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December 10, 2020

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RE: December 10th Regional Council Meeting - Item 10.2 - Peel 2041+ Regional Official Plan Review and Municipal Comprehensive Review Update

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In Peel Region, the building and renovation industry provides over 4.9 billion in investment value and employs over 39,000 people[1]. As a simple rule of thumb one crane in the sky is equal to 500 jobs. BILD is the voice of the home building, land development and professional renovation industry in the Greater Toronto Area and Simcoe County. Residential Construction is a key economic driver to every community in Canada.

The Building Industry and Land Development Association ('BILD') and our Peel Chapter members are in receipt of the December 10th Council report entitled *Peel 2041+ Regional Official Plan Review and Municipal Comprehensive Review Update* are would like to take the opportunity to provide the following comments as it relates to inclusionary zoning.

The Development Industry understands the need to address declining housing affordability within the GTA. The health, prosperity and quality of life in our cities, and the continued strength of the real estate market depend on access to quality housing for households at all income levels. Should this matter progress, BILD would like to take this opportunity to request a working group be organized at both the Region and local levels with BILD Peel Chapter Members.

The Region is eager to utilize inclusionary zoning (IZ) as a tool to address its housing affordability challenges, and we have been actively engaged in this process within other municipalities to help ensure that any future inclusionary zoning IZ policy requirement is applied in such a way where it does not inadvertently undermine future housing choice and the Region's overall growth objectives. In this regard, BILD and its members have shared early feedback with its municipal partners and would like to do the same in this instance. As significant stakeholders, and as suppliers of these future IZ units, we want to be at the table for these conversations as both the Region and the local municipalities begin to devise these IZ policies.

We have remained steadfast in our position that inclusionary zoning will only be effective in bringing the Region and its local municipalities more affordable housing choices if its policies are premised on sound rationale and a true partnership model. Prior to the Region releasing any materials on this item, we would like to share with you a report prepared by PM Strategies entitled *Inclusionary Zoning - Jurisdictional Scan of Practices*. This report reviews the IZ practices of two Canadian and eight US cities to determine what are the most typical and effective elements of their respective approaches, and shows that mature Inclusionary Zoning policies all provide for a range of offsets, incentives, and public subsidies to ensure the ongoing viability of housing production and to deliver IZ units in larger numbers. With this review there is a

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[1] *Based on 2018 Canadian Mortgage and Housing Corporation and Statistics Canada data*

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yardstick against which the City of Toronto's draft Official Plan Amendment, and Zoning Bylaw Amendment can be assessed, and we hope to be of use to the Region as well.

We hope that you will take these comments into consideration and we look forward for future opportunities to discuss. If you have any questions or comments, please do not hesitate to contact the undersigned.

Stay safe and healthy,

J. Jaruczek

Jennifer Jaruczek
Planner, Policy and Advocacy BILD

CC: Chair Iannicca and Members of Council

INCLUSIONARY ZONING

JURISDICTIONAL SCAN OF PRACTICES IN SELECT CANADIAN AND US CITIES -

LESSONS FOR TORONTO

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INCLUSIONARY ZONING

JURISDICTIONAL SCAN OF PRACTICES IN SELECT CANADIAN AND US CITIES - LESSONS FOR TORONTO

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Executive Summary

The City of Toronto had been advocating for the power to implement Inclusionary Zoning for at least a decade prior to the Government of Ontario making changes to the Planning Act in 2017 that allowed for this tool to be utilised. In April 2018 Ontario Regulation 232/18 came into effect granting Inclusionary Zoning authority to municipalities. In 2019 Bill 108, the *"More Homes, More Choice"* Act limited the applicability of Inclusionary Zoning only to areas near Major Transit Stations, or where a Community Planning Permit bylaw was in effect.

Soon after Regulation 232/18 came into effect City of Toronto staff began the process required to develop the Official Plan policies and Zoning Bylaw Amendment required to bring into effect Inclusionary Zoning. Integral to that process is the requirement to have an independently reviewed, financial assessment and economic viability analysis of the Toronto housing market to determine the parameters for Inclusionary Zoning. The City retained NBLC to undertake this work. Each new amendment to Provincial Legislation or Regulations has had implications for Inclusionary Zoning that required further review to occur.

Inclusionary Zoning has been utilised since the 1970's in various jurisdictions. In the 1990's it began to be widely adopted across the United States. In Canada the provinces of British Columbia, Alberta, Manitoba, and Quebec were the first to allow municipalities to use this mechanism to secure the construction of affordable housing. Currently the City of Vancouver, its neighbouring municipalities, and the Montreal Metropolitan region are the most prominent and active locations for the use of Inclusionary Zoning in Canada.

This report reviews the Inclusionary Zoning practices of two Canadian and eight US cities to determine what are the most typical and effective elements of their respective approaches. With this review there is a yardstick against which the City of Toronto's draft Official Plan Amendment, and Zoning Bylaw Amendment can be assessed.

The cities examined are;

Montreal	New York City
Vancouver	Portland
Boston	San Francisco
Chicago	Seattle
Los Angeles	Washington, DC

Toronto's proposed approach is in some ways consistent with the best practices found in these other jurisdictions. In other ways it falls short, or it simply leaves too many unanswered questions to understand the implications of the design of the policy. It is clear that the proposal is still very much a work in progress.

The financial and economic viability assessment which must underpin the entire framework has not been updated to reflect the new Community Benefit Charge, Toronto's proposed changes to the definition of affordability, or the potential impacts of Covid19 on the housing market.

The proposal to institute Mandatory Inclusionary Zoning (on as-of-right development), without any offsets, is likely to reduce the amount of new development activity in some areas around Major Transit Stations. This constraint on new housing supply will drive prices up further, and ultimately freeze more middle-income earners out of the housing market. In the end fewer affordable Inclusionary Units will be created, with no winners coming out of this proposed approach.

Toronto's proposal to differentiate between the viability of condominium and rental construction is sound. The insistence on long term affordability represents a best practice and sound public policy, but there is no explanation of how this will be made sustainable over a ninety-nine year term.

The failure to address offsets and incentives, as all of these peer cities have done is a significant departure from best effective practices. Many questions remain about the level of affordability that is expected, and what financial measures will be put in place to support long-term affordability.

The mechanism to monitor and manage, what will become a continually expanding portfolio of affordable units has not yet been addressed. Critical questions such as who will monitor income levels of the residents of the units and what enforcement will be in place to ensure the units serve the intended households remain unanswered.

There is no doubt that some form of Inclusionary Zoning will be implemented in Toronto. It must be viable, sustainable, and effective. The proposed approach put forward requires significant changes to achieve the goals and aspirations the City has for the creation of new, long-term, affordable housing by requiring Inclusionary Zoning.

Policy Type

The type of Inclusionary Policy approach that a municipality adopts for its Inclusionary Housing regime is, usually, described as either Mandatory or Voluntary.

Mandatory policies apply to all new residential development, subject to the minimum threshold. In rare instances it also applies to non-residential development, such as in Seattle, where it applies to commercial developments in excess of 4,000 square feet. In the Seattle case the intent appears to be to create workforce housing, although not necessarily on site. Cities adopting Mandatory policies often have complex approaches to the scale of development that will be subject to the policy, the set aside rates, affordability levels, and options for how the Mandatory policy can be fulfilled.

So called Voluntary policies are designed to apply to developments where there is an application to change land use to allow for residential development, or to seek increases in density and height. A developer may "voluntarily" seek these changes but the requirements for the creation of Inclusionary Zoning under those circumstances are mandatory. They are codified into law, are equally prescriptive as Mandatory policies, and municipalities offer little flexibility to divert from those requirements.

There are two types of Inclusionary Zoning:

Mandatory – applying to all residential development

Voluntary – so called as it applies when a proponent chooses to seek changes to land use, zoning, or increases in height and density

Toronto is proposing a Mandatory Policy

Thresholds & Triggers

Thresholds for project size range quite greatly across the ten jurisdictions reviewed for the purpose of this study. However, there are two basic approaches. Small projects or large projects, with nothing in between.

A project size of ten units is quite typical (Boston, Chicago, New York at 11 units, San Francisco, Washington). Portland applies IZ requirements for project of 20 units or greater. Seattle is an outlier as just one new residential unit triggers an IZ requirement, reflecting a strong mechanism to collect cash-in-lieu funds.

Los Angeles has no set project size as their regime is triggered solely by rezoning applications. Virtually all rezoning applications will therefore trigger some level of IZ requirement.

The Canadian cities (Montreal & Vancouver) have taken a different approach. They apply IZ to larger projects where the impact of IZ will be much greater. This also reflects each city's goal to secure permanently affordable and publicly (or non-profit) owned rental housing. Vancouver refers to this approach as moving towards the "Right Supply of Housing".

Montreal, upon a rezoning, applies IZ to projects of 100 units or greater, or to projects that will add 9,000m2 of new residential gross floor area.

