

City of Worcester Inclusionary Zoning Guide

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The goal of the Inclusionary Zoning Ordinance (“IZ Ordinance”) is to promote the creation of affordable housing units for rent or sale, foster economic diversity in the community, and prevent displacement of low- to moderate-income residents. To that end, this guide outlines the key provisions and requirements of the IZ Ordinance and the process for complying with the requirements.

Applicability

Projects Subject to Inclusionary Zoning

The IZ Ordinance applies to any development involving the net production of twelve (12) or more dwelling units for rent or ownership, including subdivisions, whether it is new construction, conversion, adaptive reuse, or expansion of an existing structure.

If a project obtained approval prior to May 9, 2023, and seeks an amendment to the approval, any unit increases will be subject to Inclusionary Zoning.

If a project obtains building permits at different points in time, the IZ ordinance will apply upon building permit application of the 12th dwelling unit. This cumulative count will apply to land that was continuous and held in common ownership as of May 9, 2023. Phasing of a project does not exempt a development from provisions of the IZ Ordinance.

Exemptions

The IZ Ordinance is not applicable to the following*:

1. Projects for which one or more applications have been filed for a preliminary or definitive site plan review, special permit, variance or other similar building or land-use related approvals prior to May 9, 2023, and the approval was issued within six months of the filing date.
2. Any project for which a building permit has been submitted as of May 8, 2023, and the permit was issued.
3. Developments with preliminary or definitive subdivision approvals prior to May 9, 2023, are exempt from the IZ Ordinance.
4. Developments with existing definitive site plan approvals are eligible for up to one (1) two-year extension of time at the discretion of the relevant Board or Commission. After this time Inclusionary Zoning will be applicable.

*If a Preliminary Site Plan application was exempt and expires without the filing of a Definitive Site Plan application, the project is subject to requirements of the IZ Ordinance. If a project does not acquire a building permit prior to the expiration of Site Plan/Special Permit approvals, a new application must be submitted and is subject to requirements of the IZ Ordinance.

Affordable Housing Requirements

Level of Affordability

Housing developments subject to the IZ Ordinance must designate:

- A minimum of 15% of dwelling units affordable to households earning no more than eighty percent (80%) of the Worcester, MA HUD Metro FMR Area Median Family Income (AMI); or
- A minimum of 10% of units affordable to households earning no more than sixty percent (60%) of the AMI; or
- A proportional combination of units restricted to households earning no more than 60% and 80% of the AMI.

Calculations resulting in fractions equal to or above one-half must be rounded up to the nearest whole number.

An affordable housing restriction for the required number of units will run with the land and last for at least thirty (30) years, recorded at the Worcester District Registry of Deeds.

If a developer/owner chooses not to produce affordable housing units, they may elect to make a payment in lieu that is equal to three percent (3%) of the total construction value of all building permits for the development, including trade permits.

Affordable Dwelling Unit Calculation

The total dwelling units permitted on the site is determined by the projects zoning district and any applicable overlays.

Calculating the affordable unit count:

For 80% of the AMI

DU = Net new units = (Proposed units – existing units)

Ex: Demolish an existing building with 50 units and construct a new building with 100 units.

100 proposed units – 50 existing units = 50 net new units

DU = 50

X = 0.15 * DU

X = 0.15 * 50

X = 7.5

X = 8 affordable dwelling units required

For 60% of the AMI

DU = Net new Units = (Proposed units – existing units)

Ex: Construct new building with 50 units on an existing vacant lot.

50 proposed units – 0 existing units = 50 net new units

DU = 50

X = 0.10 * DU

X = 0.10 * 50

X = 5 affordable dwelling units required

Mix of 60% and 80% AMI

The table below shows three combinations of AMI levels that are acceptable to the City of Worcester. Applicants who are interested in proposing alternative combinations must demonstrate to the satisfaction of the Housing Development Division that the proposed combination of unit counts and AMI levels is financially comparable to one or more of the three options below.

