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Item No. 15.1.8
Halifax Regional Council
May 9, 2023

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY:

John Traves, Acting Chief Administrative Officer

DATE: May 1, 2023

SUBJECT: **Case 24529 - Inclusionary Zoning Program Framework**

ORIGIN

This report originates with staff.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), 2008, c. 39 (Part VIII, Planning & Development), ss 229, 235 and 238A.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Initiate a process to amend the Regional Municipal Planning Strategy and all applicable secondary municipal planning strategies and land-use by-laws to create an Inclusionary Zoning Program for HRM, consistent with the proposed policy direction outlined within the Discussion section of this report; and
2. Follow the public participation program as set out in the Community Engagement section of this report.

EXECUTIVE SUMMARY

This report provides Regional Council with a framework for an inclusionary zoning program that would require developers to include affordable units in new residential developments and prioritize the incorporation of on-site affordable units.

In the fall of 2021, the NS Legislature amended the *HRM Charter* to enable inclusionary zoning in the municipality. The new inclusionary zoning provisions would allow HRM to require on-site affordable housing in every new development as a condition of obtaining a development permit. In response to these changes, staff engaged a planning consultant to conduct preliminary jurisdictional and best practice research to inform a new inclusionary zoning program for HRM. The Executive Summary of this report is included as Attachment B. The full report is available upon request.

This report provides a summary of this work and recommends that Halifax Regional Council initiate a planning process to develop an inclusionary zoning program in HRM. This will include engaging with the development community, non-profit housing providers, members of the public and other key stakeholders. Additionally, this report recommends undertaking a fiscal impact analysis to assist staff in understanding the variables of an inclusionary zoning program, including the most effective affordability standard and the amount of affordable housing that should be set aside in each new development.

BACKGROUND

Inclusionary zoning is a tool that allows affordable units to be required within new developments. This can be in the form of units on-site or the provision of a public benefit, such as cash-in-lieu of on-site housing. In Canada, inclusionary zoning programs are a prevalent tool for increasing the supply of affordable housing and are employed by several municipalities including Montréal, QC, Richmond, BC and Edmonton, AB. In November 2021, in response to a request from HRM Regional Council, the Province amended the *HRM Charter*¹ to enable a municipal inclusionary zoning program.

Inclusionary Zoning

Typically, the goals of inclusionary zoning programs are twofold:

1. Increasing supply of affordable housing with minimal government subsidy; and
2. Fostering social integration.

Inclusionary zoning programs are popular in the United States, where they were initially created to counteract housing practices that excluded households based on race. Over time, the use of inclusionary zoning expanded as it was shown to increase the supply of affordable housing. In Canada, comprehensive inclusionary zoning programs are historically less common, and Canadian jurisdictions typically favour more modest, voluntary programs that use incentives to encourage, rather than require, property owners to participate.

Inclusionary zoning programs use a suite of variables to control how they function. Table 1 below outlines the key components.

Table 1:

Component	Description
Mandatory vs Voluntary / Incentives	Inclusionary zoning programs are either mandatory or voluntary. Mandatory programs make participation in the inclusionary zoning program a condition of receiving a development permit.

¹ Bill No. 32 *An Act to Amend Chapter 18 of the Acts of 1998, the Municipal Government Act, and Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter, Respecting Inclusionary Zoning*, commenced November 5, 2021. https://nslegislature.ca/legc/bills/64th_1st/3rd_read/b032.htm.

	<p>As voluntary programs do not require participation, they often employ incentives to entice developers to participate in the program. Common incentives include the following:</p> <ul style="list-style-type: none"> • Density bonuses – developments can access additional height or massing to increase the amount of housing allowed in the development, in exchange for a proportion of the new housing being affordable. • Waiving land use requirements – parking minimums, requirements for amenity space or parkland dedication can be waived for projects that participate in the inclusionary zoning program. • Administrative advantages – development fees are waived, or administrative processes are accelerated for projects.
Set Aside	<p>The set aside rate is the portion of the new development required to be "set aside" by the developer for affordable housing. It is most often expressed as a percentage of new square footage or new dwelling units.</p> <p>Most jurisdictions determine the set aside rate through the "market rate" approach. This approach establishes a higher set aside rate in areas with higher demand for housing, and a lower set aside rate in areas with lower demand.</p>
Affordability Standard	<p>The affordability standard sets the definition for what is considered affordable housing in the program. It can relate to median market rents (MMR) or area median income (AMI). The affordability standard is dependent on the set aside rate. For example, a high set aside rate would typically correlate with a higher price for the affordable units, and vice versa.</p>
Trigger	<p>The trigger determines the minimum unit threshold or minimum size of development for participation in the program.</p>
Scope	<p>The scope of an inclusionary zoning program addresses details of program design including the kinds of housing (i.e., apartments, houses, duplexes) and tenure (ownership and rental) that are included in the program, and the term required for the affordability standard to remain in place.</p>
Flexibility	<p>Inclusionary zoning programs can offer ways for developers to opt out of providing on-site housing. This can be in the form of cash in lieu of affordable housing, providing alternative on-site amenities, such as heritage conservation, community space, or providing the required affordable housing at a different, off-site location.</p>

Housing Affordability in HRM

Core housing need is the most common metric of housing affordability used in Canada. The Canada Mortgage and Housing Corporation (CMHC) defines core housing need as housing that meets any one of the following criteria:

1. Housing that costs more than 30 per cent of low to moderate income households' gross income. Housing costs include the cost of mortgage/rent, monthly heat (includes gas, oil and electricity), water, and utilities;
2. Housing that does not meet minimum occupancy standards; or

3. Housing that does not meet the needs of the occupant (e.g., a family of four should not live in a one-bedroom apartment).²

In 2020, 12% of all households in the Halifax Census Metropolitan Area were in core housing need, which includes 5% of homeowner households and 22% of renter households.³ Compared with data from the 2016 Census, the total incidence of core housing need had decreased by 3%. However, it is important to acknowledge that many households were recipients of the Canada Emergency Response Benefit (CERB) in 2020, which increased incomes for many and likely impacted the rate of core housing need shown in the 2021 Census.

