

Summary of Joint
Ordinance/Community Development &
Neighborhood Revitalization
Committee Inclusionary Zoning
Recommendations

December 11 public hearing

General background

- IZ Working Group (IZWG) created by April 2017 City Council Resolution, started work in September 2017 and concluded in July 2018
- Charged with reviewing recommendations in January 2017 consultant report, “Evaluation of the City of Burlington’s Inclusionary Zoning Ordinance”
 - Identify pros and cons, financial feasibility
 - Prioritize recommendations
 - Identify supporting partners
 - Address other implementation issues
- Council referred resolution to Ordinance and Community Development & Neighborhood Revitalization Committee. Met jointly 4 times

Membership of IZWG

Membership was stipulated in the April 2017 Resolution, appointments made by Council President in consultation with the Mayor.

- 1 City Council Member to serve as chair (Jane Knodell)
- 1 Representative from the Planning Commission (Bruce Baker)
- 2 For-Profit Developers (Erik Hoekstra, Eric Farrell)
- 2 Not-for-Profit Developers (Nancy Owens, Housing Vermont; Michael Monte, CHT)

- 2 Affordable Housing Advocates (John Davis, Brian Pine)
- 1 CEDO Director or designee (Noelle MacKay)
- 1 Planning & Zoning Director or designee (David White)

Burlington's Inclusionary Zoning Ordinance

Adopted in 1990; legislative intent:

“Create housing opportunities for all of Vermont’s citizens as required by State law”;

“To ensure the provision of housing that meets the needs of all economic groups by precluding construction of only market rate housing on the limited supply of available land within the City”; and

“To improve the quality of life for all residents by having an economically integrated housing supply throughout the City”

Key elements of IZ ordinances

IZ ordinances require developers to include a certain # or % of all the homes in their projects that are “affordable” to low or moderate income households

In drafting an IZ ordinance, policy makers must decide

Which projects are covered: Does the law apply to all projects, or only some projects?

How many: How many affordable homes must be included?

For whom: How should “affordable” be defined and for what duration?

Other options: Can a developer meet the obligation in some way other than on-site affordable homes (payment in lieu, off-site affordable homes)?

Quick and dirty summary of consultant's recommendations

1. Which projects are covered: exempt more small projects from the requirement ("increase the threshold project size" that law applies to)
2. How many units/for whom: allow developers to build MORE units, but for higher-income households than in current law; or FEWER units, but for lower-income households than in current law
3. Other options: create a meaningful payment in lieu option (allow developer to meet obligation by making a payment to the City's Housing Trust Fund instead of building the required units on site)

Summary of recommendations: who is covered, and how many affordable homes?

Which projects are covered: Joint Committee recommends no change to current law, which applies to any housing development of 5 or more units

How many affordable homes: Joint Committee recommends no change to current law, which says 15% of all dwelling units in the project must meet affordability requirement. In Waterfront district, 25%. If project is targeted to very high end of market, 20-25% of all dwelling units must meet affordability requirement.

Summary of recommendations: how is “affordable” defined?

Affordable for whom?

For rental units, Joint Committee recommends no change to current law. Price homes so they are affordable to households at 65% of Area Median Income (AMI).

For owner-occupied units: Recommend reducing target income from 75% of AMI to 70% of AMI.

Summary of recommendations: other options to meet requirement

Payment in lieu option: current ordinance

If Development Review Board finds that there are “unique, difficult, and/or challenging site conditions” that prevent the construction of on-site inclusionary units, then the DRB may allow the developer to make a payment instead, subject to approval of the City Council.

The payment per required affordable home that is not built on site = approx. \$180,000.

Payment in lieu: what did the consultant say?

Lower the payment in lieu. It is too high to be a true option (it is much higher than the cost to developer of building the on-site inclusionary unit), as shown by the fact that it has not been exercised in 10 years.

It is an important option since it provides flexibility for developers, and the revenue can be used to support other affordable housing strategies through the City's Housing Trust Fund.

Payment in lieu, Joint Committee recommendation

The Joint Committee agreed with the Consultant and IZWG that this is an important option, and one that has not been viable.

Joint Committee agrees with the IZWG and recommends that the payment in lieu option should be available "by right", but on a restricted basis. "By right" means it is not subject to the discretion of a City board or official.

Restrictions on the payment in lieu option are based on the size of the project and the location of the project.

Regardless of size of project, no payment in lieu option in the Waterfront district – a continuation of the existing policy.

Payment in lieu recommendation

The Joint Committee offers an innovative recommendation on the payment in lieu option that seeks to address two big issues:

The challenging economics of the IZ requirement for small projects, given the significant fixed costs involved in developing new housing (costs that are about the same whether you are building 5 units or 50 units).

The striking geographic concentration of IZ units built to date in parts of Burlington that already have a healthy mix of households across the income spectrum in their neighborhoods.

Payment in lieu, recommendation

Small projects (5-16 units) have a payment in lieu option, except if the project is in the Waterfront district. The per unit payment is \$35,000.

Medium (17-49 units) and large (50+ units) pay more per unit (\$70,000 and \$85,000 respectively), recognizing their greater ability to absorb the cost of the inclusionary units. Only incremental units pay higher rate: 17-unit project pays \$35K for 2 units and \$70K for the 3rd IZ unit and so on.

AND medium and large projects can **only** use the payment in lieu option for projects located in parts of the City that have inclusive neighborhoods today. *If their project is in a less inclusive part of the City, we want them to build their affordable homes on site.*

Rationale for Payment in Lieu proposal

Addresses the difficult economics of IZ for small projects, while capturing resources from small projects for the Housing Trust Fund.

Addresses lack of neighborhood inclusion shortcoming of IZ to date in Burlington: while it has succeeded in fostering inclusive projects/buildings, it has not fostered inclusive neighborhoods throughout the City.

Allows payments from market-rate housing to be leveraged with other funding sources through the HTF to support the creation of more homes, and more deeply affordable homes, than would have been built on-site.

Density Bonus proposal

Addresses the fact that many development projects are unable to utilize the existing density bonus despite being required to comply with IZ.

The Joint Committee endorsed the IZWG recommendation that developers be granted by-right density bonuses.

Final language from the Planning Commission should address the provision of by-right density, but still ensure opportunity for the DRB/DAB to seek other modifications to a project to address site plan concerns and architectural design standards.

Other recommendations

Unit comparability – IZ units at par with market units

Compliance monitoring – explore option to transfer duty to new dept.

Increase funding for affordable housing – refer CDNR

Accessory units – refer to CDNR

Privately developed university housing built outside the Institutional Zoning District – draft an ordinance codifying Champlain College