Percent units at 60% AMI	10%	5%	0%
Percent units at 80% AMI	0%	10%	15%
Total Affordable Units	10%	15%	15%

Incentives (Density Bonuses and Parking Relief)

If a project designates 5% or more of the total dwelling units as affordable to households with annual earnings no greater than 60% of AMI (while still meeting the baseline requirements, see “Level of Affordability” above), the project is considered an “Eligible Development”, and density bonuses and Transportation Management Program-related parking relief may be utilized. All Inclusionary Zoning related density bonuses should be applied after any other bonuses/adjustments/reductions provided by other articles of the Zoning Ordinance.

Density Bonuses (Article VII, Section 6.A.i)

Dimensional requirements that limit the number of units that can be built on a site are relaxed for Eligible Developments based on the number of affordable units provided on the site. The dimensional requirements that may be relaxed for Eligible Developments are lot area, frontage, parking, and floor area ratio. Lot area, frontage, and parking requirements may only be relaxed where the Ordinance specifies a requirement “per dwelling unit”. Where a zoning district includes a “flat” requirement, no density bonus is available (ex: the BL-1.0 zoning district requires 5,000 sf of lot area regardless of the proposed unit count – no density bonus can be applied to this requirement.)

To calculate the application of a density bonus, reduce the number of proposed units by the density bonus, and then recalculate the dimensional requirement based on the adjusted unit count.

Eligible Developments, upon submission of a Transportation Management Program (“TMP”), can also benefit from an automatic additional 25% reduction in the parking requirement to be applied after the calculation of the density bonus reduction to the parking requirement (see next section for more information on TMPs).

When applying the density bonus and TMP reduction to parking for a mixed-use project, the reductions can only be applied to the portion of the parking that is required for residential units. Other parking-related requirements of the Ordinance that are added onto the base parking requirement (like guest parking from the Commercial Corridors Overlay District or loading spaces) cannot be reduced by the density bonus or the TMP reduction.

When calculating the application of density bonuses, only round to the nearest whole number at the end of the calculation.

The Division of Planning and Regulatory Services publishes a spreadsheet for use by applicants to assist in these calculations.

Examples of how to calculate the applicable incentive are provided below.

Example 1: *An applicant proposes a new 100-unit low-rise multi-family development on a vacant lot in an RL-7 zoning district with 10% of the units restricted to 60% AMI.*

DUs (net new dwelling units) = 100

Density Bonus: 10% + 5% = 15% (10% total affordable units plus standard 5% bonus for Eligible Developments)

Standard Requirements:

Lot Area	Frontage	Floor Area Ratio	Parking
<i>The RL-7 district requires: (7,000sf + 2,000sf per addt'l DU)</i>	<i>The RL-7 district requires:(65' + 5' per addt'l DU) ...with a ceiling of 140'</i>	<i>There is no FAR requirement in the RL-7 district.</i>	<i>Dwelling units require 2 spaces per unit.</i>
205,000 SF <i>(7,000 + 2,000*99)</i>	140' <i>(560')</i> <i>(65 + 5*99)</i>	n/a	200 spaces <i>(100 * 2)</i>

Requirements with density bonus applied:

Lot Area <i>After reducing DUs by the density bonus (15%), recalculate using 85 units</i>	Frontage <i>After reducing DUs by the density bonus (15%), recalculate using 85 units ...then apply ceiling of 140'</i>	Floor Area Ratio	Parking <i>After reducing DUs by the density bonus (15%), recalculate using 85 units.</i>
175,000 SF <i>(7,000 + 2,000*((100 units * 0.85)-1))</i>	140' <i>(485')</i> <i>(65' + 5'*((100 units * 0.85)-1))</i>	n/a	170 spaces <i>((100 units * 0.85) * 2)</i>

TMP-related parking bonus: *If the applicant submits a Transportation Management Program, they are eligible to a further reduction in the required parking of 25%. In this example, the 170 required spaces would therefore be reduced to 128 spaces (170 * 75%).*

