



City of Burlington, VT
149 Church Street, 3rd Floor
Burlington, VT 05401
Phone: (802) 865-7144

www.burlingtonvt.gov/plan

TO: Burlington Planning Commission
Burlington City Council Ordinance Committee
FROM: Charles Dillard, AICP, Principal Planner
Meagan Tuttle, AICP, Planning Director
CC: Brian Pine, CEDO Director
DATE: February 16, 2023
RE: Proposed CDO Amendment – ZA-23-02: Inclusionary Zoning

Overview & Background

Inclusionary Zoning (IZ) is the primary mechanism for securing newly built affordable housing in Burlington. Consistent with peer cities, Burlington regulates not just the number of affordable homes that must be created, but the characteristics of those units, including floor area and bedroom mix, or the distribution of units according to the number of bedrooms they contain. However, Burlington's standards are inflexible in comparison and can lead to the creation of affordable unit types for which there is little demand, or even the inviability of the entire development project where some requirements are not compatible with affordable housing practices or the market for affordable housing. This proposed amendment seeks to provide greater flexibility in two specific areas of the ordinance.

Bedroom Mix

Current standards require that a development's inclusionary units must have the same bedroom mix as its market rate units. For example, in a project consisting of 100 units and a 15 percent Inclusionary Zoning requirement, 15 of the units must be affordable. If 1/3 of the market-rate units are two-bedroom units (29 units) and 2/3 of the market-rate units are one-bedroom (56 units), then the affordable units must be provided in the same ratio – 1/3 of the 15 units must be two-bedroom units (5 units) and 2/3 of the units must be one-bedroom (10 units). While usually appropriate and adequate in producing in-demand affordable unit types, this standard can be infeasible and make some projects not viable. For example, a development that includes a large number of four-bedroom units that may be marketed primarily to college and university students. While such four-bedroom units are in demand among this demographic, there is not as much demand for affordable four-bedroom units. As such, the current bedroom mix requirements would produce a glut of four-bedroom IZ units. Conversely, the ordinance does not offer flexibility for the affordable units to be larger than the market rate units. For example, a development includes primarily studio and 1-bedroom market rate units, but desires to include a mix of 1 and 2-bedroom affordable units.

The proposed amendment would create an alternative compliance pathway in the provision of affordable units by exempting a project from the bedroom mix requirement by devoting a proportion of a building dedicated to residential units to inclusionary units. This alternative would require that the IZ units occupy a percent of the residential floor area that is greater than the required share of required IZ units. For example, a project is required by the ordinance to create 15 percent of its units under the IZ program. The amendment would allow the project to incorporate a bedroom mix of their choice so long as more than 15% of the residential floor area is occupied by inclusionary units. The intent would be for a project to create a greater number of in-demand affordable units, despite potentially having a different bedroom mix than the market units.

Following the Planning Commission and City Council Ordinance Committee's discussion on January 19, a previously proposed provision, which would have allowed for exemptions to the bedroom mix

requirement when inclusionary units provided more bedrooms than otherwise required, was removed and is no longer proposed.

Floor Area

Current standards regulating floor area are intended to guarantee an adequate minimum size of IZ units. This is common practice among cities with IZ requirements. However, many jurisdictions either establish minimum unit sizes that are consistent with local housing markets or allow for flexibility in creating units that may be smaller than market-rate units but still adequate and in the interest of fair housing. Burlington, in contrast, requires that the floor area of inclusionary units must be no less than 90 percent of the floor area of units with the same number of bedrooms. While this standard was introduced in the comprehensive revision to Article 9 in 2019, there was much continued discussion about this route up to the adoption of the new provisions. Like the bedroom mix standard, for some projects this creates inflexibility and could lead to the creation of affordable units that are not consistent with demand.

Identical to the proposed approach with respect to bedroom mix, the amendment would create an exemption for unit size parity where a portion of a building dedicated to residential units is for inclusionary units. The amendment would allow for more flexibility in the creation of unit sizes commensurate with the bedroom mix so long as more than 15% of the total residential floor area is dedicated to the project's required IZ units. The amendment establishes minimum IZ unit sizes, by bedroom count, when this alternative approach is proposed.

