Interim Guidance

Inclusionary Zoning and Density Bonus

Ministry of Housing

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EXECUTIVE SUMMARY

In the Fall of 2023 and Spring of 2024, the Province passed a suite of legislation to shift to a more proactive land use planning and zoning approach, collectively known as local government housing initiatives. This shift enables more housing to be built, in the right places, faster.

On April 25, 2024, as part of this legislative package, Bill 16, *Housing Statutes Amendment Act, 2024* was passed to provide local governments with several new authorities, including a new inclusionary zoning tool and amendments to the existing density bonus tool. This document outlines the legislative changes and the policy intent.

Inclusionary Zoning

Inclusionary zoning is a new tool that allows local governments to require affordable housing as a component of new residential developments, without the need for a rezoning. These affordability expectations would be set up-front in an inclusionary zoning bylaw (IZ bylaw), providing more transparency and certainty for the development process.

- Inclusionary zoning will be most effective in high density urban areas, and flexibility is provided to local governments to tailor inclusionary zoning requirements to suit local conditions.
- To implement inclusionary zoning, local governments:
  - must adopt an IZ bylaw and set out specific requirements including the amount of affordable units, tenure, price, and length of time that the units must comply with these requirements;
  - must undertake consultation, a financial feasibility analysis, and consider the most recent housing needs report, when developing the IZ bylaw;
  - must report affordable housing contributions annually;
  - may vary the inclusionary zoning requirements by area, site, and development type (such as the size, tenure or construction materials); and
  - may collect cash-in-lieu of the affordable units and may allow for the affordable units to be provided on another site.
- Inclusionary zoning is available for use by most local governments in the province as of April 25, 2024:
  - Islands Trust communities cannot use IZ bylaws (with the exception of Bowen Island Municipality), and density bonus remains available to these communities to obtain amenities and affordable housing.
  - To support affordable housing outcomes, inclusionary zoning cannot be applied to non-market housing developments, such as those owned by non-profit societies or BC Housing.

Density Bonus

Density bonus is an existing tool that provides the developer with the option to build to a higher density in exchange for providing amenities or affordable housing. This tool has been updated to enhance clarity in its use and consistency with inclusionary zoning.

- While there are new requirements for density bonus, it can continue to operate in the same way it did prior to Bill 16.
- Local governments:
  - must consult with impacted groups and prepare a financial feasibility analysis when developing or amending density bonus bylaws (DB bylaws);
  - may collect cash in-lieu of affordable housing units and amenities, or agree for the affordable housing units to be on a different site as set out in a DB bylaw; and
  - must prepare annual reports on affordable housing contributions and amenities obtained from DB bylaws.
- Changes to density bonus legislation will come into effect on the date set by the Lieutenant Governor in Council, which must be on or after June 30, 2025. At this time, all existing DB bylaws must comply with the new legislative requirements. Additionally:
  - If local governments amend a DB bylaw in advance of June 30, 2025, the amended bylaw must comply with new legislative requirements;
  - Local governments may use a financial feasibility analysis completed before June 30, 2025 (or later date set by regulation) to inform density bonus updates, provided they satisfy the new legislative requirements; and
  - If a local government enters into an agreement for some or all affordable housing units to be provided on other parcels of land, there are specific requirements for these agreements that came into effect on April 25, 2024.

Protections for In-Stream Developments

New or amended IZ and DB bylaws will only apply to new development applications and will not apply to applications that are in-stream at the time of bylaw adoption. In-stream means a development application that has been received to the satisfaction of a local government and applicable fees have been paid.

Monitoring

The Province will be monitoring the implementation of inclusionary zoning and amended density bonus authorities to ensure that these tools are achieving the intended outcomes.

INTRODUCTION

In the Fall of 2023, the Province passed a suite of legislation to shift to a more proactive planning and zoning approach, collectively known as the local government housing initiatives. This shift will enable more housing to be built, in the right places, faster. The transition to proactive planning will change how local governments secure affordable housing and amenities, placing less emphasis on negotiations during rezoning processes.

