

Staff Report



Development Services Department

www.kitchener.ca

REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: January 29, 2024

SUBMITTED BY: Rosa Bustamante, Director of Planning and Housing Policy , 519-741-2200 ext. 7319

PREPARED BY: Tim Donegani, Senior Planner, 519-741-2200 ext. 7067

WARD(S) INVOLVED: Wards 3, 9, 10

DATE OF REPORT: January 12, 2024

REPORT NO.: DSD-2024-029

SUBJECT: Official Plan Amendment OPA23/015/K/TD and Zoning Bylaw Amendment ZBA23/027/K/TD – Inclusionary Zoning

RECOMMENDATION:

That the City-initiated Official Plan Amendment OPA23/015/K/TD for the purposes of introducing Inclusionary Zoning within Protected Major Transit Station Areas be adopted, in the form shown in the Official Plan Amendment attached to Report DSD-2024-029 as Attachment ‘A’ and accordingly forwarded to the Region of Waterloo for approval; and

That the City-initiated Zoning By-law Amendment ZBA23/027/K/TD to amend Zoning By-law 2019-051 and Zoning By-law 85-1, be approved in the form shown in the “Proposed By-law Amendment” attached to Report DSD-2024-029 as Attachment ‘B’ and Attachment ‘C’ respectively; and further

That staff be directed to enter into a memorandum of understanding with the Region of Waterloo outlining roles and responsibilities in administration of Inclusionary Zoning, to the satisfaction of the Director of Planning and Housing Policy.

REPORT HIGHLIGHTS:

- The purpose of this report is to recommend the approval of planning instruments and guidelines to implement an Inclusionary Zoning (IZ) program that would require some affordable housing units to be included within new private developments within Protected Major Transit Station Areas (PMTSAs).
- A region-wide approach is recommended to ensure a consistent framework across all PMTSAs. At this time, it is expected that City of Waterloo Council will be considering the proposed IZ program in early 2024 and that City of Cambridge staff will be providing their Council with updates on the program as soon as possible in 2024.
- As proposed, the IZ program would:

*** This information is available in accessible formats upon request. ***
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

- Apply to all new residential and mixed-use developments in PMTSAs of 50 or more units;
- Require subject developments to set aside 0-2% of their gross leasable residential floor area (GLA) to affordable units, starting in 2025, with all PMTSAs requiring a 5% set aside rate by 2031 or before;
- Require that the affordable units be rented, whether located in a condominium or purpose-built rental building;
- Set maximum rents at levels that are affordable to low-income households (earning \$43,000 - \$65,000 in 2022);
- Require that affordable units be maintained as affordable for a minimum of 25 years;
- Benefit the tenants of newly built affordable homes; and
- Add more affordable homes contributing to movement within the housing system and a more diverse and responsive housing system overall.
- The proposed IZ program balances the competing objectives of delivering the maximum number of affordable units with minimizing impact on development feasibility and the creation of new housing supply in PMTSAs.
- Growing Together is more permissive than the current planning framework around ION station stops especially with respect to height and density. This complimentary change is crucial to help offset the negative financial impacts of inclusionary zoning on site development economics that could otherwise slow housing construction.
- Based on growth forecasts, the program is expected to create an estimated 23 affordable rental units per year in Kitchener within the first few years, increasing to approximately 80 affordable rental units per year by 2031. Region-wide the program is expected to create approximately 144 units per year by 2031.
- Community engagement included in person and online engagement with 1,100 people representing a broad range of groups including the development industry, housing providers, potential tenants of IZ units, and the public.
- This report supports Building a Connected City Together: Focuses on neighbourhoods; housing and ensuring secure, affordable homes; getting around easily, sustainably and safely to the places and spaces that matter.
- Inclusionary Zoning is just one tool that can increase affordable housing supply in Kitchener.

EXECUTIVE SUMMARY:

In response to the housing crisis and the need for affordable housing, the City is working with a set of housing tools prioritized in Housing for All and the City's Housing Accelerator Fund application and beyond. Inclusionary Zoning (IZ) is a planning tool that requires a certain percentage of affordable housing units within new private developments. The program does not rely on government subsidies, but instead captures some of the increased value arising from high density development and directs it towards affordable housing. Kitchener, Cambridge, Waterloo and Region of Waterloo staff have developed a consistent approach to IZ implementation that reflects market differences across the region.

This report recommends Official Plan and Zoning By-law amendments that would require affordable rental housing units to be included in new private developments within Protected Major Transit Station Areas (PMTSAs) along the ION route. The program is expected to create approximately 23 affordable rental units per year in Kitchener initially, increasing to 80 units per year by 2031, and approximately 144 units per year region wide. This would

help contribute to the development of complete, vibrant, mixed income communities along the ION route.

The program would apply to residential and mixed-use developments of 50 or more units. These developments would need to set-aside rate of 0-2% of units starting in 2025 and increasing to 5% by 2031 or before.