The following table further illustrates the pervasiveness of housing precarity in Halifax:

Type of apartment:	Average rent (2022):	Income required (30% affordability standard):	Proportion of households in HRM for whom average rent is unaffordable (30% affordability standard) (2020): ⁴
Bachelor	\$990 / month	\$39,600 / year	36,635, or 19% of households, earned less than \$39,999
One-Bedroom	\$1,157 / month	\$46,280 / year	51,570, or 27% of households, earned less than \$49,999
Two-Bedroom	\$1,449 / month	\$57,960 / year	66,175, or 35% of households, earned less than \$59,999
Three-Bedroom	\$1,690 / month	\$67,600 / year	80,430, or 42% of households, earned less than \$69,999

While data from the 2021 Census is still being assessed, data from the 2016 Census shows that Halifax households in core housing need were more likely to be women and girls than men and boys,⁵ and children living in lone-parent households were 5 times more likely to be in core housing need than children living in two-parent households. Preliminary findings from the 2021 Census show that people living alone are twice as likely as the total population to be in core housing need, and that women are still more likely than men to be in core housing need.⁶

In response to the *HRM Charter* amendments, staff acquired best practice recommendations from literature review, jurisdictional scan and preliminary engagement with key stakeholders. A summary of this work is included as Attachment A; the Executive Summary of the report and associated recommendations is included as Attachment B, with the full report available upon request. Attachment C provides additional information on the existing regulatory, policy and programming context in HRM. Supplemental information on existing inclusionary zoning programs in Canadian jurisdictions is provided in Attachment D.

DISCUSSION

²Canada Housing and Mortgage Corporation. (2022). Understanding Core Housing Need. <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-research/core-housing-need#:~:text=Core%20housing%20need%20is%20a,adequate%20housing%20in%20their%20community>.

³Statistics Canada (2022 data) <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E> and Canada Housing and Mortgage Corporation (2016 data) <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-data/data-tables/household-characteristics/incidence-urban-households-core-housing-need>.

⁴Canada Mortgage and Housing Corporation. 2023 Rental Market Survey. <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-data/data-tables/rental-market/urban-rental-market-survey-data-average-rents-urban-centres> and Statistics Canada. 2021 Census Profile. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/prof/index.cfm?Lang=E>.

⁵Canada Housing and Mortgage Corporation. (2019). Core Housing Need Characteristics. <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-data/data-tables/household-characteristics/core-housing-need-status-selected-characteristics-gender>.

⁶Statistics Canada. 2021 Census Analysis. <https://www12.statcan.gc.ca/census-recensement/2021/dp-pd/dv-vd/housing-logement/index-en.cfm>.

Like many housing markets in Canada, HRM is experiencing rapidly increasing housing prices without consequent increases in wages, resulting in significant degradation of housing affordability. At the same time, HRM's population is increasing, which is expected to exacerbate inequality and income segregation unless HRM takes persistent and continuous action. Staff advise that an inclusionary zoning program could be an effective tool to help improve housing affordability in HRM. The following section outlines the proposed policy and regulatory approach for an Inclusionary Zoning in HRM and the next steps required to develop such a program.

Proposed Policy and Regulatory Approach:

Staff recommend that Council initiate a comprehensive planning process to update the Regional Municipal Planning Strategy (Regional Plan) and all other relevant planning documents to establish an inclusionary zoning program in HRM. In designing the program, staff will consider the following:

1. Prioritize a mandatory inclusionary zoning program: Jurisdictional and best practice research consistently show that mandatory programs are more successful at creating new affordable units than voluntary programs. Mandatory programs are also more successful at distributing new affordable units throughout the program area instead of concentrating new units in areas that already provide more affordable housing. While a mandatory program would not rely on providing an incentive such as a density bonus, staff will explore how a mandatory inclusionary program could coexist with a voluntary program such as the existing incentive or bonus zoning.
2. Prioritize Program in Areas of High Growth: While affordable housing is needed throughout the municipality, care needs to be taken in how an inclusionary zoning program is introduced. Staff will explore an approach that prioritizes growth centres and future growth nodes, transit priority corridors, and areas where significant growth is anticipated. Expanding the program region-wide could be considered once the initial phases are implemented.
3. Consider all types of housing: While staff anticipate that any inclusionary zoning program would mainly apply to multiple unit dwellings, staff will explore the design of a program that would apply to all unit types. The inclusion of all types of units can provide a greater variety for affordable housing options. Staff will also consider a program that includes options for both rental and owner-occupied housing.
4. Require cash-in-lieu contributions from small residential and non-residential developments: Staff will conduct initial research on whether small residential developments and commercial and industrial developments should pay cash in lieu of on-site housing. This practice is common in US jurisdictions and is employed in Whistler's long-standing program. Commercial and industrial enterprises benefit from having workers affordably housed, and HRM could use cash in lieu collected from industrial and commercial development to continue the Affordable Housing Grant Program. This approach would need to be integrated into a wider conversation around development charges and tax structure in HRM.
5. Priority of on-site affordable housing: Staff will consider the best scope for options to "opt out" of the program by paying cash in lieu of on-site housing or building affordable housing off-site. Options for cash in lieu or off-site housing, where available, should fairly and proportionately reflect the cost of replacing the missing on-site housing.