In the Spring of 2024, the B.C. Legislature passed Bill 16 the *Housing Statutes Amendment Act, 2024* to provide local governments with the new inclusionary zoning and amended density bonus tools to obtain affordable housing and amenities, without the need for a rezoning.

Bill 16 includes:

- A new inclusionary zoning tool;
- Amendments to the existing density bonus tool;
- Protections for in-stream developments when new inclusionary zoning or density bonus bylaws are passed;
- Transition time for local governments to update existing density bonus bylaws to comply with new legislative requirements by mid-2025 (or later date set by regulation); and
- Rules for how inclusionary zoning and density bonus work together as well as how they align with other tools, like Amenity Cost Charges and Transit-Oriented Areas.

Comprehensive guidance for inclusionary zoning and density bonus is being developed by the Province and will provide more technical information, best practices, and further considerations to support the effective implementation of these tools.

OVERVIEW OF INCLUSIONARY ZONING

Inclusionary zoning is a new tool that allows local governments to require that new residential development include an affordable housing component within the existing zoned density for a site, including within the required minimum allowable densities in Transit-Oriented Areas.[1] Inclusionary zoning is available for use by most local governments across the province as of April 25, 2024.

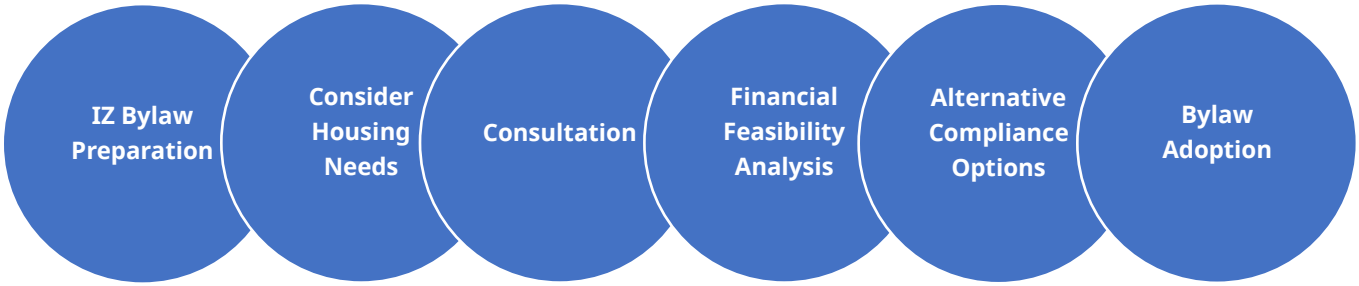
Inclusionary zoning is most effective in creating new affordable housing in high density, urban contexts, where its otherwise challenging for the non-profit sector to build affordable housing due to the high cost of land.

The amount of affordable housing created through inclusionary zoning will vary from one community to the next. Local governments have flexibility to choose whether to use inclusionary zoning, and if so, how best to tailor their approach to suit unique local conditions. This flexibility is needed to encourage new affordable housing, without hindering new housing development.

Developing an Inclusionary Zoning Bylaw

To use inclusionary zoning, local governments must develop an IZ bylaw[2] that sets out specific requirements for the affordable housing units. Setting requirements upfront, by bylaw, enhances clarity, certainty, and transparency for the developer and the public.

The following section outlines the key requirements and considerations when developing an IZ bylaw, including:



Local governments must ensure during the development of an IZ bylaw that the processes undertaken, and bylaws that result, conform to all relevant legal requirements.

[1] Applies to the minimum allowable density framework that are listed in Order-In-Council 678/2023 (OIC 678). For more information on the TOD framework (Bill 47), please visit this website: https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/housing-initiatives/transit-oriented-development-areas

[2] Please note that an IZ bylaw is defined in legislation as an 'affordable and special needs housing zoning bylaw'.