Rents in these units would be regulated for at least 25 years. The maximum monthly rents would be \$1,075-1,631 in 2022. Bachelor apartment rents would be affordable to the 15th percentile of household incomes, and 3+ bedroom would be affordable to the 28th percentile. These rents fill a gap in the housing continuum, generally serving households who earn too much to be eligible for community housing but cannot afford market rents.

The program seeks to balance the goals of increasing affordable housing supply with financial feasibility and minimizing disruption to the land market. The negative financial implications of IZ on typical development proforma could disrupt new housing supply. As such, the financial feasibility and land market disruption were carefully considered in the development of the program. These impacts are mitigated through moderate rents, modest initial set aside rates with gradual increases, waiving growth related fees and charges, exemptions from parking requirements and crucially, increases in as of right development permissions in PMTSA through Growing Together.

Staff consulted with the development industry, non-profits, potential tenants of affordable units and the community at large in the development of this program. In response to this feedback, the program provides for flexible and innovative solutions to delivering affordable units that work from the development industry and the community including delivering units offsite and/or partnering with non-profits.

BACKGROUND:

Housing affordability has become a significant challenge for residents in Waterloo Region and across Ontario. Inclusionary Zoning (IZ) is a planning tool that can help address local affordability challenges by enabling municipalities to require a certain percentage of affordable housing units within new private developments containing 10 or more dwelling units in Protected Major Transit Station Areas (PMTSAs). The Cities of Kitchener, Cambridge, and Waterloo with support from the Region of Waterloo (“the Partners”) have collaborated on the development of a common IZ framework that will increase the amount of affordable housing near ION rapid transit stops.

IZ has been used successfully in municipalities across North America to create a continuous supply of affordable housing. It is different from other approaches in that it doesn’t require significant government subsidy. Instead, IZ works by capturing a share of the increased land value achieved through development approvals, investment in the ION transit system, and increasing demand for centrally located housing, and directing this toward the creation of affordable housing. The program also signals future IZ requirements to the market so that developers and homebuilders can incorporate the regulations and potential impacts on pro forma into land purchase decisions. Since IZ can operate without significant subsidy, it works alongside other local and regional housing programs rather than competing with those programs for limited resources.

While IZ must be implemented at the area municipal level, the Partners recognize the importance of adopting a consistent, region-wide approach. A region-wide approach provides consistent and clear policy requirements for the development industry; creates efficiencies in implementation across area municipalities through shared guidelines and agreement templates; maintains a relatively consistent regulatory playing field and associated attractiveness for investment in residential development across the cities' PMTSAs; and, centralizes administration and monitoring to support a consistent and adequately funded approach to implementation and program tracking. Although a region-wide approach is recommended, the program is designed to reflect differences in market areas across the region.

The Partners have been working to advance a coordinated IZ program since 2019. Proposed policy and program directions were outlined in DSD-2023-258, and the majority of these directions are carried forward in the recommended approach. This report provides a summary of the proposed IZ program and recommends that Council approve the planning instruments through an amendment to the Official Plan (Appendix A) and, zoning by-law amendments (Attachments B and C).

This report is one of many housing-related reports considered by Council since Council's endorsement of Kitchener's Housing Pledge in March 2023, as seen in the diagram below.

