

Policies and Procedures for Monitoring Inclusionary Zoning (“IZ”) Units

(Dated 10/23/17)

The City of Burlington Inclusionary Zoning Ordinance (Burlington Code of Ordinances, Appendix A, Article 9) authorizes monitoring for compliance in 9.1.20:

“The Housing Trust Fund and its Manager shall monitor activity under this article and shall provide a report no less than every year to the city council, setting forth its findings, conclusions, and recommendations for changes that will render the program more effective. The report described above shall be presented to the city council at a legally warned public hearing.”

The Policies and Procedures below have been determined to be necessary to ensure that the intent and letter of the IZ ordinance requirements are satisfied.

Policies

The following are monitoring policies based on past practice and interpretation of the ordinance:

- 1) Working with Community & Economic Development Office (CEDO) Director, CEDO’s Housing Program Manager (or their designee) shall be responsible for overseeing the monitoring and compliance for Inclusionary Zoning (IZ) units.
- 2) The household income limit is 100% of Annual Median Income (“AMI”) for rental and homebuyer units (confirmed by correspondence with Assistant City Attorney Richard Haesler on 6/27/17)
- 3) A household which receives a Section 8 voucher shall be considered to satisfy the IZ income and rent limits since the maximum income for a Section 8 tenant household is typically 80% AMI and these households pay no more than 30% of their income toward rent and utilities.
- 4) Income Certifications
 - a. Unlike many other HUD funded programs, household income shall be calculated by looking “backward” at the previous year’s income.
 - b. Income documents required: owners shall use W-2’s, tax returns, and paystubs. (Per email from Brian Pine dated 2/13/17.)
- 5) All known IZ units shall be monitored annually except in cases where the property/unit is already monitored by CEDO for compliance with HOME rent and income limits.
- 6) The income requirements for IZ units are understood to apply to initial occupancy only. If tenant or homebuyer household income rises above the qualifying threshold after initial occupancy, this shall not trigger the termination of a tenant lease. No ongoing income certification for owner-occupants or tenants is required. However, income certification is required when a change of occupancy occurs.

General Administrative Procedures

The following procedures pertain to the administrative practices related to monitoring for compliance, but which are not specified in the IZ ordinance, except as noted:

- 1) Updating Rents
 - a. The Housing Trust Fund Administrative Committee (“HTFAC”) shall be convened to revise and update the maximum IZ rents and income limits as soon as staff become aware of updated annual HUD income data. (per 9.1.16 of the ordinance)
 - b. Once approved by the HTFAC, staff shall send updated IZ rents to rental owners.
- 2) Inventory of Inclusionary Zoning Units:
 - a. Staff shall regularly update and post on the CEDO IZ webpage an inventory of Inclusionary Zoning units.
- 3) Marketing IZ rental units. The practice has been for CEDO to direct property owners to reach out to affordable housing non-profits (such as Champlain Housing Trust, Cathedral Square Corporation, Burlington Housing Authority, and the Committee on Temporary Shelter) for initial occupancy only. (per email from Brian Pine dated 11/15/15)
- 4) Training Owners, Developers, and Stakeholders on IZ Requirements
 - a. Staff shall regularly update the CEDO IZ webpage with educational resources.
 - b. Staff shall periodically hold public trainings on IZ compliance and monitoring requirements.
- 5) CEDO Director shall report to the City Council on monitoring and compliance efforts annually beginning June 2018. (per 9.1.20 of the ordinance)

Project Completion & Initial Occupancy Monitoring

The following procedures shall be followed for IZ units upon the completion of construction and at initial occupancy of an IZ unit:

- 1) Household income for the IZ units per the executed Housing Subsidy Covenant must be at or below the applicable annual median income limit. Household income shall include all sources of income for all prospective occupants 18 or older.
- 2) Total rent and or sale price shall not exceed the maximum per IZ ordinance.
- 3) For rental housing, once the IZ units are fully occupied with income eligible tenants, owner shall send to Housing Program Manager (or their designee) the following information for each IZ unit:
 - a. Names of tenant(s)
 - b. Unit address
 - c. Total household income
 - d. Total rent paid by tenant
 - e. Date lease was signed
- 4) For homebuyer units, prior to conveyance, the seller/buyer shall send to Housing Program Manager (or their designee) the following information for each IZ unit:

- a. Names of owner(s)
 - b. Unit address
 - c. Total household income
 - d. Proposed sale price
- 5) Housing Program Manager (or their designee) shall examine the submitted materials and check for compliance.

Ongoing Monitoring

As noted, the following procedures shall be followed annually or whenever a change of occupancy occurs in an IZ unit:

Owner-occupied units

- 1) Upon a change in occupancy, owner shall follow the requirements of “Initial Occupancy” above.
- 2) Annually, CEDO shall monitor for occupancy per the same self-certification form used for HOME and CDBG monitoring. CEDO shall confirm that the owner information matches our records and that the owner is aware of the IZ requirements.
- 3) Housing Program Manager (or their designee) shall examine the submitted materials and check for compliance.

Rental units

- 1) Upon a change in occupancy, owner shall follow the requirements of “Initial Occupancy” above.
- 2) Annually, CEDO shall send to the owner income and rent limits after U.S. Department of Housing and Urban Development releases local data.
- 3) Annually, CEDO shall contact the owner reminding them of requirements and requesting information regarding current occupants and tenant(s) to confirm that the unit is in compliance with IZ requirements. This may include, but not be limited to, collecting information such as copies of leases and income information.
- 4) Annually, CEDO shall contact the tenant to confirm rent and occupancy information.
- 5) Housing Program Manager (or their designee) shall examine the submitted materials and check for compliance.

[Prepared by Todd Rawlings, CEDO Housing Program Manager]