Inclusionary Zoning Bylaw Preparation

Local governments must include specific information in an IZ bylaw, including:

- the amount of affordable units (i.e. number or percentage of total units that are required to be affordable);
- the tenure (e.g. rental or strata);
- the affordability level (below-market sales price or rent); and
- the length of time that the units are subject to the affordability requirements (e.g. "the greater of 60 years or the life of the building").

Local governments may also:

- require that the affordable housing units be owned and/or operated by a non-profit housing provider or municipal housing corporation;
- set a minimum number or percentage of family-sized units (e.g. 2+ bedroom units);
- allow developers to provide the affordable housing units on a different site, by agreement; or
- allow developers the option to provide cash contributions instead of building the affordable units in the new development.

When designing an IZ bylaw, local governments may also choose to tailor bylaw requirements to suit different development situations, such as for:

- specific areas or parcels of land;
- different building sizes or types of housing;
- different construction materials (e.g. wood or concrete); or
- forms of tenure (e.g. purpose-built rental vs strata condominium).

Consider Housing Needs

When developing or amending an IZ bylaw, local governments must consider their community's most recent Housing Needs Report (HNR). These reports help inform an IZ bylaw by identifying a community's current and future housing needs through analyzing various factors influencing local housing demand and supply [3]. For instance, IZ bylaws may be used to support affordable housing for specific demographic and income groups identified as in housing need in the report.

For more information please refer to this policy page on the Ministry of Housing's website.

[3] See Part 14, Division 22 of the *Local Government Act* and Part XXVII Division 6 of the *Vancouver Charter* for more information on Housing Needs Reports.

Consultation

When developing or amending an IZ bylaw, local governments must consult with impacted groups. The local government is responsible for determining which persons, public authorities, and organizations need to be consulted based on who will be affected by the bylaw. Input from these groups should inform additional refinements to the draft bylaw.

Consultation is not required when repealing an IZ bylaw.

Financial Feasibility Analysis

A financial feasibility analysis must be completed when developing or updating an IZ bylaw. This analysis helps determine the bylaw requirements (e.g. the amount of affordable housing and level of affordability) are properly calibrated to local condition and will not deter development. The analysis also helps determine the amount of the cash in-lieu payment if included as a compliance option in the IZ bylaw.

The analysis must consider certain matters, including but not limited to:

- All development-related costs (e.g. construction materials, financing, charges, sales prices).
- How different development types and factors impact a project's ability to provide affordable housing units.
- The amount of increased density needed to offset the costs to the developer for providing the affordable units to support development viability[4].

If requested, local governments must make certain information used to inform the analysis available to the public.

Alternative Compliance Options

There are two options for meeting inclusionary zoning requirements that local governments may choose to enable. These options provide more flexibility for a developer to meet the requirements, rather than always having to build in-kind affordable housing units on the subject site. Giving developers a range of options to comply with the bylaw helps to mitigate the risk of deterring new housing development and can also enhance affordable housing outcomes.

[4] A project is considered 'viable' if it can generate enough revenue to exceed costs (e.g. construction, land, and financing) and provide a baseline profit for the developer.

Cash-in-lieu Option

Local governments may choose to give developers the option to provide a cash payment ("cash in-lieu") to be used towards affordable housing, instead of building affordable housing units in the development. The local government must determine if it will allow the option for cash payments and may also determine how and when it will apply. For instance, a local government can vary requirements for cash payments based on area, location, development size and type (e.g. rowhouses, apartments), construction materials (e.g. wood, or concrete), forms of tenure (e.g. purpose-built rental, strata).