Other components of an Inclusionary Zoning program including the set aside rate and affordability standard will require further research and analysis as discussed below.

Next Steps

A detailed analysis of HRM's private housing market would assist in identifying the optimal scope of an inclusionary zoning program. Since research shows that inclusionary zoning programs can impact the pace of land development and sales and the price of housing, staff should engage a qualified consultant to

prepare a fiscal impact analysis.

Fiscal Impact Analysis

A fiscal impact analysis would examine the private housing market and provide advice on how much housing could be removed from the private market, by requiring on-site affordable housing, without constraining the pace of new development. This would update and build on work already completed with respect to the public benefit amount required by the incentive or bonus zoning program. Such a study is required to understand the potential impact of an inclusionary zoning program on the housing market in HRM, and could address the optimal affordability standard, set aside rate, delineation for market rate zones, minimum development size, and the appropriate amount of cash that could be paid in lieu of on-site units. A fiscal impact analysis is common background research that municipalities undertake prior to finalizing the details of their inclusionary zoning program.

Staff also advise that a fiscal impact analysis would add considerable transparency to the planning process and would provide reassurance to the development community and HRM residents about the municipality's tolerance for increases to the price of market housing arising from any new inclusionary zoning program.

Ownership and administration of affordable housing.

An important piece of developing an inclusionary zoning program is the framework for owning and administering the new affordable housing. Options for ownership and administration range from requiring the property owner to manage the affordable units themselves to passing ownership and management to a third party such as a non-profit organization, the province, or the municipality. More work is required to understand the best framework for HRM. Should Council recommend moving ahead with the development of an inclusionary zoning program, staff will develop a recommended administrative framework through best practice research and further engagement with stakeholders.

Conclusion

Housing affordability is an increasing concern throughout HRM, and comments around limited access to affordable housing are becoming more common at Council meetings and during community engagement. Inclusionary zoning programs have proven to be an effective tool to produce more affordable housing by leveraging private housing development. Existing programs in Canada and throughout the United States demonstrate that well-designed inclusionary zoning programs can have a significant, positive impact on housing affordability, without triggering increases to the price of market housing.

In response to ongoing housing challenges throughout HRM, staff recommend that Regional Council initiate a comprehensive planning process to develop an inclusionary zoning program for HRM. Staff further advise that, prior to developing the program, a fiscal impact analysis and a fulsome engagement program should be undertaken to fully understand any potential impacts on communities, non-profit housing providers and the housing market.

COMMUNITY ENGAGEMENT PROGRAM

In preparation for this report, preliminary engagement was held with housing stakeholders in HRM including the Halifax Partnership, the Affordable Housing Association of Nova Scotia, and the YWCA. The topics covered during these conversations included a possible inclusionary zoning program in HRM and possible roles for non-profit housing providers. Key concerns and ideas brought forward during these conversations were as follows:

- The need for an affordability standard that targets households most in need of improved affordability (deeply affordable housing).
- Concern that implementing an inclusionary zoning program only in parts of the municipality could distort the housing market and incent developers to focus development outside the inclusionary zoning area.
- The value of cash in lieu collected should realistically compensate for missing affordable housing on-site and be sufficient to replace the missing units off-site.

Should Regional Council choose to initiate the MPS amendment process related to inclusionary zoning, the *HRM Charter* requires that Regional Council approve a public participation program. In February of 1997, Regional Council approved a public participation resolution that provides broad discretion on the consultation process required for MPS amendments that are regional in nature. The 1997 policy provides that, for amendments that are regional in nature, staff would recommend an appropriate public participation program. Accordingly, staff recommend that Regional Council obtain stakeholder and public feedback through:

- One or more community-based events, pop up displays at community hubs or collaborating with other HRM open houses or events regarding similar matters;
- Targeted engagement with key stakeholders including the development industry, non-profit housing groups, community organizations, provincial and federal departments and agencies; and
- Web-based engagement tools.

As there is evidence showing that barriers to housing impact some demographics more than others, staff will work with HRM's Diversity and Inclusion office to include targeted engagement to African Nova Scotian communities, urban indigenous populations, and lone parent (especially mother-led) households, in accordance with HRM's [Public Engagement Guidebook](#).

In addition to this public participation, the *HRM Charter* requires a public hearing to be held before Regional Council can consider approval of any amendments to planning documents.

Amendments to the Regional MPS and applicable community MPSs and LUBs will potentially impact the following stakeholders: housing developers and providers, the general public and the provincial government.

FINANCIAL IMPLICATIONS

Activities associated with amending planning documents and creating an inclusionary zoning program can be carried out under the approved operating budget with existing resources.

The Fiscal Impact Assessment is expected to be carried out within the proposed Planning and Development 2023-24 budget. Any new inclusionary zoning program will likely require additional staff for monitoring, administration and enforcement. Details outlining the financial implications associated with any proposed inclusionary zoning program will be discussed in a future report.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. The development of new by-laws and MPS amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting an inclusionary zoning program will be discussed in a subsequent staff report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

Regional Council may choose to:

1. Initiate amendments to the Regional Plan and all applicable planning documents together with the

development of an inclusionary zoning program that would differ from the proposed policy direction outlined in the Discussion section of this report. If this alternative is selected, specific direction would be needed and a supplementary report from staff may be required.

