

Staff Report



Development Services Department

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REPORT TO: Community and Infrastructure Services Committee

DATE OF MEETING: March 6, 2023

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

DATE OF REPORT: February 22, 2023

REPORT NO.: DSD-2023-071

SUBJECT: Inclusionary Zoning for Affordable Housing: Status Update

RECOMMENDATION:
For information.

REPORT HIGHLIGHTS:

- The purpose of this report is to update council on intermunicipal work on inclusionary zoning, share the results of community engagement, and outline next steps.
- There are no financial implications arising from this report
- Community engagement included in person and digital meetings with potential occupants of inclusionary zoning units, the for-profit and non-profit housing development industry, and the community at large. Asynchronous engagement was undertaken on engageWR
- This report supports A Caring Community.

BACKGROUND:

The City's strategic plan, and [Housing for All](#) recognize the importance of using a broad range of tools to advance critical housing affordability objectives. Inclusionary Zoning (IZ) is a tool that allows municipalities to require market residential developments to include some affordable housing units.

IZ works by leveraging increases in value achieved through increased density, development approvals, investment in the ION light rail transit system and, increasing demand for centrally located housing to provide affordable housing. In this way IZ programs can be designed to work without government subsidies. IZ is one tool that can be used along side investments from all levels of government, non-profits and the private sector to help deliver new affordable units required to address the city's critical affordable housing needs. Because IZ results in lower rental or sale price revenue than without an IZ policy, IZ requirements need to be carefully crafted so as not to stifle market housing development in Major Transit Station Areas (MTSAs).

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

Inclusionary Zoning has been used extensively in the United States and some Canadian cities. Several other Ontario municipalities are working to advance inclusionary zoning. Mississauga’s IZ regulations came into effect on January 1, 2023. Toronto’s implementation of IZ is awaiting Provincial approval of Protected MTSAs.

In September 2020 staff provided an update to council regarding a financial impact analysis of IZ through report [DSD-20-150](#). The analysis by N. Barry Lyon Consultants (NBLC) tested several IZ policy options at MTSAs across the region. Potential IZ policies were developed using the principles of:

- partnership with the development industry;
- capturing value in new density and directing it toward affordable housing;
- long term policy sustainability without financial subsidies;
- targeting moderately affordable units; and
- minimizing land market disruption.

Key findings of that report were:

- a modest but meaningful number of affordable units can be secured through IZ in the short term with a possibility for future growth;
- different market characteristics across the MTSAs result in differing abilities to deliver affordable units;
- incentives could be used to deliver more affordable units than under the base policy;
- IZ policies should be introduced slowly to minimize land market disruption;
- IZ implementation should be aligned with updating planning frameworks in MTSAs;
- regional coordination, frequent monitoring and policy adjustments are recommended.

Work on inclusionary zoning is being undertaken in collaboration with the cities of Cambridge and Waterloo, and the Region of Waterloo (the partners). Consulting services have been cost shared through a joint services agreement.

In December 2022, through its consideration of report [DSD-2022-501](#) regarding Bill 23, council expressed an interest in accelerating work on inclusionary zoning and asked staff to report back in Q1 2023. The purpose of this report is to explain work to date, provide community engagement highlights and outline next steps.

REPORT:

Regulatory Framework and Bill 23

IZ can only apply to multi-residential developments with 10 or more units within Major Transit Station Areas. Prior to approving an inclusionary zoning by-law, municipalities must:

Requirement	Status
Prepare a housing assessment report to understand local demographics and housing supply and demand	Complete
Obtain an independent review of the impacts of IZ on the housing market and the viability of development; and	Complete. Updates underway
Establish Official Plan policies and zoning for Protected Major Transit Station Areas that include, boundaries, density targets measured in persons and jobs per hectare, permitted uses, and minimum site-level density permissions	In progress

On November 28, 2022, Bill 23 received royal assent. Bill 23, and related regulations, among other things, propose changes to inclusionary zoning requirements which are not yet in effect. A summary of the changes and the City's response are included in report [DSD-2022-501](#). Specifically, the proposed regulatory changes for inclusionary zoning would:

- set an upper limit of 5% of the total proportion of units/floor area in a development that can be required to be affordable;
- set a maximum affordability period of 25 years, and;
- prescribe the lowest price/rent that can be required for inclusionary zoning units at 80% of the average market rent for rental units and 80% of average resale price for ownership units.