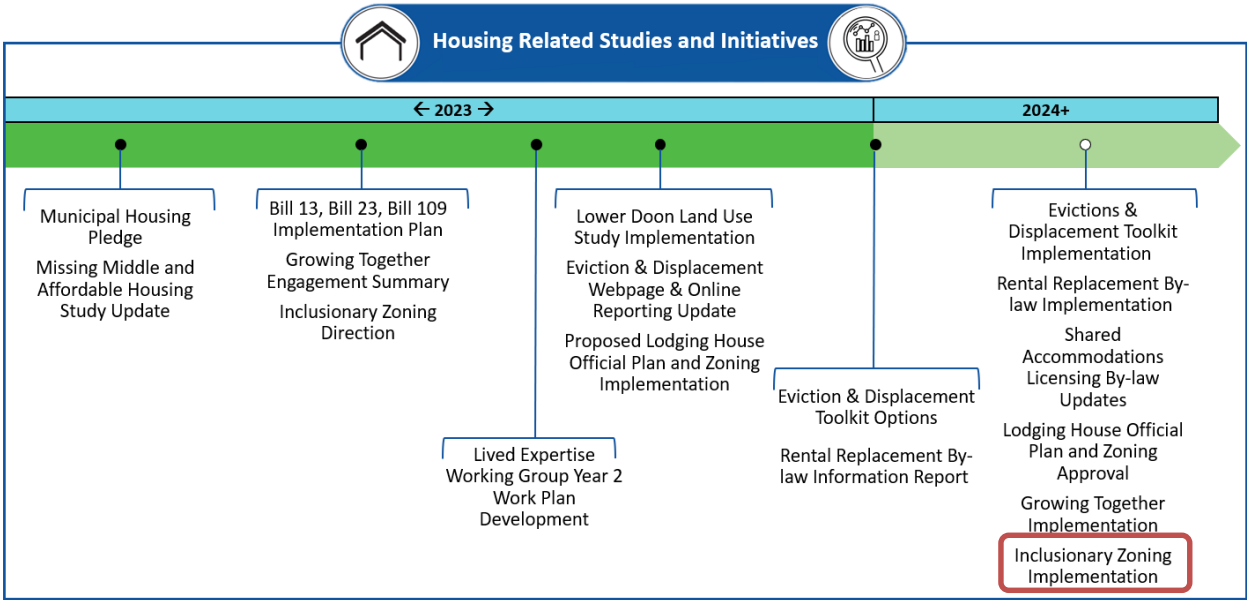


Figure 1 A diagram showing Kitchener's housing related studies and initiatives.

REPORT:

The proposed IZ program seeks to balance the objective of increasing the supply of affordable housing with market feasibility to ensure continued viability of residential development. The program also reflects [proposed amendments](#) to [Ontario Regulation 232/18](#) that set limits on the number of affordable units, minimum rents and prices and the length of time that affordability can be required. The program is built around the following principles:

1. **Moderate Affordability** - Secure housing that is affordable to households whose incomes do not exceed the 60th percentile of the regional income range. Supporting the creation of moderately affordable housing that is affordable to low- and moderate-income households is important since many of these households have incomes that are generally too high to be eligible for subsidized housing but are too low for market housing.
2. **Partner with development community** - To achieve housing targets the program must enable developers to continue to build both new market units and affordable units. Residential development projects under an IZ program must continue to be viable.
3. **Minimize land market disruption** - Provide early signals of IZ requirements and transition time to allow the land market to adjust.
4. **Minimal fiscal impact** – The IZ program policy should be viable without subsidies or significant financial incentives.
5. **Capture value in new density** - direct some of the increased land value achieved through development approvals and investment in the ION transit system toward affordable housing.

In alignment with the above principles, Table 1 outlines key policy parameters of the proposed IZ program.

Table 1. Proposed IZ Policy Parameters

Policy Parameter	Recommendation	Rationale
<p>1. Location Provincial Requirement: An IZ policy can only be adopted within a PMTSA or an area subject to a Community Planning Permit System as directed by the Minister</p>	<p>IZ should apply to all 10 PMTSAs in Kitchener, with different requirements for PMTSAs within Emerging, Established and Prime market areas. IZ requirements are recommended to come into force for seven station areas in alignment with Growing Together in Q1 2024 and for the remaining three PMSTAs east of the expressway to coincide with updated planning framework currently targeted for completion in 2025</p>	<p>Provides consistent and clear policy requirements for the development industry, implementation and monitoring efficiencies across area municipalities while reflecting station areas' differing capacity to absorb the financial impact of IZ. Creates a level playing field for investment and development across the region.</p>
<p>2. Size of Development Provincial Requirement: Limited to buildings with 10 or more units</p>	<p>Buildings with 50 or more residential units</p>	<p>Focus program on larger developments to avoid potential negative impacts on the financial feasibility of missing middle and medium density housing types, recognizing that these built forms already face significant financial obstacles in PMTSAs.</p>
<p>3. Affordable Unit Tenure</p>	<p>Affordable units should be provided as rental units, either within a condominium building or within a purpose-built rental building.</p>	<p>Proposed amendments to O.Reg 232/18 would require an ownership unit to be a minimum of 80% Average Market Resale Price (AMRP), which is affordable to only those households in the top 20% of the income range. These are high income households whose housing needs can already be met through the market. Focusing on rental tenure would ensure that the program addresses the needs of low and moderate rather than high income households.</p>
<p>4. Set Aside Rate Provincial Requirement: Proposed maximum 5% of total units or Gross Floor Area</p>	<p>Set aside rates should be measured as a percentage of Gross Leasable Residential Area (GLA). GLA dedicated to affordable units should start low and transition slowly upward</p>	<p>Proposed amendments to O.Reg 232/18 limit the set aside rate to 5%. A low initial set aside rate and relatively slow transition to the maximum rate will help avoid market disruption and signal to the market future policy intentions. Financial feasibility modeling suggests</p>

