

Staff Report



Development Services Department

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REPORT TO: Planning and Strategic Initiatives Committee

DATE OF MEETING: June 19, 2023

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WARD(S) INVOLVED: Ward(s) 3, 9,10

DATE OF REPORT: June 8, 2023

REPORT NO.: DSD-2023-258

SUBJECT: Inclusionary Zoning - Policy and Implementation Directions

RECOMMENDATION:

That staff, in coordination with the Cities of Waterloo and Cambridge; and the Region of Waterloo, be directed to use the Discussion Paper in Attachment 1 as the basis for further consultation with the development industry, affordable housing providers, other affected groups and the public; and,

That staff, in coordination with the Cities of Waterloo and Cambridge; the Region of Waterloo, be directed to develop a draft Inclusionary Zoning Official Plan policy and implementing Zoning By-law amendments, for Council's consideration, in accordance with the directions set out in the Discussion Paper (Attachment A) and with consideration of the results of the consultation process and any subsequent analysis.

REPORT HIGHLIGHTS:

- The purpose of this report is to release the policy and implementation directions for inclusionary zoning (IZ) as the basis for further community engagement and drafting Official Plan Policies, Zoning and implementation guidelines.
- The proposed IZ policy directions outlined in this report would provide for a modest but meaningful number of new affordable units every year to help address housing affordability needs alongside other crucial initiatives and investments in affordable housing.
- The financial implications are a moderate anticipated reduction in Development Charge, Community Benefit Charge and Park Dedication revenue associated with affordable units.
- Community engagement included in person and online engagement with 1,100 people representing a broad range affected groups including the development industry, housing providers, potential tenants of IZ units, and the public.
- This report supports the delivery of core services.

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 Major Transit Station Areas (MTSAs). The Cities of Kitchener, Cambridge and Waterloo, in collaboration with the

*** This information is available in accessible formats upon request. ***
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Region of Waterloo (“the Partners”) are exploring IZ to increase the amount of affordable housing near ION rapid transit stops.

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 would support consistent and clear policy requirements for the development industry; create efficiencies in implementation across area municipalities through shared guidelines and agreement templates; maintain the relative attractiveness for investment in residential development across the cities MTSAs; and, centralize administration, monitoring and enforcement. Such an approach can be designed to reflect differences in market areas across the region.

This report presents a set of directions for a region-wide IZ policy. The policy directions reflect current trends in market housing prices and rents, housing construction costs, local housing supply and demand, an assessment of financial feasibility of IZ and a review of best practices across North America. A creative and flexible policy approach is recommended to ensure that an IZ program can address housing needs that aren’t being met by the market, adapt to changing market conditions and to enable market innovation while ensuring affordable housing outcomes. The policy directions also reflect feedback from development industry, affordable housing providers, people facing housing affordability challenges and the general public.

REPORT:

IZ has been used successfully in municipalities across North America to create a sustainable affordable housing supply. 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 reliance of IZ on the increase in land values to offset the cost of the affordable units means that the program is best suited to provide moderately affordable units – housing that is affordable to moderate income households whose incomes fall within the 30th-60th percentile of the income range. Moderate income households typically have incomes that are too high to be eligible for subsidized or community housing, but are too low to compete in the market. Moderate income renter households have annual incomes between \$40,600 and \$58,900. Ensuring the provision of moderately affordable housing helps to support mixed-income complete communities and overall community health and prosperity. It can also help create movement along the housing continuum, freeing up units that are more deeply affordable for those who need them.

Because IZ is not reliant on government funding programs and is focused on moderately affordable housing, it can complement other programs that focus on other parts of the housing spectrum, such as emergency and transitional housing, deeply subsidized affordable housing, and supportive housing. The adoption of an IZ policy would work alongside, not in replacement of, these other programs and approaches. Staff estimate that an IZ program could result in new affordable units being occupied starting in 2024-27 and increase to 60 affordable units per year by 2031, including 27 in Kitchener. This modest but meaningful amount of new affordable housing is one of the tools, and not the panacea for affordability challenges, that is needed alongside initiatives and investments in affordable housing in outlined in [Housing for All](#) and the [Region of Waterloo’s 10 year Housing and Homelessness Plan](#), [Building Better Futures](#), and other strategic initiatives.

The Planning Act and Ontario Regulation 232/18 regulate the process by which an IZ policy can be adopted, and the contents of IZ policy and zoning by-law provisions. The Partners have

completed or are working toward the completion of all the necessary studies and assessments required under the legislation. The studies and MTSA designations/delineations in Table 1 will help inform the development of appropriate Official Plan IZ policies to they are are both financially viable and effective.