What we've done

1. **2020 HOUSING ASSESSMENT** - Council received a Housing Needs Assessment as background to Kitchener's Housing for All strategy ([DSD-20-006](#)).
2. **2020 FINANCIAL MODEL** - NBLC tested various policy parameters that affect both achievement of affordable housing objectives, and development feasibility including:
 - "set aside" rate (proportion of units or floor area in a building required to be affordable);
 - duration of affordability (how long affordability must be maintained);
 - depth of affordability (the discount in price or rent as compared to the market);
 - the tenure of affordable units (rental vs. ownership).

The implications on land market dynamics and financial viability were explored considering prototypical developments in MTSA's in all three cities. Details are included as appendices B and E to report [DSD-20-150](#).

3. **2022 FINANCIAL MODEL UPDATE** - NBLC updated the model to reflect significant changes to the housing market since 2020 and to enable further updates to reflect contemporary market conditions and test other policy options. This work will be shared with council in late Q2 2023.

These three pieces of work together satisfy the assessment report and financial impact assessment prerequisites for IZ outlined in the Planning Act.

4. POLICY AND PROGRAM RESEARCH AND DEVELOPMENT

Over the past few years the partners have been researching best practices, meeting with key stakeholders and analysing policy and program options. This work has informed the following initial draft policy directions that were presented as part of community engagement. The draft policy directions were presented for discussion purposes and to obtain thoughts from stakeholders and the community. Input obtained will be used to inform recommended policy directions anticipated to be tabled for further discussion with the community and Council in late Q2 2023.

Policy	Initial Direction
Set aside rate – what percentage share of units or floor area in a building should be secured as affordable housing?	<ul style="list-style-type: none"> • Start low, transition slowly to higher rate that is supported by the market conditions • Appropriate set aside in each MTSA determined by the financial model • A maximum set aside 5% is proposed to be mandated by the province • Set aside to increase with building height/density • Exempt smaller buildings to encourage missing middle and midrise built forms (e.g., exempt < 50-60 units)
Depth of affordability - how much lower the rents or prices are than the market?	<ul style="list-style-type: none"> • Moderate affordability 80%-100% of Average Market Rent • In 2022 Average Market Rent was \$1,454/month for a two bedroom
Duration of affordability - how long affordability is secured for?	<ul style="list-style-type: none"> • A maximum 25-year term is proposed to be mandated by the province
Tenure of affordable units - are the affordable units rented or owned?	<ul style="list-style-type: none"> • Rental a priority in both condominium and purpose-built rental projects
Unit type/mix/design – should there be unit type, size or design requirements set on affordable units?	<ul style="list-style-type: none"> • Encourage range of unit size/types/designs comparable to market units • Require functional equivalency of market and IZ units
Offsite units - should the policy allow affordable units to be located in another building nearby?	<ul style="list-style-type: none"> • Enable developers to use flexible approaches to meet affordability and financial feasibility objectives subject to strong guarantees
Incentives – should the city provide financial or non-financial incentives for the development of IZ units)?	<ul style="list-style-type: none"> • Provide the mandatory exemptions from Development Charges, Community Benefits Charges and Parkland dedication • No additional financial incentives • No parking required for IZ units
Administration – who, owns and operates units, and who monitors and ensures ongoing affordability?	<ul style="list-style-type: none"> • Exploring opportunities to shift ongoing IZ administration away from condominium developers and boards • Regional or not-for-profit implementation

5. COMMUNITY ENGAGEMENT

In 2022 the partners retained LURA Consulting to facilitate community engagement on inclusionary zoning as described in the Community Engagement section of this report and in Attachment A.

