~~at least no more than~~ three years after the effective date of this provision, and ~~at least no more than~~ every three years thereafter. The ~~mayor or the office of community development~~community development board, after public notice and a public hearing ~~of the Community Development Board~~, may recalculate and amend the formula for the park and recreational facilities linkage fee, based on a methodology and analysis established as a result of report(s), documentation and information ~~they prepared by a study~~the office of community development.

94-10.1.4 Exemptions. The following are not development impact projects and will not be subject to development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this division, provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
2. Any building, structure, addition or substantial rehabilitation below the thresholds described in section 94-10.1.4.
3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the community development board.
4. Any building, structure, substantial rehabilitation, or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.1.5 Refund of Linkage Fee Paid. The applicant shall be entitled to a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.1.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.
 - b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant that the standards set out in section 94-10.1.6 will be met, and if the applicant posts security as provided herein for the costs of such construction.
3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.1.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Sec. 94-10.2. Police and fire facilities.

94-10.2.1 Purpose. The purpose of this section is to promote the public health, safety, convenience and welfare; to prevent overuse and deterioration of existing police and fire facilities; to establish a balance between real estate development and the police and fire needs of city residents; and to mitigate the impacts of future development on the overuse and deterioration of police and fire facilities, and the need for new capital improvements, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of police and fire facilities that contribute to an increase in the costs for the

upgrade, repair and maintenance of police and fire facilities, and the need for new capital improvements.

2. Provide a fund for police and fire facility capital improvements through a linkage grant to the police and fire linkage~~park and recreational facilities~~ trust, as a condition of the approval of: any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit, or zoning map amendment that is requested for a project of 5,000 square feet or more, except those that are exempt pursuant to section 94-10.2.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.
3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.
4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula.

94-10.2.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.2.3 Procedures. The mayor or the office of community development~~community development board~~ shall be empowered to promulgate regulations and establish fees it deems necessary to implement this section. For a development impact project, no building permit or density bonus, variance, special permit or zoning amendment shall be granted or adopted unless the following are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall show the basis upon which the independent fee calculation was made, and shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.
3. The person or persons making application for a building permit or a density bonus, variance, special permit, or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay a police and fire facilities linkage fee. For each development impact project, except for those exemptions found in section 94-10.2.4, a police and fire facilities linkage fee will be paid as reviewed and approved by the office of community development.
4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee payment agreement.

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5. The police and fire facilities linkage fee shall be paid to, and eventually withdrawn from, the police and fire facilities trust based upon a schedule of fees and rules and regulations established by the community development board.
 6. The formula (amount and rate of payment) for the police and fire facilities linkage fee shall be subject to recalculation ~~at least no more than~~ three years after the effective date of this provision, and ~~at least no more than~~ every three years thereafter. The ~~mayor or the office of community development~~community development board, after public notice and a public hearing ~~of the Community Development Board~~, may recalculate and amend the formula for the police and fire facilities linkage fee, based on a methodology and analysis established as a result of report(s), documentation and information ~~prepared by the office of community development~~.

94-10.2.4 Exemptions. The following are not development impact projects and will not be subject to development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this section, provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
2. Any building, structure, addition or substantial rehabilitation below the thresholds described herein.
3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the city community development board.
4. Any building, structure, substantial rehabilitation or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.2.5 Refund of Linkage Fee Paid. The applicant shall be entitled a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.2.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.

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- b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
 2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant as to the standards set out herein, and if the applicant posts security as provided herein for the costs of such construction.
 3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
 4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
 5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.2.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Sec. 94-10.3. Roads and traffic facilities.

94-10.3.1 Purpose. The purpose of this division is to promote public health, safety, convenience and welfare; to prevent overuse and deterioration of existing roads and traffic facilities; to establish a balance between real estate development and the road and traffic needs of city residents; and to mitigate the impacts of future development on the overuse and deterioration of road and traffic facilities, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of road and traffic facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of road and traffic facilities, and the need for new capital improvements.
2. Provide a fund for roads and traffic facility capital improvements through a linkage grant to the roads and traffic linkage~~park and recreational facilities~~ trust as a condition of the approval of: any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit or zoning map amendment that is requested for a project of 5,000 square feet or more, except those that are exempt pursuant to section 94-10.3.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.
3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

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4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula.

94-10.3.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.3.3 Procedures. The ~~mayor or the office of community development~~community development board shall be empowered to promulgate regulations and establish fees it deems necessary to implement this division. For a development impact project, no building permit or density bonus, variance, special permit, or zoning amendment shall be granted or adopted unless the following requirements are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.
3. The person or persons making application for a building permit or a density bonus, variance, special permit or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay a roads and traffic facilities linkage fee. For each development impact project, except for those exemptions found in section 94-10.3.4, a roads and traffic facilities linkage fee will be paid as reviewed and approved by the office of community development.
4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee payment agreement as provided for herein.
5. The roads and traffic facilities linkage fee shall be paid to, and eventually withdrawn from, the roads and traffic facilities trust based upon a schedule of fees and rules and regulations established by the community development board.
6. The formula (amount and rate of payment) for the roads and traffic facilities linkage fee shall be subject to recalculation ~~at least no more than~~ three years after the effective date of this provision, and ~~at least no more than~~ every three years thereafter. The ~~mayor or the office of community development~~community development board, after public notice and a public hearing ~~of the Community Development Board~~, may recalculate and amend the formula for the roads and traffic facilities linkage fee, based on a methodology and analysis established as a result of report(s), documentation and information ~~prepared by the office of community development~~.