2. Initiate amendments to the Regional Plan and all applicable planning documents regarding an inclusionary zoning program without obtaining a fiscal impact analysis. This alternative is not recommended as the experiences from other jurisdictions show that inclusionary zoning programs have the potential to increase the cost of market housing, and understanding the potential impact of an inclusionary zoning program in HRM is essential for an effective inclusionary zoning program.
3. Decline to initiate amendments to the Regional Plan and all applicable planning documents together with the development of an inclusionary zoning program in HRM. A decision of Council not to initiate a process to consider MPS amendments is not appealable to the NS Utility and Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

- Attachment A: Summary of Preliminary Inclusionary Zoning Research
- Attachment B: Executive Summary - Preliminary Inclusionary Zoning Best Practices Review
- Attachment C: Supplemental Background Information
- Attachment D: Jurisdictional Scan of Additional Canadian Inclusionary Zoning Programs

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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Attachment A: Summary of Preliminary Inclusionary Zoning Research

Jurisdictional and Literature Review

The literature review and jurisdictional scan considered inclusionary zoning programs in Canada and United States. The literature review focused on key themes for designing an efficient and effective inclusionary zoning program.

Mandatory Programs vs Voluntary Programs

Research shows that most inclusionary zoning programs in the US are mandatory, and that mandatory programs produce more affordable housing over time than voluntary programs.¹

Voluntary programs rely on incentives to draw developers into the program. The most common incentive is density bonusing, which operates by allowing additional density in exchange for the developer opting into the inclusionary zoning program and agreeing to either provide a proportion of the added density as on-site affordable housing or pay cash in lieu.

For a voluntary inclusionary zoning program to be effective, by-right density must be constrained below market demand. If this demand is not present, developers may be less enticed to participate in the voluntary program. Creating market demand can be achieved through limiting density through land use by-laws. It is important to be cautious when undertaking such work as it can result in less housing development which can then lead to less affordable housing.

In Canada, most inclusionary zoning programs are limited to discretionary approvals, typically an application to upzone the subject property. Only one Canadian jurisdiction, Montréal, has an inclusionary zoning program that applies to both discretionary and by-right approvals. At the time of writing, the City of Toronto had approved an inclusionary zoning program that would include both discretionary and by-right approvals, but for which the Province of Ontario has requested additional community engagement.

Set Aside

The required set aside rate varies among the Canadian jurisdictions reviewed, from a low of 5% of new housing in Edmonton to a high of 20% in Victoria and some parts of Montréal. From 2015 to 2018, Edmonton's program created 26 new affordable units. Victoria's program only came into effect in 2019, and the number of new units created under that program is not available.

However, Richmond, British Columbia's inclusionary zoning program requires either a 10% or 15% set aside, depending on where the development is located, and is credited with creating 900 new affordable units since 2007.

Both Canadian programs that include by-right development, Montréal and Toronto, use the market rate approach described above to vary the required set-aside rate throughout the municipality, in consideration of the strength of the local housing market.

In the United States, new affordable units make up 9% of new units in inclusionary zoning program areas. This suggests a set-aside requirement of approximately 10% when cash in lieu options are considered.²

Affordability Standard

The majority of Canadian jurisdictions with inclusionary zoning programs tie affordability to a percentage of market rent, typically between 80-90% of average market rent. Remaining jurisdictions tie affordability to a targeted to a defined range of low- to moderate-income.

American jurisdictions primarily focus on moderately affordable units, and target households with income

¹Mukhija, V., A. Das, L. Ragus and S. Slovin Tsay. (2015). The Tradeoffs of Inclusionary Zoning: What Do We Know and What Do We Need to Know? *Planning, Practice & Research* 30 (2), 222–235. <http://dx.doi.org/10.1080/02697459.2015.1008793>.

²Wang, R. and S. Balachandranb. (2021). Inclusionary housing in the United States: dynamics of local policy and outcomes in diverse markets. *Housing Studies*, DOI: 10.1080/02673037.2021.1929863.

between 51% and 80% of the area median income.

Because households in need of deep affordability often require wrap-around supportive services that would be challenging to offer in a private development, most inclusionary zoning programs create moderately-affordable housing targeted to households at or just below the median household income. One notable Canadian exception is Montréal's "20-20-20" inclusionary zoning program, which requires 20% of new residential projects with more than 450 square metres to be set aside for affordable housing offered for at least 10% below market rent, but also requires that 20% of new units be set aside for social housing, which is housing that qualifies for or receives municipal or provincial funding for supportive services.³

Trigger

In contrast to American programs, most Canadian inclusionary zoning programs are voluntary, and allow development projects to participate regardless of their size. Exceptions include Whistler, which operates a workforce housing program that requires cash in lieu for new and expanding developments of all sizes, and Montréal, which operates a mandatory program that requires participation from new residential projects with at least 450 square metres or 5 dwelling units. Toronto's pending program would only include new developments with at least 100 dwelling units.

Scope

Of those Canadian programs that include only discretionary approvals, the required affordability term ranges from a low of 10 years (Richmond, BC) to permanently affordable (Edmonton). Montréal's mandatory program requires maintenance of the affordability standard for 20 years, and Toronto's pending program will require maintenance of the affordability standard for 99 years.

Whistler requires cash in lieu of affordable housing for any new or expanded development, including residential, commercial and industrial development, regardless of unit type. The remaining Canadian programs reviewed include only multiple-unit dwellings.

The inclusionary zoning programs in Victoria, Montréal and Toronto all apply to owner-occupied and purpose built rental housing, and Whistler's strictly cash in lieu program requires participation regardless of the intended tenure of the new or expanded development. Programs in Edmonton and Langford only apply to owner-occupied housing, while the voluntary program in Richmond only applies to purpose-built rental housing.