Vancouver, upon a rezoning application, applies IZ to projects of 200 units or greater, or on large sites (2 or more acres). The city's view is that scale is important and that the ability to build sustainable affordable housing requires that scale.

Vancouver does provide for the ability to request that the Planning Department consider easing the requirements if it can be independently demonstrated that the IZ requirements for a particular project would render it non-viable. Other municipalities also provide that where there is some unique circumstance whereby a development must contribute to some other extraordinary public benefit a relaxation of the requirements can be considered. A typical reference is to the preservation of Heritage structures where there may be physical constraints on a site impeding a larger development.

> Project size thresholds usually fall into one of two categories
>
> Low threshold sizes are typically 10 units, Seattle's is just 1 unit
>
> High threshold sizes are 100 – 200 units
>
> Toronto is proposing 100 units in strong market areas, and 140 units in moderate market areas

Toronto's ability to apply Inclusionary Zoning requirements is limited to areas within an 800 metre radius of a Protected Major Transit Station Area (PMTSA), so the City's proposed set aside rates will capture most of the development occurring in those areas.

Extent of Obligation

Determining Unit Set-Asides

There are several approaches that are taken to determine the rate of set-aside for units created through the IZ mechanism. A market and financial viability analysis is commonly utilised, in the same way that it is required of Ontario municipalities. Most cities recognize that there are different market conditions throughout their jurisdiction, and they tailor the set-aside rates based on the strength of the local sub-market. This approach is utilised in Washington DC, Portland, New York, Seattle, and San Francisco, and to a lesser extent in Chicago. This is also the direction that Toronto is proposing to take.

Some municipalities have uniform set aside rates, but the cash-in-lieu rate is based upon the location of the contributing site reflecting the cost of housing in that location and the value that a project can generate.

San Francisco's set aside rates are linked to the size of the project, with significantly higher rates for projects of 25 or more units.

> Set-aside can be calculated as a percentage of total units, or as a percentage of Gross Floor Area
>
> Some cities use the Gross Floor Area attributable to the increased density. Other cities use the Gross Floor Area of the entire project.
>
> Toronto proposes to use the residential Gross Floor Area of the entire project

The level of affordability is also used as a determinant of the set aside rate. Portland and Los Angeles vary their set aside rates depending on the level of household income that the units are designed to serve. In Portland IZ is generally to serve moderate income households at 80% of AMI (area median income), however if the required units serve lower income households at 60% of AMI the set aside rate is halved (8% vs 15%, or 10% vs 20% in the downtown core).

Additionally there is a difference among municipalities on whether their calculation is a percentage of units, a percentage of the Gross Floor Area of the entire project, or a percentage of the additional Gross Floor Area created as a result of the rezoning or a density bonus. Most municipalities are either taking a percentage of Gross Floor Area, or are contemplating moving to that model.

Montreal's approach is slightly more complicated as they require a percentage of units, but for purposes of that calculation they deem an average unit to between 90m2.

Form of the Set-Aside Taken

Vancouver has established that as a priority they prefer the set aside from larger sites (2 acres or more) to be a "dirt site" that will be able to accommodate the construction of the required number of social housing IZ units. The City funds the construction of those units with a combination of available Municipal, Provincial, and Federal funds. They sometimes accept this "dirt site" as an irrevocable option to buy the land for nominal consideration and they can sell the option in the future for a profit. The funds from the sale are reinvested into other housing projects.

Since Vancouver's focus is on larger development, they prefer to secure units as an "Air Space Parcel" meaning a contiguous block of units within a larger building or development. This allows for the ownership to be held by the City or a selected non-profit housing provider. The IZ component may have its own entrance and amenities. This helps to reduce ongoing operational and maintenance costs. This is unlike many US cities which prefer units to be scattered throughout a building. Toronto is also expressing a preference for scattered units, and not adopting a so-called "poor door" approach. The Vancouver model has considerable merit for larger projects.

> The form of the set-aside required can vary. Most cities provide a range of options;
>
> - Units on Site
> - Units off Site
> - Cash-in-lieu
> - Land for Affordable Housing Development
>
> Toronto is proposing On or Off Site units
>
> Toronto is not allowed to accept cash-in-lieu of units

Montreal also is willing to accept land, stand-alone buildings, or blocks of contiguous units within a building. This is due to the requirement for the provision of social housing from developments.

American cities, generally, only expect the required units to be built by private developers and incorporated into their developments, or as stand alone privately owned affordable housing. A few cities will also accept that the percentage of affordable units can be provided in an existing rental building with the level of affordability and duration of the term secured by agreement and registered on title.

New York City leverages IZ production through the offer of city owned sites for new residential development to build large scale mixed income communities, often in relatively less developed or advantaged neighbourhoods.

Cash-in-Lieu

While Toronto is restricted by Regulation from establishing a cash-in-lieu mechanism it is important to understand how other cities utilise this option as part of their overall approach to IZ policy. However, Toronto does have the potential ability to generate funds from the units that are built. This is explained later in this section.

Cities such as Boston, Chicago, New York, and San Francisco charge in-lieu fees that represent the construction cost or land value cost of the unit that is not provided. Boston requires a payment per unit of between $200,000 to $380,000. Chicago fees are from $50,000 to $235,000 per unit. New York requires payments of between $230/sf up to $1,165/sf for unbuilt units. San Francisco charges $199.50 per unbuilt square foot.

Los Angeles distinguishes between rental and ownership units. Unbuilt rental units in Los Angeles are to compensate the City from $53,000 to $102,000 per rental unit. For unbuilt ownership units they can charge up to $400,000 per unit.

Additionally Los Angeles adopted an Affordable Housing Linkage Fee in 2018 that applies to all types of new development (except prescribed affordable housing, student housing, & seniors housing) with fees ranging between $3.11 to $18.69 per sf depending on the area. The funds go to the Affordable Housing Trust.

Portland, and Seattle charge much lower rates-in-lieu of providing the units, reflecting a more nuanced approach to the viability of IZ especially as it impacts smaller projects. Montreal's approach is more complicated with varying fees for unbuilt units and acquisition of land upon which to build affordable or social housing.

Under Ontario Regulation 232/18 the City can take up to 50% of the sale price of an affordable unit. This provision does not distinguish between different tenures of units.

The City of Toronto will potentially be able to secure funds from the sale of ownership units. Affordable Ownership units when sold by a developer will represent a discounted unit price, with the funds normally flowing to the developer as part of the project's revenue, however the city may take a portion of those sales. Through long term affordability and price controls imposed on ownership units the city could receive a share of the proceeds of all future re-sales of those affordable units. The portion of this revenue that Toronto may retain has not yet been divulged by the city.

Affordable rental units in theory could be sold by a developer to a non-profit housing provider, that may be able to secure funding for the purchase by a CMHC backed mortgage or grant. The City has not provided any information on how they may view such transactions.

Incremental Evolution over time

It is important to note that the cities reviewed for this study have all had IZ policies in place for fifteen years or longer. Their current requirements for contributions are higher than what their original policies required. On average these jurisdiction revise and update their policies approximately every five years. Each time the policies are revisited, the set aside rates and other elements of the policies are made more demanding. This is partially a function of incrementalism, and partially as a result of the fact that the policies never produce enough new affordable housing to keep up with the growing need.

Montreal City Council is currently considering a Mandatory Inclusionary Housing policy that, if approved, will apply to all new development of 5 units or more. With maximum set asides rising from 30% of units to 40%, but with a robust cash-in-lieu mechanism offering an opt-out to developers.

Term of Affordability

Most cities' IZ requirements are moving towards long term or permanent affordability. There are a few different approaches depending upon the jurisdiction.

In New York City a critical component of their IZ regime is that projects providing Affordable Rental units are benefitting from a 35-year property tax waiver. The term of guaranteed affordability is tied to that programme. The expectation is that at some point in the future there may be extensions to that programme. New York City also has some of the strictest rent control regimes anywhere in North America so even with the loss of the property tax waiver existing tenants would continue to have significant protections from future rent increases.

Boston provides for an initial term of 30 years, with options to extend for 20-year intervals. Seattle requires a 50-year term.

Vancouver and Montreal's focus on securing units as social housing. This provides an important guarantee of long-term affordability. In Vancouver privately owned rental units are require to guarantee their affordable units for 60 years.

In all cities Affordable Ownership units are protected through the use of covenants on title, or mortgages held by cities that ensure that future sales will not result in windfall profits for owners. Many cities have strong monitoring practices for these units and controls in place so that units may not be sold, or leased to tenants, without the permission of the respective jurisdiction.

Affordability Levels

Across all jurisdictions rents and sale prices are tied to average median incomes (AMI) or family median incomes (FMI).

In some cities where target incomes are 30%-60% of AMI the primary goal is to create housing for lower income households. Cities that require housing for households above 60% to 100%, and even higher, are trying to provide a housing solution for moderate income households, sometimes this is also referred to as workforce housing.