Example 2: *An applicant proposes a new 50-unit high-rise multi-family development on a lot with 10 existing units in a BL-1.0 zoning district with 5% of the units restricted to 60% AMI and 10% of the units restricted to 80% AMI.*

DUs (dwelling units) = 40 (proposed – existing = 50-10 = 40)

Density Bonus: 15% + 5% = 20% (15% total affordable units plus standard 5% bonus for Eligible Developments)

Standard Requirements:

Lot Area <i>The BL-1.0 district requires: 5,000 square feet</i>	Frontage <i>The BL-1.0 district requires: 40' per DU ...with a ceiling of 200'</i>	Floor Area Ratio <i>The BL-1.0 district maximum FAR is 1 to 1 aka 1.0</i>	Parking <i>Dwelling units require 2 spaces per unit.</i>
5,000 SF	200' <i>(1,600')</i> <i>(40' * 40)</i>	1.0	80 spaces <i>(40 * 2)</i>

Requirements with density bonus applied:sales

Lot Area <i>(flat requirements are not eligible for density bonuses)</i>	Frontage <i>After reducing DUs by the density bonus (20%), recalculate using 32 units ...then apply ceiling of 200'</i>	Floor Area Ratio <i>With no per-unit req., simply increase the allowed FAR by the density bonus.</i>	Parking <i>After reducing DUs by the density bonus (20%), recalculate using 32 units.</i>
5,000 SF	200' <i>(1,280')</i> <i>(40' * (40 units * 0.8))</i>	1.2 <i>(1.0 + 20%)</i>	64 spaces <i>((40*0.8) * 2)</i>

TMP-related parking bonus: *If the applicant submits a Transportation Management Program, they are eligible to a further reduction in the required parking of 25%. In this example, the 64 required spaces would therefore be reduced to 48 spaces (64 * 75%).*

[*TMP-Related Parking Relief \(Article VII, Section 6.A.ii.a\)*](#)

In addition to the parking relief available as a result of applying a density bonus, Eligible Developments are also entitled to a 25% reduction in the minimum parking requirements if they submit a Transportation Management Program. The

additional reduction of 25% should be applied after the calculation of adjusted parking minimum requirements due to density bonuses.

If any reduction for parking is being sought by a project, the developer/owner must provide a parking table reflective of the number of parking and loading spaces required by right in the relevant zoning district and any applicable CCOD overlay district and modified by the applicable density bonus. This parking may be reduced by up to 25% without a special permit if an acceptable Transportation Management Program plan is provided. The TMP must incorporate the following:

- Information on WRTA bus routes
- Information on commuter rail access and schedule
- Provision of bicycle storage for tenants
- Ride Share information

Inclusionary Zoning Special Permit – Planning Board (Article VII, Section 6.A.ii.b and c)

The Planning Board is able to grant parking-related relief to Eligible Developments by special permit. Through this special permit, the Planning Board may modify the loading requirements, parking dimensional, landscaping, and layout requirements, and number of required parking spaces. However, the following limitations apply:

- Where the Planning Board grants relief to the number of required parking spaces by special permit, the maximum parking relief available under the Inclusionary Zoning Ordinance, using the relief available through density bonuses + TMP-related reduction + the Planning Board Special Permit, may not exceed 50%.
- Applicants for special permits to reduce the number of required parking spaces from the Planning Board under this section must submit a TMP.
- Where the required parking is reduced through a special permit under this section, the reduction may not be combined with the reductions available under Article IV, Section 7.A.2.
- Where the Planning Board modifies the loading requirements, dimensional requirements, landscaping requirements, or layout requirements of Article IV, Section 7, the special permit is constrained by the same limitations as the special permit granted by the Zoning Board of Appeals under Article IV, Section 7.A.2 (*ex: the Planning Board may only increase the percentage of compact spaces up to 50%, per Article IV, Table 4.4, Note 3*)

Requirements for Payment in Lieu of Constructing Affordable Housing Units

A developer/owner can choose to make a payment equivalent to three percent (3%) of the total construction value of all building permits for the development, including trade permits, instead of constructing the required affordable housing units.