It should be noted that the remainder of the IZ unit requirements would remain unchanged, including those provisions that regulate the location, tenure, income limits, building quality or energy efficiency of affordable units.

Proposed Amendment

Amendment Type

Text Amendment	Map Amendment	Text & Map Amendment
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Purpose Statement

This amendment modifies the General Requirements for Inclusionary Units to allow for greater flexibility in providing affordable housing. Specifically, the amendment creates alternative compliance pathways to meeting the bedroom mix and unit size requirements in developments where the project's market rate units' floor area and bedroom mix differ significantly from demand for affordable housing unit types.

Proposed Amendments

The following amendments to the *Burlington Comprehensive Development Ordinance* are included in this proposal:

1. Amends Article 9 – Inclusionary and Replacement Housing to create alternative compliance methods in the provision of affordable Inclusionary Zoning units.

- Creates a new Sec. 9.1.14 (b) that exempts projects from the Sec. 9.1.14(a) bedroom mix requirements when the ratio of the gross floor area of its inclusionary units to the total gross floor area of all residential units within the project exceeds the required percent of inclusionary units established in *Table 9.1.8-1 Inclusionary Zoning Percentages*.
- Modifies the existing Sec. 9.1.14(e) to allow greater flexibility for the size of a project's affordable units relative to the market rate units. The amendment also establishes minimum unit sizes when this alternative compliance method based on gross floor area is proposed.

Relationship to planBTV

This following discussion of conformance with the goals and policies of planBTV is prepared in accordance with the provisions of 24 V.S.A. §4441(c).

Theme:	Dynamic	Distinctive	Inclusive	Connected
Land Use:	Conserve	Sustain	Grow	

Compatibility with Proposed Future Land Use & Density

The proposed amendment is consistent with *planBTV*, which calls for growth in specific areas of the City where relatively dense, multi-unit housing is anticipated. As any development containing five or more units is required to create affordable IZ units, this growth will mean the creation of new affordable homes in Downtown and other growth areas and corridors that are accessible to jobs and services. To make such development feasible, and to create needed market-rate and affordable units, the amendment provides necessary flexibility and removes arbitrary requirements that have the unintended consequence of requiring units that are of a size and bedroom mix that are not in keeping with local demand for affordable housing.

Impact on Safe & Affordable Housing

The amendment is consistent with *planBTV* in that it promotes the development of in-demand and right-sized affordable housing in the city and will almost certainly lead to the creation of a greater number of affordable units than would today's requirements. Burlington, as *planBTV* makes clear, is distinct, dynamic and inclusive in large part to an established community value of acceptance of residents and households from all socioeconomic backgrounds. Indeed, the amendment is consistent with *planBTV's* Policy 11.1, which calls for the City to, "Update the City's Inclusionary Zoning Ordinance and other land use policies to expand the creation of affordable homes." By extension, through creating a more flexible affordable housing program, the amendment would support Burlington's goal of continuing to be a place where low- and moderate-income residents who contribute to the City's vitality and economy can reside.

Planned Community Facilities

This amendment has no direct impact on planned community facilities. However, it should be noted that an inclusive housing market that includes ample and appropriately-sized affordable homes located in growth areas supports the City's investments in infrastructure and open space amenities.

Process Overview

The following chart summarizes the current stage in the zoning amendment process, and identifies any recommended actions:

Planning Commission Process				
Draft Amendment prepared by: Staff	Presentation to & discussion by Commission 1/10/2023, 1/19/23, 1/24/23	Approve for Public Hearing 1/24/23	Public Hearing 2/16/23	Approved & forwarded to Council 2/16/23
City Council Process				
First Read & Referral to Ordinance Cmte 2/21/23	Ordinance Cmte discussion 1/19/2023	Ordinance Cmte recommend	Second Read & Public Hearing	Council Approval & Adoption