Diversifying the level of affordability for secured IZ units is a practice that is becoming more popular. As an example, in San Francisco a large purpose-built rental project is required to set aside 20% of their units. Of that number 12% are to be at 55% AMI, 4.25% at 80% AMI, and 4.25% at 110% AMI. Boston, New York, Portland, Seattle and Los Angeles all have adopted a similar approach.

New York, Portland, Seattle. and San Francisco have requirements targeting some of the lowest income households with some units to be provided with rents as low as 30% of AMI. New York, Portland, and Los Angeles give developers the option to choose their level of set-aside but with the knowledge that the lower set-aside rates commit the developer to provide deeper affordability. The units with deep affordability, 30%-50% of AMI, also qualify for public subsidies.

Cities set Affordability levels as a percentage of Area Median Incomes (AMI) or Family Median Incomes (FMI)

Units for Moderate Income households fall between 60%-100% of AMI

Lower Income households have incomes between 30%-60% of AMI

Toronto is proposing to provide IZ units to Lower Income Households between 20%-60% of AMI, the deepest affordability level among the comparator peer group

Portland allows for the provision of the IZ units off-site in existing rental buildings with the provision of deep subsidies at 30% of FMI with a 15% set aside. This level of affordability may make the project eligible for additional Federal Low-Income Housing Tax Credits and municipal support.

The US approach to affordable rental units that are privately owned is to assume that the landlord will cross subsidise the units. This may be feasible in a purpose-built rental building but cannot be sustained in a condominium building. US cities set aside funds to provide assistance for special assessments and increases in condo maintenance fees that are higher than inflation. The lowest income households may be provided with direct housing assistance, or it may be provided to the landlord, depending on the jurisdiction.

Toronto's affordability levels would offer some of the deepest levels of affordability among all the cities reviewed in this study. This is proposed to be the case for both rental and ownership units.

Offsets & Incentives

The most common form of incentive being offered by municipalities across all jurisdictions reviewed is the provision of additional height and density. The relaxation of certain development standards is also very common, especially reduced parking rates. More flexibility on building setbacks, open space requirements, and transitions to neighbouring properties is also common.

California which is one the States with the greatest number of municipalities enacting Inclusionary Zoning, has a state-wide density bonus provision whereby increases in density of up to 30% are allowed in most circumstances when affordable housing is included in a development, and can override local zoning by-laws. When a municipality, such as San Francisco, made IZ mandatory on all residential development the offset/incentive available to developers is to avail themselves of that potential density bonus. This provision was specifically designed by their Legislature to work with Inclusionary Zoning.

New York State crafted a Property Tax Exemption for purpose built rental housing that includes prescribed amounts of affordable units that works in tandem with the New York City mandatory Inclusionary Zoning requirements. City and State leaders negotiated these provisions. This provision was specifically designed by their Legislature to work with Inclusionary Zoning.

The State of Oregon provides a Construction Excise Tax exemption on the affordable units.

In other cities where IZ is mandatory for all residential development it is challenging to find data indicating how many units are being constructed under as of right zoning and how many are seeking some form of relief from the zoning bylaws. Those municipalities do however offer cash-in-lieu options which may be appealing to many developers. The impact of various State and Federal tax breaks also has to be considered as being an important factor in the viability of Inclusionary Zoning in as-of-

Most typical incentive offered is an increase in height or density upon rezoning

California projects benefit from mandated density bonuses available for as-of-right projects throughout the state

Relaxing certain development standards such as parking is common

Most cities offer waivers or reductions of development charges, and other fees

Rental development can be incented by Property Tax waivers

Toronto is offering nothing other than what can be negotiated through the rezoning process right developments in the US. Lower income housing attracts significant investment from institutional and other investors across the US who view it as a sound, long-term, socially responsible investment. However, that investment is grounded in the tax incentive programmes.

All the cities reviewed offer some measure of reductions in fees and levies for the production of IZ units. Vancouver waives development charges on the IZ units produced. Montreal offers waivers and reduced charges. These approaches are not codified within the IZ bylaws or ordinances but are indeed the practice across these jurisdictions.

Toronto's drafting of the Official Plan policies and Zoning Bylaw amendments in isolation from the necessary approaches to offsets, incentives, and subsidies that are undertaken in all the other jurisdictions makes it difficult to make a comparison of the impact and effectiveness of Toronto's approach on the production of all housing, let alone affordable housing. However it is known that Toronto's per unit levies, fees, and charges are typically significantly higher than most US jurisdictions, ultimately impacting the cost to produce new housing here.

Altus Group completed a study of government charges imposed on new housing developments in Canadian municipalities, including Toronto, compared to several major cities in the United States (US). The US markets reviewed in the September 2019 study included cities that utilized inclusionary zoning (or fees in lieu of providing units on-site), including Boston, New York City, San Francisco, and Miami. The analysis quantifies the various municipal, provincial/state, and federal costs imposed on new housing.

Affordable & Low-Income Housing built in US cities can benefit from generous tax credits such as the Low-Income Housing Tax Credit (LIHTC)

Chicago offers Tax Increment Financing

New York City offers Property Tax Exemptions for 35 years on Rental projects

Vancouver and Montreal rely on Federal/Provincial/ Municipal funds to build some of their Lower Income Inclusionary Units

Toronto is not considering any form of subsidies to support the long-term affordability of Inclusionary Units

The government charges for high-rise units in Toronto (as of September 2019) amounted to approximately $156,300, or 19.9% of the housing price, with the most significant costs being development charges, parkland dedication (or cash-in-lieu), sales taxes and land transfer taxes.

By comparison, the four US cities with IZ are subject to government charges averaging approximately $112,300 per unit, or 7.9% of housing prices.

If the significant costs of IZ being imposed on high-density developments in the City of Toronto were included, the government charges on new housing development in the City would be significantly higher than the comparison jurisdictions.

Comparison of Government Charges for Hypothetical High-Rise Development Scenario

	Government Charges	
	Per Unit	As % of Housing Price
	$ / Unit	*Percent*
City of Toronto (w/o IZ)	156,297	19.9%
US Municipalities (w/ IZ)	*$ / Unit (CAD)*	*Percent*
City of Boston	77,204	6.2%
New York City	79,376	3.2%
City of Miami	119,288	13.3%
City of San Francisco	173,359	9.0%
Average	112,307	7.9%

Note: Costs are based on high-rise development scenario consisting of 125 units on a 0.52-hectare parcel
Source: Altus Group Economic Consulting, Comparison of Government Charges on New Homes in Major Canadian and US Metro Areas, (September 13, 2019)

Use of Public Subsidies

The American cities reviewed in this paper all benefit from Federal programmes designed to assist with the construction of new affordable housing. There exists a high level of bi-partisan support for these programmes at the US Capitol because both parties can agree on the need for more affordable housing, and that private sector has a critical role in building that housing.

The Low-Income Housing Tax Credit (LIHTC) is the primary means for private developers to be incentivised to build affordable housing. Private developers apply for a certain amount of Tax Credits on a per project basis. There are criteria on how many units must be affordable, the level of affordability, and that projects must be completed within a specified timeframe. The Tax Credits offer either a 4% or 9% Federal Tax reduction for up to 15 years. The LIHTC can be utilised by the developer themselves or be used to raise capital from private investors who receive the Tax Credits as part of their return on investment. Some states augment this programme to offer state tax credits as well. On average from 1995-2018 it has supported 1400 projects per year, producing 106,000 affordable units annually. There is nothing comparable available in Canada.

There are other US Federal housing programmes available for the refurbishment and redevelopment of existing affordable and social housing projects. There are State funds and municipal funds also available. All these funding sources combined are often utilised in American cities for urban renewal projects that constitute a significant portion of urban housing projects.

In 2017 the US adopted Opportunity Zone Legislation which applies to the lowest income census tracts throughout the US. Development and investment in those areas is eligible for up to a 100% Capital Gains exemption. While this can spur urban renewal in many American cities, it can also cause displacement and gentrification, driving housing prices up. The application of Inclusionary Zoning in those areas however does provide new, good quality, permanent affordable housing.

Chicago utilises Tax Increment Financing to support the creation of purpose-built rental housing, requiring specified levels of affordability and term of the guarantee. Boston allows developers where projects are only marginally viable to receive funding from the City's Inclusionary Development Fund.

New York City and Washington DC offer property tax relief. New York City is also actively engaged in the sale of public lands to stimulate new affordable housing developments.

Vancouver and Montreal access Federal and Provincial Housing programmes to help build the social housing unit projects which flow from their Inclusionary Zoning requirements. The National Housing Strategy has allocated $17.15 Billion to support the construction of new affordable housing. The BC and Quebec governments have allocated additional pools of funds to augment the NHS.

Toronto will only provide subsidies if a project contributes more than the required amount of gross residential floor area, or deeper levels of subsidy.