Next steps

The partners are continuing to work together to develop a consistent policy framework across the three cities. Each City expects to implement IZ requirements through adoption of official plan policies and zoning regulations in coordination with updated MTSA planning in their respective jurisdiction. The following is anticipated timing of next steps for Kitchener's IZ process:

Q1-Q2 2023	Additional policy analysis and key stakeholder meetings
Q2 2023	Discussion paper, recommended policy directions and draft implementation guidelines considered by council
Q4 2023	Official Plan and zoning by-law amendment considered for approval alongside updated planning framework for all MTSA's except for Block Line, Fairway and Sportsworld
Early 2024	New development applications to which IZ policy applies must include affordable units
2024+	IZ requirements for Block Line, Fairway and Sportsworld to be considered together with updated MTSA planning frameworks

The timing of the steps outlined above is contingent on a decision by the Province on the IZ regulation tabled in October 2022. At this time, it is unknown when IZ regulation revisions will be in effect.

STRATEGIC PLAN ALIGNMENT:

This report supports A Caring Community.

FINANCIAL IMPLICATIONS:

Capital Budget – The IZ work is anticipated to be completed with existing resources and approved budgets. Consultant costs were cost shared among the partners as a Joint Services Initiative, and were supported by provincial Streamline Development Approvals Funding.

Operating Budget – The recommendation has no impact on the Operating Budget.

COMMUNITY ENGAGEMENT:

INFORM – This report along with project materials have been posted to the City's website with the agenda in advance of the committee meeting and on [engageWR](#).

CONSULT – The partners have engaged with stakeholders and the community at large both online and in person since 2020. In 2022, the partners retained LURA Consulting to assist with developing plain language communication and videos to explain the inclusionary zoning concept. LURA also helped plan, deliver, and facilitate digital and in-person community engagement. Details on engagement and what was heard are included in Attachment A.

Since 2020, the Inclusionary Zoning engageWR project page was visited 3,300 times with over 1,000 engaged visitors. Four synchronous engagements, both online and in person, were attended by over 100 people.

It is recognized that community engagement to date does not reflect the full depth of diversity and the demographics of Waterloo Region. Households earning less than \$60,000 per year, people younger than 30, and those without post-secondary qualifications were underrepresented in meeting attendance and through the engageWR platform. Renters and moderate-income households, both groups expected to benefit from IZ, were well represented. Some engagement tactics targeted key stakeholders such as industry and housing providers and as such were not expected to be reflective of the Region's demographics. Furthermore, the consultations were technical in nature, and policy options fall within tight regulatory bounds. Staff identified the likelihood of retraumatizing people with lived experience of homelessness or poverty, as well as reputational and trust risks of engaging intensely with these populations in such technical work, and so did not proactively or intensely engage with them. A concerted and generally successful effort was made to engage with moderate income people who are anticipated to benefit directly from inclusionary zoning. Nevertheless, there is significant room for improvement in pursuit of equity in community engagement through future affordable housing work. The community engagement results should be interpreted with this in mind.

In general, we heard broad support for an inclusionary zoning policy. Support was expressed for flexibility within the policy without 'watering down' the delivery of affordability objectives or unit quality. There was no consensus on how to manage the trade-offs between set-aside rate, depth of affordability and duration of affordability. A general preference for the provision of two bedroom or larger units was identified.

While no consensus emerged on the appropriate price or rents for affordable units, participants expressed a desire to see an IZ program that delivers moderately affordable units complemented by other policies and programs beyond IZ that target the creation of many more deeply affordable units.

Participants encouraged the partners to consider additional zoning measures such as eliminating parking minimums and allowing more low and mid-rise development within residential neighbourhoods to help increase housing supply more broadly through variety of built forms.

Participants expressed the desire for continued advocacy to the Province for the expansion of where inclusionary zoning can be used, and continued municipal discretion on maximum set aside rates and duration of affordability.

The development community indicated the need for all of society to work to provide more affordable housing units. Many support the development industry playing a part in the creation of affordable housing in the Region. They emphasized the need to maintain project viability and not putting undue price pressure on market rate units. Most condominium developers' business model does not align with administering units in the long term; partnerships are needed to fill this gap.

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-2022-501](#) Bill 23 More Homes Built Faster Act – Kitchener Comments

- *Planning Act*

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ATTACHMENTS:

Attachment A – Region of Waterloo and Tri-cities Inclusionary Zoning Study: Engagement Report