94-10.3.4 Exemptions. The following are not development impact projects and will not be subject to the development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this section provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.

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2. Any building, structure, addition or substantial rehabilitation below the thresholds described herein.
 3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the city community development board.
 4. Any building, structure, substantial rehabilitation, or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
 5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
 6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.3.5 Refund of Linkage Fee Paid. The applicant shall be entitled to a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.3.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.
 - b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant as to the standards set out herein, and if the applicant posts security as provided herein for the costs of such construction.
3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or

the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.3.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Sec. 94-10.4. Water and sewer facilities.

94-10.4.1 Purpose. The purpose of this section is to promote the public health, safety, convenience and welfare; to prevent overuse and deterioration of existing water and sewer facilities; to establish a balance between real estate development and the road and traffic needs of city residents; and to mitigate the impacts of future development on the overuse and deterioration of road and traffic facilities, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of road and traffic facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of road and traffic facilities; and the need for new capital improvements.
2. Provide a fund for water and sewer facility capital improvements through a linkage grant to the water and sewer linkagepark-and-recreational-facilities trust, as a condition of the approval of: any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit, or zoning map amendment that is requested for a project of 5,000 square feet or more, except those that are exempt pursuant to section 94-10.4.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.
3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.
4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula

94-10.4.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.4.3 Procedures. The mayor or the office of community development~~community development board~~ shall be empowered to promulgate regulations and establish fees it deems necessary to implement this division. For a development impact project no building permit or density bonus, variance, special permit, or zoning amendment shall be granted or adopted unless the following requirements are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.
2. If an applicant elects not to pay the linkage fee as determined by office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The

independent fee calculation study shall show the basis upon which the independent fee calculation was made, and shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.

3. The person or persons making application for a building permit or a density bonus, variance, special permit, or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay a water and sewer facilities linkage fee. For each development impact project, except for those exemptions found in section 94-10.4.4, a water and sewer facilities linkage fee will be paid as reviewed and approved by the office of community development.
4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee patent agreement as provided for herein.
5. The water and sewer facilities linkage fee shall be paid to, and eventually withdrawn from, the water and sewer facilities trust based upon a schedule of fees and rules and regulations established by the community development board.
6. The formula (amount and rate of payment) for the water and sewer facilities linkage fee shall be subject to recalculation ~~at least no more than~~ three years after the effective date of this provision, and ~~at least no more than~~ every three years thereafter. The ~~mayor or the office of community development~~community development board, after public notice and a public hearing ~~of the Community Development Board~~, may recalculate and amend the formula for the water and sewer facilities linkage fee, based on a methodology and analysis established as a result of report(s) and documentation and information ~~prepared by the office of community development~~.

94-10.4.4 Exemptions. The following are not development impact projects and will not be subject to the development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this section provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
2. Any building, structure, addition or substantial rehabilitation below the thresholds described herein.
3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the city community development board.
4. Any building, structure, substantial rehabilitation, or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.4.5 Refund of Linkage Fee Paid. The applicant shall be entitled to a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development

within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.4.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.
 - b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.
2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant as to the standards set out herein, and if the applicant posts security as provided herein for the costs of such construction.
3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.
5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.4.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.

Sec. 94-10.5. Affordable housing.

94-10.5.1 Purpose. The purpose of this section is to promote the public health, safety, convenience and welfare; to incentivize the development of new affordable housing units; to prevent the deterioration of existing affordable housing facilities; to establish a balance between market-rate real estate development and the affordable housing needs of city residents; and to mitigate the impacts of future development on the deterioration of affordable housing facilities, by provisions designed to:

1. Afford review and regulation of real estate development projects which directly or indirectly lead to conditions of the use of affordable housing facilities that contribute to an increase in the costs for the upgrade, repair and maintenance of affordable housing facilities, and the need for new capital improvements.

2. Provide a fund for affordable housing facility capital improvements through a linkage grant to the affordable housing trust, as a condition of the approval of any nonresidential development of 10,000 square feet of gross floor area or more; any residential development of six units or more; any subdivision of property which creates six or more units or buildable lots; or any residential or nonresidential project requiring a density bonus, variance, special permit, or zoning map amendment that is requested for a project of 5,000 square feet or more except those that are exempt pursuant to section 94-10.1.4. Requests for such zoning relief may include bonuses in density of use such as increases in gross floor area, height or other changes in dimensional requirements.

3. The imposition of linkage fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

4. The methodology and analysis for the determination of the impact of new development, the need for new facilities and their costs, and the establishment and calculation of the linkage fees shall be established as a result of an investigation and report with supporting documentation, which shall be available for inspection by any feepayer or the public. Calculations of linkage fees may be based on the methodology established by previous studies that outline methods for an escalating linkage fee formula.