- Developer/owners electing this option must submit a detailed construction cost budget as part of the Inclusionary Zoning Determination Form.
- Payment must be made to the City's Affordable Housing Trust Fund and must be paid before the issuance of a Certificate of Occupancy.

Requirements for Constructing Affordable Housing Units

Comparability

- Affordable units must be indistinguishable from market-rate units in building materials, finishes, appliances, and overall construction quality.
- The mix of bedroom sizes for affordable units should be comparable to the overall mix in the development.

- The dwelling square footage for affordable units should be comparable to the square footage of market-rate units.
- Any required accessible or adaptable units in the project should have a mix of affordable and market-rate units equal to the overall project's proportion.
- Affordable units should not be grouped together but distributed throughout the development.
- Occupants of affordable units should have equal access to any building's common areas and amenities as occupants of market-rate units.
- If the project is phased, affordable housing units should not be delayed until the last phase.

Affordable Housing Restriction

Required affordable housing units will be subject to a Regulatory Agreement, which serves as the Affordable Housing Restriction, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or qualified renter that provides for administration, monitoring and enforcement of the restriction during the term of affordability.

The developer/owner shall cause the Regulatory Agreement to be recorded with the Worcester County Registry of Deeds or the Land Court prior to the issuance of a building permit.

See *Attachment A: Regulatory Agreement for Ownership Developments* and *Attachment B: Regulatory Agreement for Rental Developments*.

Subsidized Housing Inventory

Affordable housing units must qualify for inclusion on the Executive Office of Housing and Livable Communities (EOHLC) Chapter 40B Subsidized Housing Inventory (SHI). The developer/owner, its successors and/or assigns, should work with the Housing Development Division and submit a Local Initiative Program (LIP) Application for Local Action Units (LAUs) for inclusion of the affordable unit(s) on the City's SHI.

Process:

1. Developer/owner or the housing consultant submits LAU Application for City's signature & redlined version of Regulatory Agreement with the attached Affirmative Fair Marketing and Lottery Plan (see below for more information about the marketing and lottery plan).
2. City reviews for consistency with land use board approval(s) and calculation of allowable rent, sale price, utility allowances, etc.
3. City provides justification for allowing for a local preference (if applicable).
4. City helps advertise and attends the lottery.
5. The Final Regulatory Agreement is submitted to City for the City Manager's signature and sent to EOHLC for final signature.

Affirmative Marketing Plan & Lottery

All units that are intended to go onto the SHI must be marketed under an approved Affirmative Fair Housing Marketing Plan (AFHMP). The plan requirements are detailed in Section III of the EOHLC (formerly known as DHCD) *40B Guidelines*¹ relative to Affirmative Fair Housing and Resident Selection and the *MA Fair Housing Marketing and Resident Selection Plan Guidelines*.² The developer, or project owner, is responsible for ensuring compliance with "the full spectrum of activities that culminate with occupancy," including outreach, marketing, and determining the qualifications of potential residents. The AFHMP is a document that maps out this entire process, not just for the initial occupancy, but for as long as the unit or units in a project remain affordable. EOHLC also requires that the person or entity charged with resident

¹ <https://www.mass.gov/doc/guidelines-gl-c40b-comprehensive-permit-projects-subsidized-housing-inventory/download>

² <https://www.mass.gov/files/documents/2016/07/oj/afhmp.pdf>

selection have specific qualifications and experience. Unless the developer is already qualified to conduct AFHMP activities, it is typically necessary to hire a professional third party who has the necessary experience and has been approved by EOHLC to do so. **It is the developer/owner’s (and lottery agent’s) responsibility to follow state guidelines.**

No building permit will be issued without an approved AFHMP and the affordable housing lottery must take place prior to the City issuing a Certificate of Occupancy for the affordable housing unit(s).