Policy Parameter	Recommendation	Rationale
	<p>to a maximum of 5%, in accordance with the local market conditions.</p> <ul style="list-style-type: none"> • PMTSAs within Prime Market Areas should start at 2% and increase to 5% by 2029. • PMTSAs within Established Market Areas should start at 1% and increase to 5% by 2031. • PMTSAs within Emerging Market Areas should start at 0% and increase to 5% by 2031. 	<p>that stronger (Prime) markets can better absorb the costs associated with an IZ policy compared with weaker (Emerging) markets. Set aside rates that align with market strength and that gradually increase will help ensure development viability in PMTSAs, that is crucial to meeting the City’s housing pledge.</p>
<p>5. Level of Affordability Provincial Requirement: Proposed policy can’t require IZ unit rents to be less than 80% Average Market Rent or IZ unit prices to be less than 80% Average Market Resale Price.</p>	<ul style="list-style-type: none"> • Affordable rental units in condo buildings should not exceed the lesser of 100% Average Market Rent for the regional market area according to the number of bedrooms or 30% of the 60th percentile household income for renter households for the regional market area. In 2022 this would be \$1,075-\$1,425 depending on unit size. • Affordable rental units in purpose-built rental buildings should not exceed 30% of the median renter household income in the regional market area as defined by CMHC, or Average Market Rent, whichever is greater. In 2022, this would be \$1425 - \$1,631 depending on unit size. 	<p>The proposed affordable rents balance objectives to maximize affordability with financial feasibility for housing providers. 100% AMR is typically in the range of \$700 per month lower than what a renter would expect to pay in market rent for a vacant unit, because the AMR calculation includes older, rent-controlled units. As a result, 100% AMR is well below the rents available in the market. The proposed rents would provide units that are affordable to low-income households (if considering the incomes of all households), and moderate-income households (if considering only renter household incomes) consistent with most other jurisdictions using IZ. Moderate income renter households’ affordability needs are generally not well served by the market or government funded housing programs. The higher proposed affordable rent for purpose-built rental buildings aligns with CMHC’s Mortgage Loan Insurance Select program for rental developments. The alignment would streamline approvals processes, limits financial impact on desirable purpose-built rentals (which are typically more financially challenging to develop than condominium developments) and would ensure that</p>

Policy Parameter	Recommendation	Rationale
		units that are affordable to moderate income households are provided in purpose built rentals.
6. Eligible Households	Low- or moderate-income households, having a gross annual income at or below the 60th percentile of regional renter household income range (under \$78,400 in 2022); and with a maximum income at time of occupancy of 3.5 times the affordable unit rent (\$45,000-%69,000 in 2022).	Eligibility requirements would ensure that affordable units are only available to low- and moderate-income households.
7. Duration Proposed Provincial Requirement: Maximum 25 years	Affordable units should be maintained as affordable for 25 years.	Proposed amendments to O.Reg 232/18 limit the duration to 25 years. Duration maximizes positive impact of the program on the affordable housing supply within the limits of the proposed regulations. The implementation program could support options for affordability beyond 25 years where affordable units are owned by a third sector provider (see #10).
8. Incentives	<p>Affordable units are exempt from development charges. Community benefits charges and parkland dedication exemptions are forthcoming.</p> <p>Affordable units delivered through the IZ program should be exempt from parking requirements to further incentivize the development of more kinds of housing including affordable units created through the IZ program.</p> <p>Additional heights and densities for developments in PMTSAs should be considered where appropriate.</p>	<p>The high cost of providing structured parking has a significant impact on the financial feasibility of a development and limits the potential yield of affordable and market units in areas well served by transit. Reduction in overall residential parking rates, combined with the removal of parking minimums for affordable units would help to offset the cost of providing affordable units and is appropriate given the proximity of the developments to rapid transit and alignment with other city objectives (e.g., greenhouse gas reduction and active transportation targets and commitments).</p> <p>Increases in permitted heights and densities in PMTSAs concurrent with the introduction of an IZ program can help offset the financial impact of the program.</p>
9. Offsite Units	The required affordable units in a new development application may be	Enabling offsite units provides opportunities for creativity, partnerships, and cost-sharing to create

Policy Parameter	Recommendation	Rationale
	<p>provided in a development located on an alternative site, provided that the alternative site is in an PMTSA within the same municipality.</p> <p>IZ units, whether onsite or offsite, must be delivered coincident with market units.</p>	<p>efficiencies and minimize pro forma impacts of the affordable units, while still achieving the intent of the IZ program to create high quality affordable units. Opportunities include:</p> <ul style="list-style-type: none"> • developers partnering with third sector to accommodate IZ units within a third sector builds • locating affordable units within buildings having lower construction costs, on lower cost sites and with more favorable financing. <p>Third sector ownership could help leverage more affordable units, more deeply affordable units, longer affordability periods and opportunities for on-site supports, if needed, when compared to onsite units alone.</p>
10. Administration and Implementation	<p>The Region of Waterloo has indicated a willingness to take a leading role in monitoring, and waitlist management. Affordable units will be secured through the development review process by city staff, in accordance with IZ zoning by-laws (Attachments B and C) and draft Implementation Guidelines (Attachment D). The proposed program includes pathways for a third sector to own affordable units created either offsite or in a condominium building.</p>	<p>Centralized administration by government or a single mission-aligned, arm's length organization with sufficient operational funds is required to ensure consistent monitoring and administration of the program. Enabling third sector ownership and operation of affordable rental units within condo developments will address condominium developers' concerns about capacity to operate affordable units and will ensure affordability beyond 25 years.</p>
11. Monitoring Provincial Requirement: Report every two years (biennially) and update Assessment Report every 5 years	<p>Report to council on successes and challenges of IZ in accordance with Provincial reporting requirements and adjust policy requirements as needed.</p>	<p>The financial impact model that supports the proposed policy direction is based on current market conditions and proposed Provincial regulations. Updates to the policy may be warranted to enable securing more of fewer affordable units, different affordability levels etc. in response to market and regulatory changes.</p>

Rents and Income of Eligible Households

Maximum rents for affordable units are proposed to be calculated using a combined market and income-based approach (Table 1). The combined approach helps to balance financial feasibility of development, with the assurance that the units will be affordable to low- and moderate-income households irrespective of significant fluctuations in the housing market year over year.