Flexibility

Most jurisdictions provide the option to opt out of an inclusionary zoning program by providing cash-in-lieu of affordable housing. Other common opt out options, includes land dedication that could be used for a public purpose in the future, agreeing to build or support affordable housing off-site, or agreeing to participate in a different affordable housing program such as the CMHC Co-Investment Fund.

It is important to note, that if opt out options, especially cash-in-lieu, are set too low, the program can become ineffective. Additionally, programs with more generous provisions for opting out are known to produce less affordable housing over time and are worse at integrating affordable housing into neighbourhoods with high housing prices.

Cash in lieu programs can be productive if the jurisdiction has an efficient way to spend the in lieu fees and if the amount of cash required by the program is sufficient to replace the missing housing. If the amount is set too low, not only will the program not collect enough money to replace the missing housing, but the program will also create a disincentive for developers to construct on-site housing, to the detriment of the program's goals.

Whistler's inclusionary housing program operates only on cash in lieu, collected and transferred to a municipal housing authority to develop workforce housing. Since its inception in 1990, Whistler's

³ Arquin, A., A. Pignoly and J. Godin. (2020). City of Montréal Publishes New Draft of Bylaw 20-20-20 on Social, Affordable and Family Housing. <https://www.dwpv.com/en/Insights/Publications/2020/Nouveau-projet-du-reglement-20-20-20>.

inclusionary housing program is credited with creating 2,100 new units of workforce housing. By contrast, Langford's inclusionary housing program collects \$660-\$1000 in lieu of each required housing unit, well below the cost of replacing the missing housing off-site. Since its inception in 2004, Langford's inclusionary housing program has collected \$3 million cash in lieu and is not credited with creating any new affordable housing.

Please see Appendix A of the Preliminary Inclusionary Zoning Best Practices Review found in Attachment A of this report for a review of inclusionary zoning programs in Canada, and Attachment B for a supplemental review of Canadian inclusionary zoning programs not considered in the Preliminary Inclusionary Zoning Best Practices Review.

Best Practices / Recommendations

Based on the consultant's research, the Preliminary Inclusionary Zoning Best Practices Review report identified the following best practices for inclusionary zoning in the HRM context:

1. Require affordable housing on site wherever possible, and avoid cash in lieu options unless the amount required for cash in lieu is equivalent to the actual cost of building an affordable unit elsewhere;
2. Stack a mandatory set-aside of affordable housing on-site with a voluntary cash-in-lieu density bonus program in higher-demand parts of HRM;
3. Use a market rate approach to define the mandatory set-aside throughout the municipality. This would require a higher set-aside rate in areas of low affordability and high market demand and reduce the set aside rate in areas with lower market demand. All areas of the municipality should be subject to a mandatory inclusionary zoning program;
4. Focus the inclusionary zoning program on multi-unit dwellings, but include both rental and owner-occupied housing in the program;
5. Require affordable housing within all multi-unit dwellings, regardless of scale;
6. Require set aside units be maintained to the affordability standard for a long term (ie 99 years);
7. Tie the affordability standard to household incomes in a reference area, not to percentages of market rents;
8. Engage a professional consultant to complete and Fiscal Impact Analysis and identify the following for the HRM context:
 - Mandatory set-aside rates;
 - Voluntary density bonus rates, if applicable;
 - Market rate areas throughout HRM;
 - Appropriate affordability level in each market rate area, including comparator geography;

EXECUTIVE SUMMARY

PURPOSE AND APPROACH

The purpose of this Report is to provide a background review of best practices from jurisdictions that have, or are currently implementing, Inclusionary Zoning (IZ). The report is intended to establish an understanding of what has worked and what has not worked, across a variety of jurisdictions, to help inform and provide clear direction for the Halifax Regional Municipality (HRM) as they examine whether an Inclusionary Zoning program could help improve housing affordability in HRM.

The purpose of this report is not to prescribe specific provisions or clauses that shall be applied within the HRM, but instead outlines a range of best practices of Inclusionary Zoning examples and how they are applied within the cited jurisdictions.

The report addresses this research through the following sections:

- **Section 2** establishes context for IZ and its applicability to HRM.
- **Section 3** contains a summary of relevant academic articles that provide further information on IZ and existing research on this topic.
- **Section 4** provides an overview of thirteen (13) existing approaches to IZ By-laws/Ordinances that were reviewed.
- **Section 5** provides applicability of these best practices to HRM.
- **Section 6** Provides a detailed account of the interviews with various stakeholders determined by HRM, which includes an overview of their general thoughts, role, and desired approach to IZ.
- **Section 7** provides recommendations and policy approaches for HRM on IZ.

INCLUSIONARY ZONING

IZ is a land-use tool that enables jurisdictions, like HRM, to help address the housing needs of low- and moderate-income households, through the provision of policies that require developers to construct 'affordable' units within residential developments where they would not normally be included. The ultimate goals of IZ are to increase the supply of affordable housing, either throughout a municipality, or within specific areas, such as near transit routes, and to provide mixed income developments where the market has not provided for a mix of housing / rental prices on its own.

Although specific policies will vary across municipalities, and the way they are enforced will vary based on the applicable legislation, planning policy hierarchy and framework, a few similarities are generally consistent across IZ programs, which are as follows:

- Affordability periods generally range from 30 to 99 years, however some jurisdictions secure affordability in perpetuity;
- 'Affordability' calculations are based on 'area median income' targets, median market rents, or household income limits;
- Certain policies provide options to developers to opt-out of the inclusion of affordable units, such as the provision of cash-in-lieu or the development of 'off-site' affordable units;
- Certain policies help ensure that providing affordable units is economically viable for developers, such a density bonusing, tax abatement, reduced permitting fees, among others; and

- Geographic boundaries for the applicability of IZ policies, whether it be throughout the entire municipality, or within specific defined areas within a municipality.