Table 1. Provincial Requirements Prior to the Adoption of an Inclusionary Zoning Policy

Provincial Requirement	Description	Date Completed	Council reports / Ministerial decision
Housing Assessment Report	Housing supply and demand information to be considered in the development of an IZ policy.	2020	Kitchener: DSD-20-006 . Cambridge: <i>pending</i> Waterloo: IPPW2020-071
Summary: Results of both Kitchener's and Waterloo's Housing Assessment Reports confirmed that housing affordability has declined in both cities and that low and moderate income households are the most affected. In addition to planning for more supply in general, there is a specific need for more non-market housing (including supportive housing) and more primary rental housing to meet the needs of residents.			
Financial Impact Analysis and Peer Review	Analysis of the potential impacts on the housing market and financial viability of IZ.	2020	Kitchener: DSD-20-150 Cambridge: 21-130(CD) Waterloo: IPPW2020-071
	Update to the inputs into the Financial Analysis to reflect market changes.	2022	Attachment 2 of this report
Summary: Financial model outputs showed that financial viability was highest in "prime" market areas, and more challenging in the short term for "established" and "emerging" market areas. Gradual increases to set aside rates and limiting IZ policies to larger buildings could help minimize negative financial impacts. The financial model update was facilitated through and supported by Provincial Streamline Development Approval funding.			
Designation of MTSA s	Delineation of MTSA's in the Region of Waterloo Official Plan indicating where IZ can be required.	2023	Minister of Municipal Affairs and Housing approval of Region of Waterloo Official Plan Amendment 6: ERO 019-5952

In addition to the required studies and MTSA policies, the Partners have:

- 1) Assessed the potential implications of Bill 23 on the feasibility of IZ,
- 2) Conducted a jurisdictional scan of best practices, and
- 3) Gathered feedback from the public and groups most likely to be impacted by IZ.

The results of this work are summarized here and detailed in the Discussion Paper in Attachment 1 to this report.

1. **Bill 23 More Homes Built Faster Act, 2022:** Proposed changes to O.Reg 232/18 will 1) limit the proportion of units or floor area of a building that can be required to be affordable to 5%, 2) limit the duration the IZ units are required to be affordable to 25 years, and 3)

limit the minimum required rents for affordable rental units to 80% Average Market Rent¹ and the minimum required ownership cost to 80% Average Market Resale Price. The Development Charges Act was amended to exempt affordable units secured through IZ from paying development charges (DCs). Community benefits charges (CBCs) and parkland exemptions are anticipated. The recommended directions would comply with the proposed regulations. Taking all of these proposed changes into account, staff are of the opinion that the recommended IZ direction would provide a modest but meaningful supply of affordable housing that would have a significant impact on the affordable housing supply over time.

2. **Jurisdictional Scan:** Key findings from the jurisdictional scan suggest that IZ works most effectively in strong housing markets and is best used to secure moderately affordable housing. Financial and non-financial incentives are often used in tandem with IZ programs to ensure financial viability. Centralized administration and enforcement are important to ensure consistent and effective implementation over the long term.
3. **Public and Interest Group Feedback:** 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 housing affordability parties 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.

Policy Directions

The proposed policy directions summarized in Table 2 seek to balance community objectives to increase the supply of affordable housing with market feasibility to ensure continued viability of residential development. They also reflect proposed amendments to Ontario Regulation 232/18 that set limits on the number of affordable units, minimum rents and prices and length of time that affordable units that can be required. They are built around the following principles for an IZ program:

1. **Moderate Affordability** - Secure housing that is affordable to moderate income households and is not otherwise being provided by the market.
2. **Partner with development community** - To achieve housing targets the Partners need developers to build new affordable units under IZ. Residential development projects must be viable.
3. **Minimize land market disruption** - Provide early signals and transition time for the land market to adjust to IZ.
4. **Long term sustainability** - IZ policy should be viable without subsidies or significant incentives.
5. **Capture Value in new density** - direct some of the increased land value achieved through development approvals, investment in the ION transit system toward affordable housing.

¹ Average Market Rent (AMR) is a figure published by CMHC that represents the rents across the private rental housing stock including older stock and unit rented below market due to rent control. Rents in new market developments are significantly (approx. \$700/mo) higher than AMR.

Policy Parameter	Policy Direction	Rationale
1. Location Provincial Requirement: An IZ policy can only be adopted within a MTSA or an area subject to a Community Planning Permit System as directed by the Minister	An IZ policy should apply to all 24 MTSAs in Waterloo Region, with different requirements for emerging, established and prime market areas (See #4).	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 and create a level playing field for investment and development across the region.
2. Size of Development Provincial Requirement: Limited to buildings with 10 or more units	Buildings with 50 or more residential units	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 MTSAs.
3. Affordable Unit Tenure	Affordable units should be provided as rental units, either within a condominium building or within a purpose-built rental building.	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 moderate rather than high income households.

Policy Parameter	Policy Direction	Rationale
4. Set Aside Rate Provincial Requirement: Proposed maximum 5% of total units or Gross Floor Area	Proportion of GFA (gross leasable or salable area) dedicated to affordable units should start low and transition slowly upward to a maximum of 5%, in accordance with the local market conditions. • MTSAs within Prime Market Areas should start at 2% and increase to 5% by 2031. • MTSAs within Established Market Areas should start at 1% and increase to 3% by 2031. • MTSAs within Emerging Market Areas should start at 0% and increase to 2% by 2031. • A list of which MTSAs are within the prime, established, and emerging market areas is within Table 3 and Attachment 1.	Proposed amendments to O.Reg 232/18 limits 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 that stronger (prime) markets can better absorb the costs associated with an IZ policy compared with weaker (emerging) markets. This will help ensure development viability in MTSAs that is crucial to meeting Cities' housing pledges.