Using the proposed calculation, the maximum rents for affordable units in both a condominium building and a purpose-built rental building would be affordable to low-income households that fall in the 15th through 28th percentiles of the regional household income distribution (Tables 2 & 3). Although households below the 15th income percentile would be eligible for IZ units, they would need to spend more than 30% of their income on rent. This would be considered unaffordable according to the typical definition, but more affordable than most market housing options.

Table 2. Maximum Rents for Affordable Units in a Condominium Building (2022)

Unit type	Rent	Household income for which the rent is affordable	Household income percentile for which the rent is affordable	Max Eligible Household Income (3.5x rent)
Bachelor	\$1,075	\$43,000	15th (low income)	\$45,000
1-bedroom	\$1,275	\$51,000	20th (low income)	\$54,000
2-bedroom	\$1,469	\$59,000	24th (low income)	\$62,000
3-bedroom +	\$1,631	\$65,000	28th (low income)	\$69,000

Table 3. Maximum Rents for Affordable Unit in a Purpose Built Rental Building (2022)

Unit type	Rent	Household income for which the rent is affordable	Household income percentile for which the rent is affordable	Max Eligible Household Income (3.5x)
Bachelor	\$1,425	\$57,000	23rd (low income)	\$60,000
1-bedroom	\$1,425	\$57,000	23rd (low income)	\$60,000
2-bedroom	\$1,469	\$59,000	24th (low income)	\$62,000
3-bedroom +	\$1,631	\$65,000	28th (low income)	\$69,000

The proposed method of calculating affordable rents is recommended because it:

- Aligns with the definition of affordability in the Regional and City Official Plans, the Provincial Policy Statement (2020), and the newly revised Development Charges Act;
- Aligns with IZ best practice in other jurisdictions;
- Helps meet the needs of many households that earn too much to be eligible for community housing, but cannot afford market rents, and therefore helps address a gap in the housing continuum;
- Delivers on affordable housing objectives while having a manageable impact on financial viability of development that could otherwise curtail new housing supply;
- Helps to support mixed-income complete communities and overall community health and prosperity; and

- Creates movement along the housing continuum, freeing up units that are more deeply affordable for very low income (e.g. 10th percentile) households who cannot afford units secured through the IZ program.

While various market metrics were considered for the purpose of determining the maximum affordable rents, staff recommend using 100% Average Market Rent (AMR) rather than the maximum of 80% AMR that is under consideration by the Province in its proposed regulations. The proposed rents have significantly less financial impact on development pro forma (with its resulting impacts on the pace of housing supply) than would an 80% AMR program. Furthermore, an 80% AMR program would have significant overlap in income with eligibility for community housing whereas the proposed rents serve an affordability gap in the housing continuum. 100% AMR results in affordable rents that support low-income households in the 15th-28th percentile of the regional household income distribution (Tables 2 and 3). This is because, despite its name, AMR is significantly lower than the typical rent for a unit that is available in the market today. CMHC calculates AMR as the average of the rents for both older, rent-controlled units and newer units. When rent-controlled units are vacated and become available to new renters, a landlord may increase the rents to what the market can bear and so the rent-controlled rents do not reflect what a renter may secure in the market. In undersupplied rental markets, the rents facing new tenants are typically many hundreds of dollars more per month than AMR.

Staff also recommend setting higher maximum rents for affordable units in purpose built rental buildings than affordable units in condominiums. The higher rents for purpose built rental buildings align with CMHC's MLI select program's affordability criteria and are intended to help mitigate the potential financial impact on desirable purpose-built rental projects that typically have lower financial returns than condominium development. While the financial challenges for purpose built rental buildings have improved in recent months relative to condominium developments, market fundamentals continue to favour condominiums. Proposed rents in purpose-built rental would be affordable to the 23rd-28th household income percentile (5% percent of households in the Region).

Set aside Rates

The proportion of GFA (gross leasable residential area) dedicated to affordable units should start low in 2025 and transition slowly upward to a maximum of 5% to reflect local market conditions.

- PMTSAs within Prime Market Areas should start at 2% and increase to 5% by 2029.
- PMTSAs within Established Market Areas should start at 1% and increase to 5% by 2031.
- PMTSAs within Emerging Market Areas should start at 0% and increase to 5% by 2031.