BEST PRACTICES

This Report also identifies best practices, trends, and noteworthy approaches are identified as well as their applicability to HRM. A brief description of the results is provided in the table below.

Applicability Table

POLICY FEATURE	DESCRIPTION	BEST PRACTICE	APPLICABILITY TO HRM
Status	Mandatory / Voluntary	All jurisdictions reviewed other than HRM should only consider Victoria, BC were mandatory programs. Additionally, literature suggests a program will only be effective if it is mandatory.	HRM should only consider a mandatory IZ program.
Set-aside	Percentage / Unit count F.A.R.	/Set-aside rates dependent on local market conditions, which is determined through a Fiscal Impact Analysis.	To be determined through a Fiscal Impact Analysis. Although the most common form of set-aside rate was through a percentage (%) of total units.
Term	Years / Permanent	Toronto, ON – 99 years <ul style="list-style-type: none"> • Affordable dwelling units are secured for a period of 99 years, which is generally the lifespan of a building. 	The average term of affordability was approximately 30 years. Studies show, in the absence of effective controls over a long and enduring period, the affordable housing will be lost in the marketplace. Longer term lengths are considered a best practise applicable to HRM.
Income Target	Percent of Median Income Household Income / Individual Income	/Canadian Jurisdictions <ul style="list-style-type: none"> • Income targets were variable, most relied on size of household to determine the minimum income level American Jurisdictions <ul style="list-style-type: none"> • Determined by AMI 	Appropriate targets are dependent on local targets. This can be determined through a Fiscal Impact Analysis. The income target can be applied at the household income level or individual income level.
Locationality	Jurisdiction-wide / area-specific	Boston, Montreal, and Toronto, took an 'area-specific' approach, establishing specific zones within its jurisdiction and apply varying IZ requirements (i.e., higher set-aside rates in higher growth areas) in each zone.	Due to the size of HRM, an 'area-specific' approach is suggested. Suggested zones within HRM could be: <ul style="list-style-type: none"> • TOD Areas

POLICY FEATURE	DESCRIPTION	BEST PRACTICE	APPLICABILITY TO HRM
			<ul style="list-style-type: none"> • Varying areas on the peninsula (south-end, north-end, etc.) and surrounding areas (i.e., Bedford, Sackville, etc.) • Suburban • Rural
Housing Affected	Types Rental vs. Ownership: Apartments / Condominiums / Detached Dwellings	Multiple unit buildings or developments, condominiums or rental developments instead of traditional low-rise/single detached dwellings/lots. The level of administration will also play a part in determining rental or ownership units.	Determine growth areas within HRM and anticipated building types (single / multiple unit dwellings). The level of administration will be variable dependent on the program parameters.
Cash-in-lieu Opt-Outs	Appropriate rates must be set to incentivize the development of units instead of cash payments in-lieu of affordable units.	Toronto, ON <ul style="list-style-type: none"> • The only opt-out offered to developers is to provide units off-site. Cash-in-lieu is not permitted. 	Other than cash-in-lieu, there are various opt-outs that can be imposed for developers to comply to the Z requirements. If HRM chooses to permit cash-in-lieu as an opt-out, it is suggested the rate be set that incentivizes the actual affordable unit rather than a cash contribution in-lieu of the required set-aside of affordable units.
Incentives	Subsidy, Tax Abatement, Density Bonuses, Reduced Parking Requirements	Density bonusing is by far the most popular in the jurisdiction scan and the literature reviewed. Other common incentives included expedited permitting, reduction in parking requirements.	HRM could apply the Z program: <ul style="list-style-type: none"> • Density bonusing • Reduced parking requirements • Lower application costs

RECOMMENDATIONS

The recommendations below are based on the review of relevant academic articles, jurisdictional scan, stakeholder interviews, and our understanding of the land use planning and development trends shaping the current built environment.

Recommendation #1: Establish Guiding Principles

It is recommended that HRM determine high-level priorities and principles that can be used to help scope or inform more detailed work (such as a Fiscal Impact Analysis) in the establishment of an IZ program. These principles may be further informed by broader stakeholder input and public engagement.

1. Determine 'Affordability'
2. Prioritize long-term affordability
3. Prioritize construction of physical units
4. Prioritize on-site units
5. Require mandatory participation

Recommendation #2: Complete a Fiscal Impact Analysis

A fiscal impact analysis should be completed by a consultant with expertise in real estate economics, using local and current market data, such as land development costs, to establish a financial model of development within HRM. Inputs that HRM may require prior to undertaking this study include:

- Affordability Levels (Rent and/or purchase prices and who should qualify)
- Term lengths (Time units remain as affordable)
- Mandatory vs. voluntary participation
- Proposed geographic zones

With the above information determined, a financial model could be used to help determine:

- Set aside rates (percentage of units or area to be set aside as affordable)
- Geographic zones or areas

Recommendation #3: Determine Administrative Structure

One of the most challenging aspects of implementing an IZ program in HRM will be to determine how to manage and maintain future affordable units that are created through the program. The administration of an IZ program is highly dependent on local factors such as existing knowledge and capacity, as well as jurisdictional authority. For example, HRM differs from cities in other provinces which are already directly involved in providing subsidized and social housing. In Nova Scotia, the provincial government is responsible for this function, and HRM does not yet have similar internal capacity nor an administrative role.