- The rate(s) of the cash contribution option must be informed by the financial feasibility analysis and must be based on the capital costs of building the number of affordable housing units required through the IZ bylaw (e.g. building, planning, engineering, legal, and interest costs).
- The authority to make payments from the reserve fund must be included in the IZ bylaw, and the funds collected through an IZ bylaw, may only be used for affordable housing purposes (i.e. building affordable housing, or purchasing land for affordable housing).
- The cash-in-lieu option may be preferred where only a small number of affordable housing units are required because these units are costly to operate. In this case, it may be more efficient to collect cash contributions and pool these funds together to contribute to new affordable housing elsewhere in the community.

Transfer Agreement Option

Local governments may choose to give developers the option to provide affordable housing units on a different location instead of building them within the current development. Allowing this option may enable a greater number of affordable housing units to be delivered and may support non-profit housing providers to own and operate entire buildings, rather than some units in a private development.

If the local government chooses to include this option in the IZ bylaw, they can enter into an agreement with the developer to provide the affordable housing units on a different site or sites. The agreement must specify the following information:

- The number of units to be built on another parcel of land;
- The parcel(s) of land where the affordable housing units will be located;
- Who is to provide the affordable housing units;
- When the affordable housing units are to be provided; and
- How the transfer agreement will meet or exceed the requirements established in the IZ bylaw. The agreement cannot be used to lessen or relax affordable housing requirements.

Adopting the Bylaw

The IZ bylaw must be considered by a local government's council or board in an open meeting and the bylaw comes into effect once adopted. The adoption of an IZ bylaw must follow the standard process. No public hearing is required for the adoption of an IZ bylaw if there is an official community plan (OCP) in effect for the area where the IZ bylaw applies, and if the IZ bylaw is consistent with that OCP.

Inclusionary Zoning Implementation

Housing Agreement

A housing agreement is required to ensure that the affordable housing and the other bylaw requirements are secured over time. The housing agreement must be registered on title before the building permit is issued for the project.

A housing agreement will include the terms and conditions agreed to between all parties including the local government and property owners, including, but not limited to:

- The form of tenure of the housing units;
- Rents or sales prices that may be charged, how these rates may change over time according to formulas stipulated in the agreement;
- The length of time the units must remain affordable;
- Which demographic groups the units are available to; and
- Administration and management considerations for the units, including matters like tenant selection process and income reviews.

Reserve Funds

Any cash payments received through an IZ bylaw must be paid at the time the building permit is issued for the development, and this money must be put into a dedicated reserve fund[5] that can only be used for:

- The capital costs for providing, constructing, altering, or expanding affordable housing (e.g. building, planning, engineering, legal, and interest costs);
- The principal and interest on a debt incurred by a local government as a result of an expenditure for the capital costs of providing, constructing, altering, or expanding affordable housing; and
- Certain prescribed entities to provide, construct, alter, or expand affordable housing. These entities can include:
    - Municipal or regional housing corporations;

[5] In the legislation, this reserve fund is referred to as an 'affordable and special needs housing reserve fund'

- Non-profit housing providers;
- Housing cooperatives;
- A health authority;
- An agent of the government of Canada, like the Canada Mortgage and Housing Corporation (CMHC); and
- A registered charity.

Local governments cannot use an affordable housing reserve fund, as set out in an IZ bylaw, to pay operational costs, such as rent subsidies, staffing expenses, utilities, and property management services.

Reporting Requirements

Annual reporting requirements support transparency and accountability when local governments use the inclusionary zoning tool. As part of local governments annual reporting processes, and before June 30 each year, local governments must prepare and consider a report that provides information on the outcomes of the IZ bylaw, including the number of affordable housing units that had a building permit issued under the IZ bylaw during the previous year. The report must also include the amount of cash payments received, the expenditures from the fund, and the balance of the fund at the start and end of the applicable year.

After it considers the report, the local government must make the report publicly available.

Exclusions

To support the delivery of much needed affordable housing in the province, inclusionary zoning cannot be applied to affordable non-market housing developments, such as those owned by non-profits, BC Housing, or the CMHC.