Proposed amendments to O.Reg 232/18 limit the set aside rate to 5%. A low initial set aside rate and gradual transition to the maximum rate will help avoid market disruption and signal to the market future policy intentions. Financial feasibility modeling indicates that stronger (Prime) markets can better absorb the costs associated with an IZ policy compared with weaker (Emerging) markets.

Notwithstanding the general principle of applying higher set aside rates in stronger markets, staff recognize the potential for significant land value uplift when employment lands are converted to permit residential uses. Employment lands in emerging and established market areas that are converted to residential uses are therefore proposed to have set aside rates consistent with the Prime Market Areas. Set aside rates based on market strength combined with specific measures for employment lands will capitalize on site specific opportunities that enable higher set aside rates while helping to ensure development viability in PMTSAs that is crucial to meeting Cities’ housing pledges. This treatment of employment properties — the 5% set-aside for all market areas by 2031, promotion of the Mill and Borden Station Areas to the “Established” category, and quicker transition — are revised from the June policy directions and are supported by NBLC’s supplemental letter included as Attachment

Table 4. Set aside Rates

Market Area	Protected Major Transit Station Area	Minimum Percentage of Gross Leasable Residential Floor Area set aside for affordable units by date of building permit issuance			
		2025-2026	2027-2028	2029-2030	2031+
Prime	<ul style="list-style-type: none"> • Central Station • Victoria Park/Kitchener City Hall • Queen/Fredrick 	2%	3%	5%	5%
Established	<ul style="list-style-type: none"> • Grand River Hospital • Kitchener Market • Borden • Mill 	1%	2%	4%	5%
Emerging	<ul style="list-style-type: none"> • Block Line* • Fairway* • Sportsworld* 	0%	1%	3%	5%

*Implementation timing to coincide with Growing Together East.

Duration of Affordability

Staff recommend an IZ program that requires the longest term of affordability permitted under the proposed Provincial IZ regulations, to provide maximum benefit to households needing affordable housing. The longest duration of affordability that can be required under the proposed IZ regulations is 25 years.

The proposed IZ program provides an opportunity for the duration of affordability to be extended beyond the maximum of 25 years. By enabling affordable units to be provided offsite and providing flexibility for developers to work with third sector housing providers (non-profits, co-operatives, and other mission-aligned providers), the program encourages the transfer or sale of affordable units to the third sector. Third sector ownership of affordable units is more likely to result in a voluntary extension of the duration of affordability, perhaps even in perpetuity.

Offsite Units

The Planning Act provides for affordable units required under an IZ program to either be provided within the development giving rise to the IZ requirement or within a development on an offsite location. Staff are recommending that offsite units be permitted provided they:

- are located within any Kitchener PMTSA where IZ applies;
- are occupied at the same time as market units; and
- are a similar size and bedroom composition as the market units.

The proposed IZ program enables innovative solutions to delivering affordable units and rapid new supply of market housing. This could include developers building small purpose-built rental buildings, partnering with non-profits to increase the number of units in their builds, working with other developers to jointly meet IZ requirements in a single project, or banking their IZ requirements for multiple projects in a single building.

In staff's assessment, enabling offsite units is crucial to providing needed flexibility to the development community to deliver affordable units in a cost-effective manner that aligns with their business model. It provides a pathway for condominium developers, who do not typically own units in the long term, to deliver on affordability objectives while avoiding long term obligations on their development sites thereby freeing up capital for their next construction project. It further enables developers to incorporate affordable units within low- and medium-rise built forms that are less expensive to build compared to high-rises.

Staff have heard concerns from some that enabling offsite units could encourage the creation of lower quality or poorly managed affordable housing developments, rather than mixed income buildings. While staff agree that enabling offsite units may result in the creation of more developments that contain only affordable units, it is important to note that there are many successful examples of rental developments geared toward lower income residents and such developments continue to be created throughout the region without generating significant problems for the tenants or the surrounding community. Any development, whether it be for tenants with a mix of incomes or for lower income tenants specifically, would be subject to the same design standards, amenity and greenspace zoning regulations and property standards requirements. These will be reviewed through the site plan approval process, informed by the draft implementation guidelines (Attachment D) and secured through inclusionary zoning agreements. Although allowing for offsite units might reduce the number of widely mixed-income apartment buildings, it does help deliver mixed-income neighbourhoods and complete communities in PMTSAs.

Compatibility with other Housing Programs

Because IZ is not reliant on government funding, it does not compete with other housing programs, such as emergency and transitional housing, deeply subsidized affordable housing, and supportive housing. The focus of the proposed IZ program on levels of affordability that are more expensive than deeply subsidized units, but still well below market rents, provides additional housing options that aren't currently available in the market, such as housing for those who are ready to leave rent geared to income housing, a household with two minimum wage earners, and older adults on modest fixed incomes. For this reason, IZ not only supports those households who require an affordable unit, but also contributes

to movement within the housing system and a more diverse and responsive housing system overall.