During this jurisdictional review, detailed information on IZ program administration was limited, and a more targeted approach from HRM staff towards peers in other jurisdictions (such as Toronto in Canada and Washington, DC in the USA) is recommended to determine organizational requirements or lessons learned. HRM can then internally determine the most appropriate administrative model for a potential IZ program, and work with the provincial government and not-for-profit sector locally (as needed) to agree to an effective local approach.

Recommendation #4: Determine Specific Area Requirements

Findings from cities such as Boston and Toronto show that jurisdictions with large geographic areas and diverse markets can benefit from a tiered approach to IZ programs. The size and diversity of HRM makes it a good candidate for this approach, where housing typologies, costs and incomes vary between the urban, suburban and rural areas. Using a 'zoned' approach similar to Boston or Toronto could align well with HRM's current planning process, which has begun to introduce similar planning policies at the urban, suburban and rural levels (Centre Plan, Regional Plan, etc.).

In addition to the geographic zones which could apply to reflect common characteristics in housing types and pricing mentioned above, large-scale redevelopment sites are also well-suited for IZ programs. These include Comprehensive Development Districts (CDD), or areas intended for potential Transit Oriented Development (TOD) given their potential for increased density and detailed planning processes. Examples of potential sites include the Halifax Shopping Centre lands, Shannon Park, and areas near new ferry terminals along the Bedford Basin. Standardized IZ policy requirements can be introduced during the master-planning or secondary planning processes, and the large-scale nature of CDD and TOD development sites create opportunities for on-site affordable units.

Finally, in determining area requirements, another similar tool to CDD or TOD policies that may be used is a zoning overlay focused on the neighbourhood or street level. This overlay may be applied in areas experiencing a high rate of regeneration or growth and would help ensure that adequate levels of affordable units are provided when new development occurs, such as those areas which have recently been allowed additional density under new Centre Plan regulations.

Attachment C: Supplemental Background Information

Regional Plan Context

Section 3.6 of the HRM Regional Plan speaks to the important role the municipality can play in supporting housing affordability and social inclusion through policies and regulations.

Policies S-31 enables HRM to consider updating its regional policy to support Provincial affordable housing programs and strategies:

Policy S-31: Where Provincial strategies or programs are made in support of affordable housing, HRM may consider means to further or complement such strategies or programs through its programs, policies or regulations.

The Provincial Legislature's changes to the *HRM Charter* in November 2021, which enable inclusionary zoning, should motivate Halifax Regional Council to consider amending its planning documents to activate an inclusionary zoning program, in line with the direction in Policy S-31. Language in the Regional Plan reflects legislative authority in place prior to the November 2021 amendments, and would, therefore, need to be updated if Halifax Regional Council chooses to move forward with the proposed planning process.

The Regional Plan also includes general language that is supportive of taking action to improve housing affordability in HRM. Policy S-30 directs Regional Council to undertake planning processes to enact or amend secondary planning strategies to consider existing affordable housing and how it can be protected throughout HRM. PolicyS-33 requires Regional Council to monitor housing and demographic trends in order to understand housing needs, and PolicyS-34 requires Regional Council to investigate means of supporting affordable housing. The proposed planning process is supported by all of these policies.

Priority Plans Context

In accordance with Policy G-14A of the Halifax Regional Plan, development of any inclusionary zoning program would be guided by the objectives, policies and actions of priority plans, including the [Integrated Mobility Plan](#), the [Halifax Green Network Plan](#), [HalifACT](#), and [Halifax's Inclusive Economic Strategy 2022-2027](#). These priority plans contain policies intended to apply at a regional level, and to inform the development of municipal planning strategy policies. In this case, the following policies and actions are most relevant, and, as such, inform the recommendations within this report:

- Designating areas for higher density residential development where there is an existing or proposed high level of transit service, such as a proposed Transit Priority Corridor, to support the development of walkable, affordable transit-oriented communities (Action 17 Integrated Mobility Plan);
- Integrating climate considerations into land use planning policies and process by reducing sprawl and efficiently using transportation systems (Action 23 HalifACT);
- Increasing housing stock to accommodate Halifax's growing population (Strategic Objectives 1.6 Halifax's Inclusive Economic Strategy 2022-2027); and
- Advancing holistic planning in urban, suburban, and rural areas (Strategic Objectives 1.7 Halifax's Inclusive Economic Strategy 2022-2027).

HRM Affordable Housing Initiatives

While HRM is not responsible for the delivery of social services and subsidized housing, Municipal land use regulations impact housing supply, housing types and densities. As a regulator of development, HRM controls where and how housing is developed. Additionally, the Statement of Provincial Interest Regarding Housing makes all municipal units in Nova Scotia responsible for ensuring that planning documents include policies addressing various factors regarding housing, including affordable housing.

HRM supports housing affordability through several means, including:

- Removing barriers to housing types such as secondary and backyard suites, shared housing, and tiny homes,
- Financial support, including tax relief, waiving fees, grants;
- Providing surplus land and long-term leases for the development of affordable housing;
- Participating in the federal Rapid Housing Initiative Program; and
- Developing modular housing units for those experiencing homelessness.

An outline of HRM's recent initiatives relating to affordable housing is available on [HRM's Affordable Housing Page](#).

HRM currently administers a limited inclusionary zoning program with the Incentive or Bonus Zoning Program. Within the Regional Centre, this program requires that developers provide a public benefit for any development over 2,000 square metres of floor area in designated zones. Sixty percent of the required public benefit must be cash in lieu of affordable housing, paid to the municipality. Outside of the Regional Centre, a new Interim Density Bonus program follows a similar approach for site specific developments that require an amendment to the relevant municipal planning strategy. For larger developments within the Regional Centre's Future Growth Nodes or areas designated as Future Service Communities outside of the Regional Centre, density bonusing is calculated through a percentage of the increase in property value as determined by an appraisal.