Policy Parameter	Policy Direction	Rationale
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.	- Affordable rental units in condo buildings should not exceed 100% Average Market Rent. (\$1,063-\$1,590 in 2022 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 2023, this would be \$1425 - \$1,590, depending on unit size)	The proposed affordable rents balance objectives to maximize affordability with financial feasibility for housing providers. 100% AMR is typically at least \$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 moderate income households consistent with most other jurisdictions using IZ. Moderate income 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 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; and with a maximum income at time of occupancy of 3.3 times the IZ unit rent.	Eligibility requirements would ensure that affordable units are only available to low and moderate income households.

Policy Parameter	Policy Direction	Rationale
7. Duration Proposed Provincial Requirement: Maximum 25 years	IZ units should be maintained as affordable for 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 IZ units are owned by a third sector provider (see #10) ² .
8. Incentives	IZ units are exempt from development charges. Community benefits charges and parkland dedication exemptions are forthcoming. Minimum required parking rates for developments within MTSAs should be reduced or eliminated, and no parking should be required for IZ affordable units. Additional heights and densities for developments in MTSA should be considered where appropriate.	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). Increases in permitted development heights and densities in MTSAs concurrent with the introduction of an IZ program can help offset the financial impact of the program.

² Third sector refers to non-profit, co-operative, and other types of mission-aligned affordable housing providers

Policy Parameter	Policy Direction	Rationale
9. Offsite Units	The required affordable units in a new development application may be provided in a development located on an alternative site, provided that the alternative site is in an MTSA within the same municipality.	Enabling offsite units provides opportunities for creativity, partnerships and cost-sharing to create 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 developers partnering with third sector organizations to create offsite units within a third sector ¹ owned building and locating affordable units within buildings having lower construction costs, on lower cost sites and with more favorable financing. This approach can leverage more affordable units, more deeply affordable units, longer affordability periods and opportunities for on-site supports when compared to onsite units alone.
10. Administration and Implementation	The Region of Waterloo has expressed an interest in taking a leading role in monitoring, enforcement and waitlist management. The Cities of Kitchener, Cambridge and Waterloo will secure affordable units through the development review process, in accordance with IZ Implementation Guideline Document (to be developed). Should the IZ program require rental as the tenure for affordable units (see item #3), implementation should include pathways for a third sector to own affordable units created in a condominium building. The Region may be able to assist with financing to support third sector ownership.	Centralized administration by government or a single mission-aligned, arm's length organization with sufficient operational funds is required to ensure consistent monitoring and enforcement 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.

Policy Parameter	Policy Direction	Rationale
11. Monitoring Provincial Requirement: Report every two years (biennially) and Assessment report refresh every 5 years	Report to council on successes and challenges of IZ and adjust policy requirements as needed	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 IZ units, different affordability levels etc. in response to market and regulatory changes.

Table 3. Recommended Set Aside Rates

Market Area and MTSA	Set Aside Rate and Date of Occupancy		
	2024-2027	2028-2030	2031+
Prime Market Areas • University of Waterloo • Laurier - Waterloo Park • Central Station • Victoria Park/Kitchener City Hall • Queen/Fredrick	2%	3%	5%
Established Market Areas • Conestoga • Research & Technology Park • Waterloo Public Square/ Willis Way • Allen • Grand River Hospital • Kitchener Market • Main • Downtown Cambridge	1%	2%	3%
Emerging Market Areas • Northfield • Borden • Mill • Block Line • Fairway • Sportsworld • Preston • Pinebush • Cambridge Centre Mall • Can-Amera • Delta	0%	1%	2%

STRATEGIC PLAN ALIGNMENT:

This report supports the delivery of core services.

FINANCIAL IMPLICATIONS:

Capital Budget – As with affordable, attainable 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, but will be monitored and considered through future budgeting and updates to relevant by-laws.

Operating Budget – The draft approach to implementation would see administration and enforcement undertaken by the Region. As the number of IZ 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.

These implications will be further detailed in future reports to council.

COMMUNITY ENGAGEMENT:

INFORM and CONSULT

The Partners commissioned the development of [two videos](#) to help explain affordable housing and IZ in plain terms. The Partners have conducted in person and [online](#) consultation, including interviews, surveys, focus groups, and presentations and meetings with development industry representatives, the Waterloo Region Home Builders Association, moderate income earners, affordable housing providers, housing advocates and the general public. Approximately 1,100 individuals have been engaged in the project. Key themes from the engagement activities undertaken since December 2022 were included in report [DSD-2023-071](#).

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
- [DSD-2023-071](#) Inclusionary Zoning for Affordable Housing: Status Update
- *Planning Act*

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ATTACHMENTS:

[Attachment 1 – Inclusionary Zoning Policy and Program Directions Discussion Paper](#)
[Attachment 2 – Memo: Inclusionary Zoning Development Model Update](#)