Forecasted number of IZ units

IZ is one of many affordable housing tools. In order to address the housing crisis, all orders of government and the third sector must invest significantly in affordable housing as outlined in [Housing for All](#), the [Region of Waterloo's 10 year Housing and Homelessness Plan, Building Better Futures](#), and other strategic initiatives.

While there is significant uncertainty in the number of housing units that can be delivered by the market in the short term, the City remains committed to its housing pledge and Housing Accelerator Fund targets. Growing Together [forecasts](#) that approximately 2,000 units per year in PMTSAs will contribute to our 10-year target of 35,000 homes. Based on the set-aside rates in Table 4 and the estimated share of buildings of 50 or more units, the number of affordable units is forecasted to ramp up to 80 affordable units per year by 2031. This represents a modest but meaningful number of new affordable units in addition to affordable units delivered through Federal, Provincial, Regional, City and non-profits' programs and initiatives.

Financial Viability and Transition

The Planning Act and Ontario Regulation 232/18 establish the process by which an IZ policy can be adopted, and the contents of IZ policy and zoning by-law provisions. Kitchener has completed all the necessary studies and assessments required under the legislation. The recommended framework is supported by a financial impact model and peer review shared through [DSD-20-150](#), model updates described in report [DSD-2023-258](#) and the memo included in Attachment F to this report.

The proposed planning framework (i.e. Official Plan policies and zoning regulations) for the PMTSA through Growing Together is more permissive than the current planning framework around ION station stops especially with respect to the amount of growth enabled through as-of-right zoning permissions. This is crucial to offsetting some of the negative financial impacts of IZ on site development economics that could otherwise slow housing construction. Implementation of IZ for the Block Line, Fairway and Sportsworld PMTSAs is proposed to coincide with the updated planning framework currently scheduled to commence in mid-2024.

The Partners heard from our consultants and the development community that transition provisions are essential to ensuring that financial impacts of IZ can be incorporated into early decision making and land acquisitions. The Planning Act exempts developments that were the subject of site plan or subdivision application prior to the passing of an IZ by-law. Staff have carried out or are recommending transition provisions beyond the statutory requirements including:

- Since early 2020, communicating broadly with the development industry to expect IZ requirements;
- Exempting projects that apply for building permits in 2024; and
- Gradually increasing set-aside rates to 5%, with the pace varying according to the strength of each market area.

In comparison to the proposed approach outlined in June 2023, the applicable set aside rate will apply at the time of building permit issuance rather than the time of occupancy (less onerous), IZ requirements begin in 2025 rather than the original proposal of, and the set aside rates phase-in more quickly.

Staff do not recommend exempting developments that are currently the subject of Official Plan or Zoning By-law amendment applications. In staff's opinion, the statutory and other recommended transition provisions appropriately mitigate the financial impact of IZ. Exempting units that are the subject of OPA and ZBA applications would mean forgoing approximately 400-500 affordable units in Kitchener's PMTSAs.

Planning Analysis

The legal framework for IZ is established in sections 16, 34 and 35.2 of the Planning Act and Ontario Regulation 232/18. The list of requirements, and how each of these are addressed are detailed in Appendix 2 of the June 2023 Discussion Paper included as Attachment G. Two key prerequisites are highlighted here.

1. IZ can only be applied within approved Protected Major Transit Station Areas (PMTSAs) within upper tier or single tier Official Plans; or within community planning permit areas that are mandated by the Province.

Regional Official Plan Amendment 6 established boundaries for Kitchener's major transit station areas, minimum number of residents and jobs per hectare for each, and policies requiring the City to establish authorized uses of lands and minimum density targets with respect to buildings and lands. Accordingly, Kitchener's 10 station areas meet the criteria for PMTSA in section 16(16) of the Planning Act and IZ is therefore enabled.

2. IZ policies must be informed by an assessment report that includes specified content and analysis. It must be updated every 5 years.

Kitchener's assessment report requirements are met through the [2020 Housing Needs Assessment](#), NBLC's [2020 Evaluation of Potential Impacts of an Affordable Housing Inclusionary Zoning Policy](#), and the supplementary discussion paper included as Attachment F to this report. The 5-year review of the assessment report is planned and budgeted through the City's Housing Accelerator Funding work program that is underway.

A fulsome planning analysis was included in report DSD-2023-258 and the June 2023 Discussion Paper (Attachment G). It provides planning analysis outlining how The Provincial Policy Statement (2020); Growth Plan for the Greater Golden Horseshoe (2020); Regional Official Plan (ROP) and Kitchener Official Plan all emphasize the importance of planning for a full range and mix of housing, including affordable housing, to meet community needs. While many planning tools encourage the provision of affordable housing, Inclusionary Zoning is the only one that can require its provision and its implementation is strongly supported in the ROP. The recommended approach to IZ contributes to mixed income communities in PMTSAs and a complete and vibrant community. The recommended approach to IZ implemented through the proposed Official Plan and Zoning By-law amendments have regard for matters of Provincial interest; are consistent with the Provincial

Policy Statement (2020); conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020), and the Regional Official Plan; further implement the objectives and policies of the Kitchener Official Plan; and represent good planning.