94-10.5.2 Definitions. See section 94-12.0, "Development linkage fees".

94-10.5.3 Procedures. The mayor or the office of community development shall be empowered to promulgate regulations and establish fees it deems necessary to implement this section. For a development impact project, no building permit or density bonus, variance, special permit or zoning amendment shall be granted or adopted unless the following requirements are met:

1. The office of community development shall review and calculate the fees for all development impact projects. Applicants may request a schedule for the payment of linkage fees in accordance with regulations established by the community development board.

2. If an applicant elects not to pay the linkage fee as determined by the office of community development, then the applicant shall prepare and submit to the office of community development an independent fee calculation study for the land development activity for which a building or use permit is sought. The independent fee calculation study shall show the basis upon which the independent fee calculation was made, and shall follow the prescribed methodologies and formats based on regulations promulgated by the community development board.

3. The person or persons making application for a building permit or a density bonus, variance, special permit or zoning map amendment to construct, substantially rehabilitate, enlarge or extend a structure pursuant to a development impact project plan shall also enter into an agreement with the city to pay an affordable housing linkage fee. For each development impact project, except for those exemptions found in section 94-10.1.4, an affordable housing linkage fee will be paid as reviewed and approved by the office of community development.

4. The building commissioner shall not issue any building or use permit with respect to any building, structure, or land within an area covered by a development impact project plan until the office of community development provides certification to the building commissioner that the applicant has entered into a fee payment agreement as provided for herein .

5. The affordable housing linkage fee shall be paid to, and eventually withdrawn from, the affordable housing trust based upon a schedule of fees and rules and regulations established by the community development board.

6. The formula (amount and rate of payment) for the affordable housing linkage fee shall be subject to recalculation at least three years after the effective date of this provision, and at least every three

years thereafter. The mayor or the office of community development, after public notice and a public hearing of the Community Development Board, may recalculate and amend the formula for the affordable housing linkage fee, based on a methodology and analysis established as a result of report(s), documentation and information.

94-10.5.4 Exemptions. The following are not development impact projects and will not be subject to development impact project requirements:

1. Any structure for which a building or use permit has been lawfully issued prior to the city council adopting this division, provided that construction work under such a permit is commenced within six months after its issuance, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
2. Any building, structure, addition or substantial rehabilitation below the thresholds described in section 94-10.1.4.
3. Any building, structure, substantial rehabilitation, or addition that is proposed for subsidized, or affordable homeowner or rental housing, which falls within criteria established by the Commonwealth of Massachusetts or the department of housing and urban development, and confirmed by vote of the community development board.
4. Any building, structure, substantial rehabilitation, or addition that is proposed for: a religious or nonprofit educational purpose; a preschool or child care center; a hospital, nursing home, associated outpatient clinic or other health care facility licensed by the Massachusetts Department of Public Health; a social service center, nonprofit community or recreation center, museum, library, art gallery or other public service use.
5. Any structure, conforming or otherwise, damaged or destroyed by fire or other catastrophe where the structure will not be rebuilt beyond its former dimensions.
6. Any claim of exemption shall be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

94-10.5.5 Refund of Linkage Fee Paid. The applicant shall be entitled to a refund of linkage fees for a development impact project provided that a written request is submitted to the office of community development within six months of the issuance of a building permit, and provided that no work has commenced on the project. The request shall be reviewed by the office of community development and the linkage fee, minus ten percent to offset the costs of collection and refund, may be returned to the applicant. Any funds not expended or encumbered by the end of the calendar quarter immediately following six years from the date the linkage fee was paid shall, upon application of the applicant or his assign(s), be returned to such landowner provided that the applicant or his assign(s) submits an application for a refund to the office of community development within 180 days of the expiration of the six-year period.

94-10.5.6 Credits. A credit may be given for voluntary site-related improvements or dedications as approved by the community development board or work performed as required by section 94-6.4.

1. Credit against a linkage fee otherwise due will not be provided until:
 - a. The construction is completed and accepted by the city, or the state, whichever is applicable.
 - b. Security in the form of a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with and approved by the office of community development.
 - c. All design, construction, inspection, testing, bonding and acceptance procedures are in strict compliance with the current state and city requirements.

2. Credit may be provided before completion of specified improvements if adequate assurances are given by the applicant that the standards set out in section 94-10.1.6 will be met, and if the applicant posts security as provided herein for the costs of such construction.

3. Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

4. Credits shall not be transferable from one project or development to another without the approval of the community development board, and may only be transferred to another development upon a finding by the community development board that the voluntary dedication for which the credit was given equally benefits the city.

5. Determinations made by the community development board or the office of community development pursuant to the linkage fees or credit provision of this section may be appealed to the city council by filing a written request with the city council within 30 days of the community development board or the office of community development's determination. The appeal procedure shall be as provided for in M.G.L.A. c. 40A, § 15.

94-10.5.7 Penalty. A violation of this section shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to section 94-11.3.2. However, in addition to or in lieu of any criminal prosecution, the city shall have the power to sue in civil court to enforce the provisions of this section.