In 2017 the City highlighted the achievement, in the Affordable Housing Action Plan for that year, that the City facilitated the creation of 85 affordable rental homes (at or below 80 percent of average market rents for a minimum of 25 years) as part of the Mirvish Village Redevelopment using federal and provincial funding as well as City financial incentives. This represents approximately an 11% set aside, but for a far shorter term, and less affordability than what the City expects the private sector to deliver, without subsidy, through the Inclusionary Zoning mechanism.

Outcomes In Achieving Housing Targets

A review of these jurisdictions has found that they have all secured affordable units through their Inclusionary Zoning. In every case the affordable units created through this mechanism were a critical element in the production of new affordable housing in their communities.

However, there are no municipalities that have achieved their stated goals for production of Inclusionary units. This appears to be the result of several factors. Over optimism of how much development activity will actually occur. The lag time between when a project is approved and when it is actually delivered. Difficulty in determining how investment decisions may be impacted by changes in IZ policies over time. In cities where the IZ policies have local variations by district, some development is shifted to areas with lesser, or no, inclusionary requirements.

The creation of new affordable units is tied to the strength of the local housing market to create new market housing. If market housing starts decline, so do IZ units. In all of the cities reviewed housing prices have been increasing regardless of the level of new construction. Constrained supply of land or units, where demand remains strong increases all housing prices. Demand for affordable units continues to outpace the production of units.

Projects which are reliant on some form of public subsidy may be delayed until the funds are made available.

Vancouver's real estate market has cooled, and a number of larger projects have stalled and are not moving ahead as quickly as was expected. There are overtures being made to City Hall to relax some of the Inclusionary requirements for specific developments, on the basis of economic viability.

Portland has seen a reduction in new housing starts since the more onerous IZ rules were put in place in 2017. There has been a reduction in building permits of 64%. The central core in particular has seen a decrease in new housing starts.

The impact of local politics is also a factor in the success of these policies. Where local elected officials limit the development potential of lands, consequently the production of IZ units is also reduced.

In Los Angeles the City and County are strong proponents of Transit Oriented Communities. There are specific density bonus and IZ policies for those areas. Planning staff were recommending additional zoning and development standards changes that would unlock more development potential along LA's major arterial roads served by transit. Due to community opposition the City Council rejected those recommendations in 2017 and therefore constrained the amount of development, and resultant production of IZ units near transit stations.

In New York City the implementation of Mandatory Inclusionary Housing in 2016 was proposed to be accompanied by significant changes to Zoning Bylaws and Development Standards that would apply to as-of-right development. New York City Council rejected those changes.

Key Findings

The jurisdictions reviewed all have Inclusionary Zoning policies that apply to a broad range of development activity in their communities.

Inclusionary Zoning requirements increase gradually over time, on average in five-year intervals.

Cities with a long history of Inclusionary Zoning are moving towards Mandatory policies that apply to all development. They may still apply differing approaches by District.

The cities with lower project size thresholds that trigger the requirements for Inclusionary units all have cash-in-lieu policies that provide an opt-in/opt-out ability for developers.

Cash-in-lieu fees are tied to the construction value, or the affordability gap in most cities.

Minimum set-aside rates generally are in the 10%-15% range. Variable rates across a jurisdiction are common based upon market strength of area. Rates increase in central districts. The rates may be variable based upon the level of affordability tied to the units.

Cities with Mandatory policies may have density bonuses for all housing that includes affordable units.

Long term, or permanent, affordability of the units is the goal in most cities.

Affordability levels are tied to area median incomes, or family median incomes. Most IZ policies target providing housing for moderate income and lower income households, both rental and ownership.

Cities which also require units available to low-income households have mechanisms in place to support those deeper affordability levels. Property tax exemptions, Tax Increment Financing, and capital grants are typical measures that are deployed.

Cities offer a range of offsets to reduce the cost of housing. Development charge waivers, reduced development standards, and streamlined permitting processes.

Lessons for Toronto

The addition of Inclusionary Zoning to Toronto's ability to secure affordable housing is a long-awaited endeavour. It will represent a real sea change in how the production of new affordable housing is determined. It will impact the housing market as a whole in many different ways.

The draft Official Plan Amendment and Zoning Bylaw Amendment forwarded by City Council for public consultation are the result of close to two years of study, research, and consultation by City Planning Staff.

In some respects, they adhere to best practices found in cities with mature Inclusionary Policies. In other respects, they fall short, or simply have not addressed all of the nuanced aspects of what makes an Inclusionary Zoning regime effective and sustainable.

Type of Policy

Adopting a Mandatory Inclusionary policy from the outset is a highly ambitious move. Most other cities began with versions of Voluntary policies (triggered upon rezoning) and only shift to Mandatory policy after the mechanisms and practices of how to administer them have been worked out. It also requires time for the development industry to adjust and become familiar with the new requirements and determine what works and doesn't work for them.

If the Mandatory policy is implemented a lengthier transition period should be enacted for as-of-right developments than for projects that are undertaking a rezoning process. Alternatively, and preferably, the Mandatory policy should offer additional density bonuses equal to, or greater than, the amount of the set-aside. This measure would make the shift to Mandatory Inclusionary Zoning easier to adapt to and maintain project viability.

Initial Inclusionary Zoning implementation should be limited to sites that are being rezoned, or

Provide density bonuses equal to, or greater than, the set aside taken to encourage Transit Oriented Development for as-of-right development

Thresholds & Triggers

The size of development that would trigger an Inclusionary Zoning requirement is consistent with what other Canadian cities have implemented.

Most other cities acknowledge that there may be circumstances when the provision of IZ units is not feasible. Examples of such situations are when a significant public benefit other than affordable housing is required to be provided, or where the retention and preservation of a heritage property may add constraints to the development of a site. The need for some measure of flexibility is warranted given that the IZ requirements are not appealable to the Local Planning Appeal Tribunal (LPAT).

The policy should allow for the ability to make a request to the Chief Planner, Executive Director of City Planning, for consideration to waive the Inclusionary Zoning requirements on an exceptional basis. Staff could require a site-specific financial viability assessment be conducted by a third party to confirm the grounds for the request. It would remain within City Council's discretion to accept, or reject, the Chief Planner's recommendation.

Adopt a policy that allows for the consideration, by the Chief Planner and Executive Director of Community Planning, of a request to reduce or waive Inclusionary Zoning requirements in exceptional circumstances. The Chief Planner's recommendation would be submitted to City Council for a decision.

Extent of Obligation

The City is proposing set asides for Ownership housing of 10% of the residential gross floor area in strong market areas, 5% of the GFA in moderate market areas, and for Rental projects 5% of the GFA in strong market areas and 3% of the GFA in moderate market areas. These are recommendations based upon the findings of NBLC's financial and viability analysis. This is consistent with the incremental approach which has been taken in most jurisdictions of gradually introducing Inclusionary policies. Differentiating between Ownership housing and Rental housing is critical as the rental construction industry is less active and more sensitive to added costs. The rental construction sector should be granted a longer transition period before the requirements apply to the sector.

Toronto has fewer options at its disposal to offer to developers as an alternative to the production of on-site units as the Regulations prohibit cash-in-lieu payments. The set aside rate for on- and off-site units should be the same, unlike the practice in many other cities.

Provide a longer transition period for the implementation of Inclusionary Zoning for Purpose Built Rental projects.

The set aside rate for Off-site units should be the same as for On-site units.

Term of Affordability

Other cities are moving towards long terms or permanent affordability. Toronto is proposing a similar approach.

What is unclear from the draft proposals is how the long-term affordability will be secured, meaning who will pay the difference between the rents collected and the ongoing operational and capital repair costs over a 99-year term.

Provide for the long-term viability and sustainability of the affordable units. Create a plan to address supports that could be provided if, in the case of a condominium, special assessments or extra-inflationary increases in maintenance fees occur.

In the case of rental properties address the issue of Above Guideline Rent Increases, to ensure that capital repair costs attributed to affordable units could be recovered in some manner over the length of the term.

Affordability Levels

Toronto is proposing deeper levels of affordability across the board than other cities. This may fail to address the housing needs of moderate-income households, also sometimes referred to as workforce housing or missing middle housing. The addition of Inclusionary requirements may have the impact of squeezing out more moderately priced homes. The policy needs to be carefully calibrated to ensure that the entire spectrum of households has access to new housing.

An Inclusionary Zoning Policy should provide housing to a range of households. Units for Moderate Income households, or Workforce Housing, should be part of the mix.

Toronto's affordability levels are among the deepest proposed of any of the peer group cities in this report. Other cities, to achieve these levels of affordability provide offsets, incentives, and public subsidies.

Offsets & Incentives

Toronto's draft policies fall short of what all other cities do to support the successful production of affordable units under their Inclusionary programmes.