Next Steps

Pending Council's decision on the recommended IZ framework:

- The Official Plan amendment will be forwarded to the Region for their approval;
- Staff will finalize the implementation guidelines included as Attachment D;
- Staff will develop a memorandum of understanding with the Region that outlines work that the Region will undertake on the Cities' behalf regarding tenant selection and monitoring of agreements;
- The Region will develop a waitlist and begin inviting potential tenants;
- City staff will identify IZ requirements to provide affordable units through the development application approvals processes;
- Affordable units will be required for developments that have building permits issued in 2025 and beyond;
- Affordable units will be leased to eligible tenants likely starting in 2026;
- The Partners will monitor the program and report back to councils biennially or more frequently if needed.

In the near term, staff intend to host regular meetings with developers whose developments are subject to IZ requirements, and third sector housing providers for training and education purposes and to facilitate connections to enable offsite unit collaboration and/or transferring ownership of units to the third sector.

STRATEGIC PLAN ALIGNMENT:

This report supports Building a Connected City Together: Focuses on neighbourhoods; housing and ensuring secure, affordable homes; getting around easily, sustainably and safely to the places and spaces that matter.

FINANCIAL IMPLICATIONS:

Capital Budget – As with affordable and non-profit housing units, IZ units are exempt from City Development Charges and Regional Development Charges. Community Benefits Charges and Park Dedication exemptions are anticipated in the near term. The mandatory incentives for IZ are directionally aligned with existing City policies exempting affordable units from DCs and parkland dedication. The incremental impact of IZ on these revenue sources is anticipated to be modest, and will be monitored and considered through future budgeting and updates to relevant by-laws.

Operating Budget – The recommended approach to implementation would see new tenancies and monitoring primarily undertaken by the Region. As the number of affordable units grows, operating needs will emerge for dedicated resources that will have Regional budget implications. The Cities intend to secure IZ units through the development approvals process with existing resources. Consulting services may be required to assist with biennial policy review and 5-year assessment report reviews.

COMMUNITY ENGAGEMENT:

As reported in June 2023, staff consulted with representatives from the development industry, housing advocacy groups, non-profit housing providers, moderate income

individuals likely to benefit from an IZ program and the public at large. There was general support for establishing an IZ program. Community and affordable housing organizations encouraged the partners to maximize affordability outcomes. The development industry urged a measured and flexible approach to mitigate impacts on financial viability and housing supply.

The discussion paper was circulated to a broad range of stakeholders and people that had previously been engaged in the project. Since June 2023, staff met with the Waterloo Region Homebuilders Association, Kitchener Development Liaison Committee, Build Urban, Grand River Accessibility Advisory Committee, several local high-rise developers, non-profits and academics. Written and verbal comments since June 2023 along with staff responses are included in Attachment E. Approximately 1,100 individuals have been engaged in the project. Key themes from the engagement activities are highlighted in [DSD-2023-071](#) and [DSD-2023-258](#).

The statutory public meeting was advertised in the Waterloo Record on January 5, 2024, EngageWR and a email notice of the meeting was sent to all parties who had previously expressed interest in the project.

PREVIOUS REPORTS/AUTHORITIES:

- [DSD-20-006](#) Affordable Housing Strategy Phase 2: Housing Needs Assessment
- [DSD-20-150](#) Inclusionary Zoning for Affordable Housing: Background and Fiscal Impact Analysis
- [DSD-2022-281](#) Growth Related Funding Tools – Cumulative Impact Assessment
- [DSD-2022-501](#) Bill 23 More Homes Built Faster Act – Kitchener Comments
- [DSD-2023-071](#) Inclusionary Zoning for Affordable Housing: Status Update
- [DSD-2023-258](#) Inclusionary Zoning – Policy and Implementation Directions
- [Provincial Policy Statement, 2020](#)
- [A Place to Grow: Growth plan for the Greater Golden Horseshoe, 2020](#)
- [Regional Official Plan](#)
- [Planning Act](#)

CO-AUTHORS: Michelle Lee, Executive Officer to the CAO, City of Waterloo
Matthew Blevins, Senior Planner – Reurbanization, City of Cambridge
Judy Maan Miedema, Principal Planner, Region of Waterloo

REVIEWED BY: Natalie Goss, Manager, Policy and Research
Ryan Hagey, Financial Planning and Asset Management

APPROVED BY: Justin Readman, General Manager of Development Services

ATTACHMENTS:

- Attachment A – By-law to amend the Official Plan
- Attachment B – By-law to amend Zoning By-law 2019-51
- Attachment C – By-law to amend Zoning By-law 85-1
- Attachment D – Draft Inclusionary Zoning Implementation Guidelines
- Attachment E – Community Engagement Comments and Responses

Attachment F – Inclusionary Zoning - Supplementary Discussion Paper, NBLC
2023

Attachment G – Discussion Paper, June 2023