The developer/owner is responsible for designating, marketing and maintaining the status of affordable units – typically the developer/owner hires an affordable housing consulting and lottery group. The marketing plan will be conducted at the developer/owner’s expense and in coordination with the City of Worcester Housing Development Division.



See [MA Fair Housing Marketing and Resident Selection Plan Guidelines](#) and *Attachment C: Local Action Unit Application*.

Rental Unit Requirements

Maximum Rent

The maximum rent for affordable units should not exceed an amount equal to thirty percent (30%) of the monthly adjusted income for the qualifying household, as defined by HUD, including the allowance for any utilities and services (excluding telephone) to be paid by the resident. The utility allowance is published annually. In addition, the maximum rent should not exceed the Fair Market Rent (FMR) published annually by HUD.

Annual Monitoring

The Inclusionary Zoning developer/owner and subsequent owner is responsible for the provision of annual monitoring reports. Reports must include a distribution plan with the number of affordable units, the current rents incorporating utilities, and the income monitoring plan. Maximum allowable unit rents can be evaluated on an annual basis.

Term

The term of the Affordable Housing Restriction for all rental affordable units is 30 years.

Homeownership Unit Requirements

Maximum Sale Price

Affordable housing units for sale must have a sale price that allows financing through prevailing conventional or affordable mortgage products available to the general public. The sale price should not exceed the median sales price for the property type published by the Massachusetts Multiple Listing Service for Worcester at the time of sale.

Maximum sales prices are based upon monthly housing costs (inclusive of principal, interest, property taxes, hazard insurance, private mortgage insurance and condominium or homeowner association fees) that shall not exceed 38% of monthly income for a household earning 80% of area median income, adjusted for household size.

Covenant/Deed Rider

- Every homeownership affordable housing unit deed must have a covenant attached at the time the Developer/owner sells the unit and all transfer documents (i.e., ground lease, disposition, or deed) must have an Affordable Housing Restriction attached, which shall be placed on record at the Worcester County Registry of Deeds and/ or the Worcester Registry District of the Land Court.
- Once a Purchase and Sale Agreement has been signed, income and asset documentation of the buyer must be submitted to the Housing Development Division. Income verification should include verified tax returns from the past three years, five the most recent pay stubs and reliable documentation as to other sources of income and assets. The monitoring agent will verify the household income does not exceed 80% of the AMI and that the house assets do not exceed the maximum allowed.

Developer/Owner Obligations

The Regulatory Agreement and/or the transfer documents will set forth developer/owner obligations for Affordable Housing Units before sale. While owned by the developer/owner, the developer/owner shall not permit the rental of any units designated as homeownership Affordable Housing Units until the restrictions on such units have expired.

IZ Application Overview

Developer/owners must complete an Inclusionary Zoning Determination Form, approved by Worcester's Housing Development Division, as part of a Definitive Site Plan, Special Permit, or building permit application. The form must include an Affirmative Fair Housing Marketing Plan complying with federal and state fair housing laws. See Affirmative Marketing Plan & Lottery section above.

IZ Application Process

The following information must be provided for all developments subject to Inclusionary Zoning.

For Unit Production

1. A completed Inclusionary Zoning Determination Form (see Attachment D)
2. A site plan showing the location of market rate and affordable housing unit distribution
3. A floor plan detailing unit information and affordable housing unit distribution
4. Architectural plans for each dwelling unit type
5. Affirmative Fair Housing Marketing Plan
6. Proposed household size with income and sale or rental price for each unit type
7. Regulatory Agreement

For Payment in Lieu

1. A completed Inclusionary Zoning Determination Form
2. A site plan and architectural drawings
3. A detailed construction cost budget (Inclusionary Zoning Construction Budget Form)

Monitoring Policies

The following are monitoring policies based on Chapter 40B requirements and guidelines, best practice examples, and interpretation of the ordinance:

1. All known IZ units shall be monitored annually except in cases where the property/unit is already monitored by the City of Worcester Housing Development Division for compliance with CDBG/HOME rent and income limits. The annual report of rental units includes tenant information, date of last income certification, rent, etc.
2. Affordable housing unit agents may increase rents based on updated AMI and must be approved by the City and EOHLIC. Annually, the developer/owner shall submit to the City and EOHLIC a proposed schedule of monthly rents and utility allowances for all affordable units in the Project. Such schedule shall be subject to the approval of the City and EOHLIC for compliance with the requirements of this Section.
3. After initial lottery, waitlists are maintained by each development.
4. The income requirements for IZ units are understood to apply for the duration of the executed Regulatory Agreement. If, after initial occupancy, the income of a tenant of an affordable unit increases and, as a result of such increase, exceeds the maximum income permitted for such a tenant, the developer/owner will not be considered in default so long as either (i) the tenant income does not exceed one hundred forty percent (140%) of the maximum income permitted or (ii) the developer/owner rents the next available unit at the development as an affordable unit in conformance with the executed Regulatory Agreement.

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 Regulatory Agreement must be at or below the AMI 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 the Housing Development Director (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 and utility allowance
 - e. Date lease was signed
4. For homebuyer units, prior to conveyance, the seller/buyer shall send to Housing Development Director (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 Development Director (or their designee) shall examine the submitted materials and check for compliance.

Ongoing Monitoring

After the affordable unit is initially occupied, EOHLC requires annual reporting from the developer or property manager (for rental projects) or the City of Worcester (for homeownership units) affirming that the unit remains in compliance with EOHLC regulations and the terms of the Regulatory Agreement.

Rental Units

Specifically, for rental units, annual reporting submitted to the City and EOHLC must include:

- 1) A proposed schedule of monthly rents and utility allowances;
- 2) A signed certification that all occupants of affordable units continue to meet income limits; and
- 3) Confirmation that the project or unit has been maintained in the conditions required by the terms of the regulatory agreement.
- 4) Electronic sample of lease and any addendums (electronic version preferred);

Unit Inspections

Units will be inspected according to Housing Quality Standards based on the schedule outlined below.

Minimum Frequency of On-site Inspections	
1–4 units	Every three years
5–25 units	Every two years
26 or more units	Every year

Number of Units to Inspect

The City is looking to inspect a “reasonable sample” of units in a site visit. Regarding exactly how many units in a project, the following rule is followed:

- Inspect 15 to 20 percent of the IZ units in a property for properties with 20 or fewer units;
- Inspect 10 to 15 percent of the IZ units in a property with more than 20 units; and
- Inspect at least one unit in each building in a multi-building property.

- In small properties, these percentages may not yield enough units for the City to determine if the owner is complying with property standards, so the minimum number of units to be inspected on a smaller project is three to five units.

Homeownership Units

For homeownership units, annual reporting to EOHLC is a bit less complicated. An annual certification from each unit owner must be provided stating that:

- 1) The affordable unit continues to be occupied by person or persons who purchased the house; and
- 2) That any affordable units that have been resold were done so in accordance with the requirements set forth in the Deed Rider.

Procedures

The following procedures shall be followed annually or whenever a change of occupancy occurs in an IZ unit:

Rental Units

1. Upon a change in occupancy, owner shall follow the requirements of “Initial Occupancy” above.
2. Annually, the owner shall request that the Housing Development Division send updated income and rent limits after HUD releases local data.
3. Annually, the Housing Development Division 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.

Owner-Occupied Units

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

Attachments

- A. Regulatory Agreement for Ownership Developments
- B. Regulatory Agreement for Rental Developments
- C. Location Action Unit Application
- D. Inclusionary Zoning Determination Form
- E. Income Limits and Maximum Affordable Rents (Effective June 1, 2024)
- F. HUD Utility Allowance Schedule (Effective August 1, 2024)
- G. DPRS Inclusionary Zoning Density Bonus Worksheet