It is typical to waive development charges and levies on the affordable units. In most municipalities they represent a significant component of the cost of producing new housing. In Toronto where it is likely that most of the IZ units will be created in Multi-Residential buildings the current charges range from $30,000 to $64,000 per unit. The implementation of the Community Benefit Charge will add further costs on top of that.

The Planning Approvals system in Ontario is very different than other jurisdictions. In Toronto most new development is the result of a rezoning application, which frankly is not a high hurdle to overcome. Consequently, land prices reflect an expectation by both vendors and buyers of significant additional density. In many US cities the rezoning process is far more difficult than here, the number of distressed neighbourhoods is far greater providing greater opportunities to develop housing more affordably. Some cities offer subsidies and supports for rental housing over the long term, most notably New York.

The inherent differences between the financial viability of rental housing development and condominium, or ownership, housing requires an approach closer to the one taken in high cost cities such as New York where specific incentives for rental housing production have been tailored to dovetail with Inclusionary Zoning.

To implement a Mandatory Inclusionary Zoning Policy the City should provide as-of-right developments with a density bonus at least equal to the amount of Gross Floor Area ascribed to the Inclusionary Units.

Development Charges, Parkland levies, and the Community Benefit Charge should be reduced or waived on the Inclusionary Units.

Public Subsidies

Toronto's preference for very long-term affordability is in keeping with best practices elsewhere. However, it is unclear what mechanisms will be put in place to ensure that Affordable Rental units, if they are under private ownership can be sustainable in the long term without some form of government support. If these units come into public or non-profit ownership, then the City will have to be the backstop for financial shortfalls. Toronto has not set out any plan for how affordable rentals in condominium buildings will be secured as affordable for the 99-year term the City is considering. The Condominium Act will prevent the cross subsidization of maintenance costs, utilities, and special assessment fees among different classes of units. Similarly, a public backstop to ensure the long-term affordability will be provided for these units.

The Montreal and Vancouver approaches to utilise IZ to build stand alone social housing should be considered. Can the City act as an aggregator, or broker, of off-site units that if coupled with public funds could produce larger and more affordable projects? This requires consideration of how a sophisticated approach to the off-site unit policy can be leveraged to produce more units.

The Toronto Housing Action Plan 2020-2030 has as one of its most significant goals the creation of 40,000 new affordable rental units. To achieve this goal significant measures need to be provided to both incent increases in rental housing construction and create the financial conditions to support such unprecedented numbers of affordable rental units in a single decade.

New York City and New York State together worked on providing a tax break for new rental housing that includes an affordable component. The State's property tax waiver was designed to complement the City's Mandatory Inclusionary Zoning. The thirty-five year tax waiver does not apply to just the affordable units in a project but to the entire rental project, with some limits.

A program on that large a scale would require support from either the Provincial or Federal governments to offset foregone revenues to the City. A more narrowly focussed tax waiver to at least cover the affordable Inclusionary units could be implemented by the City on its own.

Use the requirement for Inclusionary Units to be creative and leverage larger affordable projects using funds from the National Housing Strategy, Province, and Municipal funds.

Provide incentives to encourage the construction of more purpose-built rental housing.

Provide at least a 35-year property tax waiver to affordable rental units created by IZ.

Create a mechanism to ensure that scattered rental units in condominium buildings can secure public funding to maintain long term affordability.

Summary

Toronto's draft proposals for Inclusionary Zoning are overly ambitious for a first-time implementation in a municipality. Other cities build up their IZ policies incrementally over time as the development industry and local real estate market adjusts to the new requirements. The foundational belief that IZ requirements result in lower land prices, if true, needs to provide the real estate market with time for this adjustment to occur.

A Mandatory policy, without the incentive of additional density for as-of-right development, is premature and is likely to have a negative impact on housing production in those areas where it would apply. Most areas of Toronto are currently under-zoned. This requirement will simply encourage more aggressive rezoning proposals, or shift development away from major transit station areas.

The application of IZ to projects of 100 units, or 140 units, and greater is consistent with the approach taken in other Canadian cities and would allow for IZ units to be delivered in projects large enough to absorb the costs and remain viable.

Toronto's varying set aside levels between moderate market and strong market areas represent a best practice among the peer cities reviewed. The differentiation of set aside levels between ownership housing and purpose-built rental housing is an acknowledgement of the very different financial realities of building rental housing in this City.

The requirement for long term affordability is consistent with best practices in other cities but is not accompanied by any of the offsets, incentives, or subsidies offered elsewhere to make it a viable, sustainable proposition for the private sector. The total cost of Application Fees, Development Charges, Parkland Contributions, Section 37 payments, and soon the Community Benefit Charge can account for 20%-25% of the cost of a new home. The reduction or elimination of those costs from the units create by Inclusionary Zoning would make a meaningful impact on their affordability.

Rental units, whether purpose built or scattered throughout a condominium, require some measure of public support to ensure the levels of affordability Toronto wishes to achieve are maintained.

Cities with mature Inclusionary Zoning policies all provide for a range of offsets, incentives, and public subsidies to ensure the ongoing viability of housing production and to deliver IZ units in larger numbers. Comparisons to US jurisdictions are not applicable to the Toronto context given the wider range of Federal supports for the creation of affordable rentals available in that country. This requires Toronto to become more creative and determined with how it will leverage public financial support to secure the affordable housing production that is required.

Both Montreal and Vancouver have taken approaches that focus less on securing scattered IZ units and more on leveraging the private sector housing production into partnerships with their respective cities to achieve affordable housing construction at scale.

Adopting an approach that may undermine the City's efforts to create Transit Oriented communities would be a significant blow to improving the mobility of residents in this city.

Creating conditions that have unintended or unforeseen consequences for the construction of mid-rise buildings or squeeze out moderately priced market housing have to be considered carefully in the design of the City's program. These are situations that have occurred in some other municipalities that moved too aggressively in their IZ requirements.

Toronto's ambitions to create significant numbers of affordable housing units through Inclusionary Zoning require a shift in the current proposed approach to acknowledge that Inclusionary Zoning must be implemented gradually and as a partnership between the public and private sectors. The requirements must be evidence based upon the required financial viability analysis.

A carefully crafted policy that acknowledges the limits of what the private sector can deliver in a short period time will ultimately result in the creation of a housing supply that fulfills the needs of the widest range of households. Housing Affordability depends upon the ongoing robust supply of new housing of all types being delivered to Torontonians.

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APPENDIX A

Comparative Charts of Inclusionary Policies of Each City

	Policy Type	Threshold / Trigger	Extent of Obligation	Affordability Term	Affordability Level	Offsets & Incentives	Public Subsidies Available	Outcomes
Toronto **-** ***Proposed Draft Policies***	**Mandatory**	100 units in strong market areas*, or 8,000 m2 of residential GFA 140 units in moderate market* areas, or 10,000 m2 of residential GFA Only applies to developments within m of a Protected Major Transit Station Area(PMTSA), there are potentially 180 PMTSAs Exemptions- Residential Care Homes Institutional Student Residences Non-Profit Housing **North York City Centre and Etobicoke City Centre are moderate market areas, all other parts of the City are strong market areas*	For Condominiums and Ownership housing; 10% of the Gross Residential Floor Area in strong market areas 5% of the Gross Residential Floor Area in moderate market areas For purpose-built Rental housing; 5% of the Gross Residential Floor Area in strong market areas 3% of the Gross Residential Floor Area in moderate market areas Units can be provided off-site but that requires a Zoning By-law Amendment to accomplish	99 years	**Rentals-** (not to exceed 80% AMR) (rent not to exceed 30% of household income) Bachelor Units 20%-50% AMI ($494 - $918/m) 1 Bedroom 30%-60% AMI ($702 - $1,099/m) 2 Bedroom 30%-60% AMI ($702 - $1,273/m) 3 Bedroom 30%-60% AMI ($702 - $1,413/m) **Ownership-** (occupancy cost not to exceed 30% of household income) (5% down payment, 2% mortgage) (est. sale prices -2019) Bachelor Units 30% AMI $ 130,000 1 Bedroom 40% AMI $ 195,000 2 Bedroom 50% AMI $ 250,000 3 Bedroom 60% AMI $ 300,000 Toronto proposes to provide the deepest levels of affordability among the comparative peer group	None	Possible only if project provides more residential GFA, or deeper affordability levels than required under the Inclusionary Zoning Bylaw	The HousingTO Action Plan 2020-2030 calls for the creation of; 40,000 new affordable rental homes 4,000 new affordable ownership homes Assuming average Multi-residential production 0f 14,000 units per year in Toronto remains steady If the IZ Bylaw, as proposed comes into effect, it may generate approvals of between 700 - 1000 units per year. Over the plan's term potentially 7,000 to 10,000 units could be approved as Inclusionary zoning units, assuming current rates of production and development patterns in the same areas of the City. It will likely fall far short of the rental target, but may exceed the ownership target