The cash value of the required public benefit is calculated using a formula in the Land Use By-law. Money collected as cash in lieu is disbursed through HRM's [Affordable Housing Grant Program](#), which focuses on the development, rehabilitation and acquisition of affordable housing in the non-profit housing sector.

Provincial Legislation

Over the past several years, HRM engaged with the Province and requested changes to the *HRM Charter* to enable inclusionary zoning. The NS Legislature passed Bill 32 in November, 2021 which made the requested amendments.¹ The amendment added a new subsection to section 235, as follows:

Section 235 (5) Where a municipal planning strategy so provides, a land-use by-law may

...

(jc) require and regulate the provision of affordable housing within developments, including requiring that a specified percentage of affordable housing units be provided within a development;

...

This amendment enables HRM to require affordable housing in all developments through its land use by-laws, and to make affordable housing a condition of receiving a development permit. Bill 32 also added section 238A to the *HRM Charter*, which enables to HRM to collect cash in lieu of on-site affordable housing. Any new inclusionary zoning program would require amendments to HRM's Regional Municipal Planning Strategy and land use by-laws.

¹Bill No. 32 *An Act to Amend Chapter 18 of the Acts of 1998, the Municipal Government Act, and Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter, Respecting Inclusionary Zoning*, commenced November 5, 2021. https://nslegislature.ca/legc/bills/64th_1st/3rd_read/b032.htm.

Attachment D - Jurisdictional scan of additional Canadian inclusionary zoning programs

Whistler, British Columbia	Population (2021): 13,982
- Year Adopted	Various iterations date back to the 1970s Current program started in 1990
- Units secured	2100
- Threshold/Trigger	Applies to new or expanded development or a change in use that generates more employees, with some listed exemptions.
- Affordability Standard	N/A - employee housing program, eligibility based on residency, not income
- Affordability Term	In perpetuity (properties owned by the Whistler Housing Authority or secured through a restrictive covenant on title)
- Set aside rate	<ul style="list-style-type: none"> • N/A cash in lieu only. • Cash in lieu per unit determined annually
- Mandatory vs. Voluntary	Mandatory
- Flexibility (opt-outs)	<ul style="list-style-type: none"> • Cash in lieu, paid to the Whistler Housing Authority
- Other features of interest	<ul style="list-style-type: none"> • Operated by the Whistler Housing Authority, includes SUD home ownership secured by covenant and rental units owned by Whistler Housing Authority • Units are for Whistler permanent residents/workers, to counteract high number of seasonal residents • Requires all new commercial and industrial development, as well as smaller residential development, to pay cash in lieu of affordable housing to fund price-controlled employee housing (owner occupied and purpose-built rental) managed by the Whistler Housing Authority • Larger residential developments can provide on-site workforce or rental housing instead of paying cash in lieu

Vancouver, British Columbia	Population (2021): 662,248
- Year Adopted	2014
- Units secured	Unknown
- Threshold/Trigger	Developments of all sizes can participate (voluntary program)
- Affordability Standard	Affordable housing is provided directly by Vancouver Affordable Housing Fund and Housing Vancouver
- Affordability Term	For Moderate Income Rental Housing Pilot Program, perpetuity
- Set aside rate	Contribution rate varies by zone
- Mandatory vs. Voluntary	Voluntary

	<p>Incentives:</p> <ul style="list-style-type: none"> • Density bonus • Moderate Income Rental Housing Pilot Program also relaxes parking, unit size and unit configuration requirements for participating developments
- Flexibility (opt-outs)	<ul style="list-style-type: none"> • Cash in lieu or other on-site amenities in some areas. • “In kind” contribution of eligible facilities (including affordable housing in some areas) or cash in lieu paid to the city.
- Other features of interest	<ul style="list-style-type: none"> • Voluntary density bonus program only • Only in effect in some areas of the city • “Affordable housing shares” are an option for on-site amenities • In some cases, additional density is available without paying the bonus (exemption), this is the case for “secured market rental housing” • Included amenities vary throughout the municipality, targeted to local needs • Density bonus program is tied to zoning - tailored to each zone, with a different list of qualifying amenities and contribution rates in each zone

North Vancouver, British Columbia	Population (2021): 58,120
- Year Adopted	2022
- Units secured	Unknown (new program)
- Threshold/Trigger	Developments of all sizes can participate (voluntary program)
- Affordability Standard	10% below average rents in the city as calculated annually by CMHC
- Affordability Term	Unknown
- Set aside rate	10% of new market rental projects
- Mandatory vs. Voluntary	<p>Voluntary</p> <ul style="list-style-type: none"> • Incentive: Density bonus
- Flexibility (opt-outs)	N/A
- Other features of interest	<ul style="list-style-type: none"> • Set aside is reduced or waived for purpose-built rental units

Squamish, British Columbia	Population (2021): 24,232
- Year Adopted	2020
- Units secured	385

- Threshold/Trigger	Developments of all sizes can participate (voluntary program)
- Affordability Standard	<ul style="list-style-type: none"> • Rental: 90% of MMR • Owner-occupied: 80% of MMR
- Affordability Term	Perpetuity
- Set aside rate	Negotiated individually
- Mandatory vs. Voluntary	<p>Voluntary</p> <p>Incentives:</p> <ul style="list-style-type: none"> • Density bonus • Expedited permitting
- Flexibility (opt-outs)	<ul style="list-style-type: none"> • Cash in lieu
- Other features of interest	<ul style="list-style-type: none"> • Affordable housing can be part of the Community Amenity Contribution package