	Policy Type	Threshold / Trigger	Extent of Obligation	Term of Affordability	Affordability Levels	Offsets & Incentives	Public Subsidies Available	Outcomes
Montreal	**Voluntary** First brought in 2005 the program had been updated and expanded in 2012, 2005, 2017, and a new proposal for Mandatory IZ is before City Council in 2020	Upon a rezoning which will result in a project of; 100 units, or 9,000m2 of residential GFA Set asides are calculated only on the increased density and not on the base density	15% of units on site to be social housing 15% of units on site to be rental or ownership affordable housing Option to build off-site, equivalent to 17.6% of units to be social housing Option to sell to the City clean & serviced land for social housing at $12,000 per unit. Option to pay cash-in-lieu, 20% of the increased GFA as a result of rezoning divided by 90m2, resulting in a unit count with payments per unit ranging between $10,500 to $29,000 per unit depending on market area Montreal requires that social housing projects optimally be at least 30 units as a walk-up, or 200 units if elevators are required to be a viable development. Some boroughs, or local towns have supplementary set asides of an additional 5% social Housing and 5% affordable housing. Some also have lower thresholds for IZ (Verdun requires a contribution from even just 1 new unit of housing)	Permanent	**Social housing units are**: Rent geared to income across certain bands of income levels Ownership of social housing units rests with City or Housing Authourity **Affordable Units –** Individual households not to exceed 30% of income on housing costs -max rents 2019 Studio $ 820 1 Bedrm $ 984 2 Bedrm $1,107 3 Bedrm $1,313 -max sale price 2019 Studio $ 200,000 1 Bedrm $ 250,000 2 Bedrm $ 280,000 3 Bedrm $ 360,000	Density bonusing, relaxation of certain development standards Grants and loans for the construction of Social Housing Provision of underutilised public lands	Provincial & Municipal funds to subsidise certain projects CMHC mortgages, loans, and grants Montreal Housing Authority (SHDM) funding for certain affordable rental and ownership projects	**Social Housing** 2005-2018 6,564 units secured by approvals & financial guarantees, to date only 3,538 units completed or under construction **AffordableHousing** 2005-2018 5,704 units secured by approvals & financial guarantees, to date only 2,714 units completed **Cash-in-lieu** 2005-2018 $22.55 Million collected, of this $21.4 Million was for Social Housing $ 2 Million was realized from the forfeiture of letters of credit for unfulfilled commitments Montreal currently considering an expansion of the program to include all development of 5 units or more, Set asides, based on total residential GFA, of; 20% Social housing 20% Affordable housing And mandating a minimum mix of family sized units Higher set asides for off-site construction and higher cash-in-lieu rates
Vancouver	**Mandatory in certain districts,** **Voluntary, Required on rezoning elsewhere**	Rezoning large sites (2+ acres) or Or sites that will add 200 units	On large sites 30% of residential GFA, with priority given to securing equivalent as a "dirt sites" so that purpose built affordable rental and social housing projects can be built. Allotment of 20% social housing, and 10% moderate income rental housing Elsewhere a range of 20% - 30% depending on Planning District Where units are secured they are generally delivered to the City in an "Air Space Parcel" with separate entrances and amenities. Can be provided on-site or off-site. Allows for flexibility for unique circumstances.	Social Housing-permanent 60 years for other	Social housing - Rent geared to income City and funding partners responsible for costs associated with long term affordability Moderate Income Housing targeted towards household incomes of $30,000 to $80,000/yr expected to be provided by private developers	Increased height and density, relaxed development standards. Specific Density bonuses for Purpose-Built rental projects in certain zones Development charges are waived on units created through IZ.	Federal/Provincial/Municipal Funds for the construction of stand alone Social Housing Provincial – Interim Construction Financing for the portion of a project which is affordable rental City – Waived development charges on entire project for purpose-built-rental that provides 20% affordable units	As of December 2017, 21 projects approved under Inclusionary Zoning totalling approx.. 1,500 social housing units for low-moderate income families. Goal 2018-2028 is to secure 4,200 social housing units through IZ

	Policy Type	Threshold / Trigger	Extent of Obligation	Term of Affordability	Affordability Level	Offsets & Incentives	Public Subsidies Available	Outcomes
Boston	**Mandatory, Required on rezoning.** Last update in 2015	The inclusionary zoning program applies to any residential project of 10 units or more that is: 1. Financed by the City 2. On property owned by the City or Boston Redevelopment Authority or, 3. Requires zoning relief. Projects are exempt if: 1. 40% or more of the units within the development are income restricted or preserved as affordable. The project must also be financed as one entity. 2. The project is exempt in the zoning code or, 3. The project is used as a dormitory for students.	On-site: 13% of the total number of units on-site is required to be affordable. In-lieu of on-site creation: Depending on the geographic zone, developments can provide an inclusionary zoning contribution without relevant City Department approval. Some zones require City approval. The amounts required per unit are substantial, ranging between $200,000-$380,000 per unit Rental projects can only meet inclusionary zoning requirements through a contribution approved by relevant City Departments.[14] Offsite: The proposed project must provide affordable units that total either greater than 15% or 18% of the total number of unit, depending on the zone. Inclusionary zoning requirements can also be met through rehabilitation of affordable units.	30 years, right to renew for 20 years, and may seek up to 99 years by agreement	Rental Units- 70% of AMI or less In Zone C, up to 100% AMI by agreement Ownership Units- Half of the On-site units at 80% of AMI Half up to 100% AMI	Through the rezoning process, developers may seek relief from zoning provisions such as, density, height, setback, and coverage. Developers can also apply for financial relief through the City's Inclusionary Development Fund.	Federal LIHTC: Tax credits are provided if the project has a minimum of 8 tax credit eligible units. Units receiving a tax credit must set aside: 1. 20% or more units for families earning no more than 50% of AMI or; 2. 40% or more units for families earning no more than 60% of the AMI. Additionally, 10% of the total units must be for households earning less than 30% of AMI State & Federal – Opportunity Zones Offers 100% Capital Gains exemption for development in designated lower income areas, Boston has thirteen zones	Meeting approximately 30% of the program goal.[13] Between 2000 – 2018 created 2,599 units (on & off site), of that number 546 were created in 2018. Over the 18 years developers have contributed $137.1 million. Every $1 of these funds leverages over $5 of City, State, and Federal Funds to build additional units, and at even more affordable levels (19 percent of the units are at 30% AMI)
Chicago	**Mandatory, dependent on location.** Last update in 2017.	10 or more units Requires rezoning, built on City land, receives financial assistance, or in a "planned" development in the Downtown area	10% of the Total Units on-site, 20% of the units if the project receives financial assistance from the City, minimum 2.5% of units MUST be provided on-site, the balance can be on-site, off-site, or cash-in-lieu Cash-in-lieu fees are calculated per unit based on location, rental, or ownership Fees range from $50,000 to $235,000 per unit If 2.5% of units built on-site are leased to Chicago Housing Authority on a long term lease, the fee for the remaining units is reduced by $25,000/unit	30 years, or 99 years	Rental Units- 60% of AMI Ownership Units- 100% of AMI	Density bonusing, reduced development standards Fee Waivers Tax Increment Financing in prescribed Districts – Projects receiving TIF funds must have lower qualifying income levels for 10% of unts -50% AMI for rental -80% AMI ownership	LIHTC allocates a 9%, or 4% federal income tax credit to developers that build and rehabilitate affordable housing. Federal – Opportunity Zones Offers 100% Capital Gains exemption for development in designated lower income areas, Chicago has 133 zones.	From 2003-2019 Inclusionary Zoning created 1,049 units and $123.5 Million in lieu fees Critics complain the units are too expensive and too few have been created

A-3

	Policy Type	Threshold / Trigger	Extent of Obligation	Term of Affordability	Affordability Levels	Offsets & Incentives	Public Subsidies Available	Outcomes
Los Angeles	**Voluntary** Applies to rezoning applications	Different mechanisms apply; **Value Capture Ordinance** **Transit Oriented Communities** Development within ½ mile of a Major Transit Stop/Station may qualify for a Density Bonus Complex set of policies with differentiation by mode of public transit (bus, rapid bus, regional rail, or subway), District Zoning, Type of Affordable Housing to be provided Provides density bonuses of up to 55% over base zoning, unit set asides range from 8% for Extremely Low Income units, up to 25% for Lower Income units **Affordable Housing Linkage Fee** (not an IZ mechanism but requires cash payment towards the Affordable Housing Trust for most developments, but not developments with prescribed min. number of affordable units by type) Fee ranges from $3.11 - $18.69 per sf, depending on development type and market area	**Value Capture Ordinance;** Allows 35% density increase if one of the following types of affordable housing is provided- a. 11% Very Low Income Units b. 20% Low Income Units c. 40% Moderate Income Units in an ownership project May allow even greater bonus density if- d. For every 1% additional set aside of Very Low Income units, an additional 2.5% density e. For every 1% additional set asideof Low Income units, an additional 1.5% density f. For every 1% additional set aside of Moderate Income units for sale, an additional 1% density Off-site construction- -Within ½ mile of the site same number of units -Within 2 miles of the site increases by 1.25 times the number of units -Within 3 miles of the site increases by 1.5 times the number of units Cash-in-lieu- Rental For projects receiving a density increase of more than 35% Studio $53,233 1 Bedrm $56,684 2 Bedrm $62,891 3 Bedrm $69,927 For projects where a land use conversion to residential occurs Studio $76,735 1 Bedrm $81,653 2 Bedrm $90,583 3 Bedrm $101,717 Ownership Must pay the affordability gap, calculated on a site by site basis based on local submarket conditions- From $500 to $400,000 per unit	55 years	Very Low Income 50% of AMI Low Income 80% of AMI Moderate Income up to150% of AMI	Through the rezoning process, developers may seek relief from zoning provisions such as, density, height, setback, and parking requirements.[12] State of California Density Bonusing for Affordable Housing projects can provide up to a 35% increase in residential density,must meet certain criteria and City must allow Waiver or reduction of fees and charges	Federal – LIHTC allocates a 9% federal income tax credit to developers that build and rehabilitate affordable housing, or a 4% federal income tax credit, differing criteria apply State & Federal – Opportunity Zones Offers 100% Capital Gains exemption for development in designated lower income areas, Los Angeles has 193 zones City -Grants or loans from Affordable Housing Trust for projects offering higher set asides or deeper affordability	From 2013-2019 LA saw approx. 139,000 new units of housing approved (not necessarily constructed), with approx. 11% or 15,700 units qualifying as affordable City Council currently considering Mandatory Inclusionary Zoning city-wide for all residential projects with an average set aside of 15%

A-4

	Policy Type	Threshold / Trigger	Extent of Obligation	Affordability Term	Affordability Level	Offsets & Incentives	Public Subsidies Available	Outcomes
New York City	**Mandatory** Updated in 2016 to replace voluntary programme	11 or more units in a designated Rezoned District, or when a rezoning is requested City-wide Projects between 11 and 25 units have the option to pay cash-in-lieu	City undertook rezoning of many districts to incentivize the provision of Inclusionary units Set aside rates of 20%-30% of residential GFA, depending on District and level of affordability provided units provided Allows for rental or ownership units to be provided Option to pay cash-in-lieu to Affordable Housing Fund Rates range from: $230 to $1165 /sq ft, depending on geographic location	30 years, up to Permanent (certain highly subsidised buildings will be subject to renewal of funding arrangements on expiry of term)	Option 1- 25% Set aside, 10% of units at 40%AMI,15% at 60% AMI Option 2- 30% Set aside, all units at 80% AMI Option 3-(Workforce Option) 30% Set aside, 5% of units at 70% AMI 5% at 90% AMI 20% at 115% of AMI Option 4-(Deep Affordability Option) 20% Set aside, all units at 40% AMI -this option is dependent upon public funding or subsidies	Density Bonusing varies by District and underlying Zoning, ranges from 20% to 33% Relaxation of Development Standards (parking, setbacks) (City Council rejected many recommendations from Staff on the range and extent of density bonuses and relaxation of development standards, opting to preserve the status quo) Property Tax Exemption for up to 35 years Waiver of fees and charges Direct subsidies for deeper affordability projects Sale of Public Lands Transit Oriented Development qualifies for additional height and density	Federal - LIHTC allocates a 9%, or 4% federal income tax credit to developers that build and rehabilitate affordable housing, or a 4% federal income tax credit State & Federal – Opportunity Zones Offers Capital Gains exemption for development in designated lower income areas, New York City has 306 zones State-Affordable New York Housing Program offers property tax exemption for qualifying rental projects for up to 35 years State/Municipal -Tax exempt Bond Financing	Voluntary Inclusionary Housing 2005-2013 2,888 units from 15,310 new units built in IH districts 2014-2019 8,476 units from 181 Projects (projects rezoned prior to 2016 are grandfathered and not subject to Mandatory requirements, but can receive incentives under the Voluntary programme) Mandatory Inclusionary Housing 2016-2019 2,065 from 38 projects Mayor's Goal is for Mandatory Inclusionary Housing for 2016 -2024 is to produce at least 12,000 units

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	Policy Type	Threshold / Trigger	Extent of Obligation	Term of Affordability	Affordability Levels	Offsets & Incentives	Public Subsidies Available	Outcomes
Portland	**Mandatory** Applies to all residential development Current Program adopted in 2017	Applies to all new residential projects of 20 units or more. City-wide, but certain central districts require higher contributions	Developers have the option to choose one of five contribution models; Unit set aside rates; -OPTION 1 (City-wide) On-site 15%, must be affordable at 80% Median Family Income (FMI) Central City Plan District & Gateway Plan District On Site 20%, at 80% FMI -OPTION 2 (City Wide) On-site 8%, at 60% FMI Central City Plan District & Gateway Plan District On-site 10%, at 60% FMI -OPTION 3 (City Wide & Districts) Off-site 20%, at 60% FMI, or Off-site 10%, at 30% FMI -OPTION 4 Affordable Housing Fee calculated on the GFA applied to the applicable percentage of the project; City-wide $19.00 per sf of residential GFA (before Dec 31, 2020) $23.00 per sf of residential GFA (after Dec 31, 2020) Central & Gateway Districts $27.00 per sf of residential GFA -OPTION 5 Designate Existing Units 25% at 60% FMI, or 15% at 30% FMI -these units must be comparable in size to the new units that would otherwise be built In all projects 5% of the affordable units must be accessible	99 years	When units are provided the following affordability levels are to be met by project type; -OPTION 1 (City-wide) On-site 15%, must be affordable at 80% Median Family Income (FMI) Central City Plan District & Gateway Plan District On Site 20%, at 80% FMI -OPTION 2 (City Wide) On-site 8%, at 60% FMI Central City Plan District & Gateway Plan District On-site 10%, at 60% FMI -OPTION 3 (City Wide & Districts) Off-site 20%, at 60% FMI, or Off-site 10%, at 30% FMI -OPTION 5 Designate Existing Units 25% at 60% FMI, or 15% at 30% FMI	Through the rezoning process, developers may seek relief from zoning provisions such as, density, height, setbacks. Reduced parking requirements for affordable units.	Federal - LIHTC allocates a 9% federal income tax credit to developers that build and rehabilitate affordable housing, or a 4% federal income tax credit, differing criteria apply[19] State & Federal – Opportunity Zones Offers 100% Capital Gains exemption for development in designated lower income areas Municipal – 10 year property tax exemption on affordable units (City-wide) In Central City Plan District, 10 year property exemption on all residential units in buildings with density of 5.0x or greater Construction Excise Tax exemption on affordable units Development Charges waived for all units at 60% of FMI	Portland's 2035 Comprehensive Plan sets a goal of producing 10,000 regulated affordable housing units Since 2017 119 Development Projects totalling 7,309 new housing units are delivering 780 Inclusionary Housing Units The units committed to date; 56% are at 60% MFI 44% are at 80% MFI Studio 39.4% 1 Bedrm 35.9% 2 Bedrm 13.4% 3 Bedrm 8.5% 4 Bedrm 0.7% 98% Rental 2% Ownership Currently 92 projects subject to Inclusionary Zoning are in the approval process, with a potential 14,700 new housing units

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	Policy Type	Threshold / Trigger	Extent of Obligation	Term of Affordability	Affordability Levels	Offsets & Incentives	Public Subsidies Available	Outcomes
San Francisco	**Mandatory** Applies to all residential development Current Program adopted in First introduced in 1992	Applies to all new residential projects of 10 units or more. City-wide, but certain central districts require higher contributions Differing contribution rates for; -Small Projects (10 to 24 units) -Large Projects, Rental (25+units) -Large Projects, Ownership (25 or more units)	Developers have the option to choose one of five contribution models; -Provide Below Market Rate units on-site -Provide Below Market Rate units off-site -Pay a fee in lieu of providing units -Dedicate land for affordable housing Or a combination of the above Unit set aside rates; -Small Projects (10 to 24 units) On-site 13% Off-Site 20% -Large Projects, Rental (25+units) On-site 20.5% Off-site 30% -Large Projects, Ownership (25 or more units) On-site 22.5% Off-site 33% Affordable Housing Fee calculated on the GFA applied to the applicable percentage of the project; $199.50 per sf of residential GFA (2019 indexed amount) times, -Small Projects (10-24 units) 20% of residential GFA -Large Projects, Rental (25+ units) 30% of residential GFA -Large Projects, Ownership (25+units) 33% of residential GFA An application for rezoning may result in higher set aside rates	Permanent	When units are provided the following affordability levels are to be met by project type; -Small Project (10-24 units) 13% of units at 55% AMI for rental or 13% of units at 80% AMI for ownership -Large Project, Rental (25+ units) 12% of units at 55% AMI 4.25% of units at 80% AMI 4.25% of units at 110% AMI -Large Project, Ownership (25+units) 12% of units at 80% AMI 5.25% of units at 105% AMI 5.25% of units at 130% AMI For rental units, rents should not exceed 30% of household income	Through the rezoning process, developers may seek relief from zoning provisions such as, density, height, setback, and parking requirements.[12] State of California Density Bonusing for Affordable Housing projects can provide up to a 35% increase in residential density, must meet certain criteria and City must allow City- HOME SF Density Bonus Program for projects providing deeper level of affordability, can be combined with State Density Bonues	Federal – LIHTC allocates a 9% federal income tax credit to developers that build and rehabilitate affordable housing, or a 4% federal income tax credit, differing criteria apply State & Federal – Opportunity Zones Offers 100% Capital Gains exemption for development in designated lower income areas, San Francisco has eleven zones	From 1992-2008 produced 1096 units from 133 developments and $17 million in fees. 72% were ownership units, 28% rental From 2014-2018 a total of 1,586 inclusionary units were completed, and $ 355.1 Million in fees was collected In 2018, 26 projects subject to the IZ requirements were completed with a total of 2450 units, 15 projects provided 163 of on-site and off-site IZ units, and $53.1 Million in Fees was collected (a 49.5% decline from the previous year and the lowest amount in 4 years)

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	Policy Type	Threshold / Trigger	Extent of Obligation	Term of Affordability	Affordability Levels	Offsets & Incentives	Public Subsidies Available	Outcomes
Seattle	**Mandatory** In 2017 Mandatory Affordable Housing (MAH) replaced Incentive Zoning (IZ), which had been in place since 2001	1 new residential unit. and/or Over 4,000 sf of new commercial space.	Varies by District and amount of extra height and density. Taken as a % of GFA Medium Market Areas 6% - 10% Strong Market Areas 7% - 11% Downtown up to 15% Cash-in-lieu ranges from $ 6.00 - $ 35.75 / sf (in US dollars, 2019 rates) Obligation can be provided on-site, off-site, as a combination of units & cash-in-lieu, or cash-in-lieu	50 years, for Produced Units	40% - 60% of AMI, for Produced Units 30% - 60% of AMI, for units created with Cash-in-lieu funds Any costs to maintain long-term affordability of the constructed units is mainly borne the municipality as few units are retained by private developers.	Increased height and density, relaxed development standards.	State – Multi-Family Tax Exemption, a 12 year property tax exemption on rent restricted/affordable units (cost borne by municipality) Federal - LIHTC allocates a 9% federal income tax credit to developers that build and rehabilitate affordable housing, or a 4% federal income tax credit, differing criteria apply[19] State & Federal – Opportunity Zones Offers Capital Gains exemption for development in designated lower income areas, covers almost 27% of Seattle.	Fails to generate affordable units at the prescribed rate from most projects. Acts as a revenue source for Seattle to fund the construction of affordable housing on its own or with non-profits partners. From 2001-2016, Incentive Zoning secured 128 units across 25 development projects that totalled 2,162 units. Collected $ 87 Million cash-in-lieu payments. Current Goal to achieve 6,000 units between 2017-2035. In 2019 MAH delivered 64 units from 5 projects totalling 684 units, collected $15.6 Million cash-in-lieu. Most projects in the approvals process in 2019 opted for cash-in-lieu, future year commitments of approx.. $100 Million.
Washington	**Voluntary, Required on rezoning.** Last update in 2016	10 or more units, or the addition of 10 new units to an existing building that increases the building's residential floor space by 50% or more.	Between 8 to 10% of the square footage of a building in an inclusionary zone is required for affordable units or 50-75% of the bonus density. This varies depending on construction types and zone district.	Permanent	Rental Units – 60% MFI Ownership Units – 80%MFI Households to not spend more than 50% of their income on housing costs	Density bonusing and tax relief. Developers may receive a density bonus of up to 20% in FAR if they meet affordability requirements.	LIHTC allocates a 9%, or 4% federal income tax credit to developers that build and rehabilitate affordable housing. Federal – Opportunity Zones Offers 100% Capital Gains exemption for development in designated lower income areas, Washington DC has twenty-five zones.	From 2009-2019 Inclusionary Zoning created 989 units from 128 contributing developments In 2019 196 units were created from 26 contributing projects. Since the program was overhauled in 2016 the average annual production has been 194 units. Proposed additional changes in 2020 to relax zoning restrictions in more neighbourhoods may increase average production in future years.

OFFSETS & INCENTIVES – AT A GLANCE COMPARISION OF TORONTO & OTHER CITIES

City or Town	Density Bonus	Reduced Development Standards	Development Charges Reduction/Waiver	Other Fees & Charges Reduction/Waiver	Property Tax Reduction/Waiver	Other Incentives
Toronto (proposed)	• NO • Only as a result of a formal Zoning Bylaw Amendment	• NO	• NO	• NO	• NO	• National Housing Strategy Loans & Grants • Provincial and Municipal loans and grants
Montreal	• YES	• YES, reduced parking standards	• NO	• NO	• NO	• National Housing Strategy Loans & Grants • Provincial and Municipal loans and grants • Sale of Public lands
Vancouver	• YES, varies by district • Eligible Purpose-Built Rental projects receive density bonus without rezoning	• YES, reduced parking standards	• YES, Development Charges waived for the IZ units • Waived Development charges on entire Rental Project	• NO	• NO	• National Housing Strategy Loans & Grants • Provincial and Municipal loans and grants
Boston	• NO • Only as a result of a formal Zoning Bylaw Amendment	• NO • Only as a result of a formal Zoning Bylaw Amendment	• NO	• NO	• NO	• Federal Low Income Housing Tax Credit (4% or 9%) • Opportunity Zone Tax Credit • Eligible for Federal, State, Municipal Housing Funds
Chicago	• YES, varies by district	• YES, reduced parking standards • relaxed Setback requirements	• YES	• YES	• NO	• Federal Low Income Housing Tax Credit (4% or 9%) • Opportunity Zone Tax Credit • Eligible for Federal, State, Municipal Housing Funds • Tax Increment Financing in certain districts for qualifying rental and ownership units
Los Angeles	• YES, varies by district • Statewide mandated density bonusses for Affordable Housing, up to 35% bonus without rezoning • Municipal Transit Oriented Communities, up to 55% bonus without rezoning	• YES, reduced parking standards • relaxed Setback requirements	• NO	• Affordable Housing Linkage Fee, Reduced or waived on affordable units	• NO	• Federal Low Income Housing Tax Credit (4% or 9%) • Opportunity Zone Tax Credit • Eligible for Federal, State, Municipal Housing Funds
New York City	• YES, varies by district • Range of 20%-33% • Certain Transit Oriented Developments may qualify for additional density	• YES, reduced parking standards • relaxed Setback requirements	• NO	• YES	• 100% Property Tax Waiver on entire Rental Project for 35 years	• Federal Low Income Housing Tax Credit (4% or 9%) • Opportunity Zone Tax Credit • Eligible for Federal, State, Municipal Housing Funds • Tax Exempt Bond Financing • Provide Public lands • Subsidies for deep affordability units
Portland	• NO Only as a result of a formal Zoning Bylaw Amendment	• YES, reduced parking standards	• Development Charges waived on all units targeting 60% FMI, and below	• NO	• 100% Property Tax Waiver for 10 years on affordable units	• Federal Low Income Housing Tax Credit (4% or 9%) • Opportunity Zone Tax Credit • Eligible for Federal, State, Municipal Housing Funds • Waived State Construction Excise Tax of $1.35/sf of Residential GFA
San Francisco	• YES, varies by district • Statewide mandated density bonusses for Affordable Housing, up to 35% bonus without rezoning • Municipal HOME SF, additional density bonus can be combined with State bonus	• NO • Only as a result of a formal Zoning Bylaw Amendment	• NO	• NO	• NO	• Federal Low Income Housing Tax Credit (4% or 9%) • Opportunity Zone Tax Credit • Eligible for Federal, State, Municipal Housing Funds
Seattle	• YES, varies by district	• YES, reduced parking standards • relaxed Setback requirements	• NO	• NO	100% Property Tax Exemption for certain Multi-Family Developments for 12 years	• Federal Low Income Housing Tax Credit (4% or 9%) • Opportunity Zone Tax Credit • Eligible for Federal, State, Municipal Housing Funds
Washington DC	• YES, varies by district • Up to 20% density bonus without rezoning	• YES, reduced parking standards • relaxed Setback requirements	• NO	• NO	• Property Tax Waiver on affordable units for 30 years	• Federal Low Income Housing Tax Credit (4% or 9%) • Opportunity Zone Tax Credit • Eligible for Federal, State, Municipal Housing Funds

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