Islands Trust communities (except Bowen Island) do not have access to inclusionary zoning authorities, because their unique history, context, and mandates for governance do not support the densities required to effectively use this tool (i.e. high-density development). As Bowen Island Municipality is incorporated as an island municipality and has all the same powers and duties as a local government, it will be able to use IZ bylaws, and it is subject to the required financial feasibility analysis to help determine that they will not deter development.

OVERVIEW OF DENSITY BONUS

Density bonus is an existing land use tool available to all local governments to provide the option to a developer to build to a higher density in exchange for amenity or affordable housing contributions. Bill 16 amended the density bonus authorities to clarify how the tool can be used and to ensure consistency with the new inclusionary zoning tool.

This section provides an overview of the key legislative changes, including new rules and requirements when using density bonus.

Density Bonus Amendments Snapshot

The following changes come into effect on the date set by the Lieutenant Governor in Council, which must be on or after June 30, 2025. At this time, all existing DB bylaws must comply with the new legislative requirements.

Key density bonus legislative amendments include:

- Content requirements for a DB bylaw,[6] including the amount of affordable housing units that must be provided, the tenure, price, length of time that the units need to meet the bylaw conditions;
- Clarifies rules and requirements for how and when cash in-lieu contributions are collected and spent;
- Clarifies the process and rules for accepting affordable units on a different site than the proposed development site (and established new requirements for these agreements, which came into effect on April 25, 2024);
- New requirements for local governments to undertake consultation and financial feasibility analysis when developing or amending a DB bylaw;
- New annual requirements for local governments to report affordable housing and amenity contributions received through DB bylaws; and
- Establishes how density bonus works with other tools, such as Amenity Cost Charges and Transit Oriented Development Areas.

[6] Please note that a DB bylaw is defined in legislation as a 'density benefits zoning bylaw'.

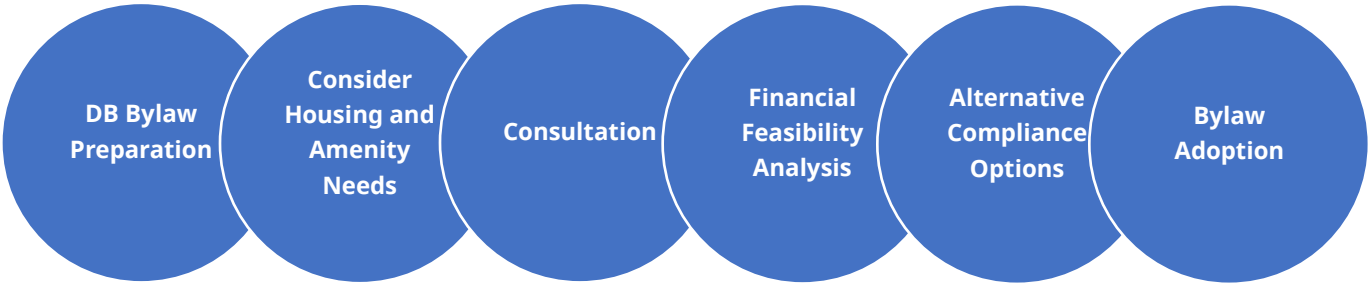
Key Density Bonus Legislative Amendments

The following table outlines the amendments to density bonus authorities.

Key Changes	Previous Density Bonus Approach (1993)	New Density Bonus Approach (2024)
Bylaw content and development requirements	• Only requirement is to register a housing agreement on title before a building permit is issued.	• DB bylaw content requirements (i.e., the amount of affordable housing units, tenure, price, length of time units need to meet bylaw conditions, and may set out the number of bedrooms or operation/ownership requirements if any). • Consultation and financial feasibility analysis requirements.
Rules for use in Transit-Oriented Areas (TOA)	• Can be used within TOAs as an interim measure.	• Following a date set by regulation, local governments can only use density bonus above the minimum allowable densities in TOAs.
Rules for cash in-lieu	• No existing requirements or rules.	• Clarifies rules and requirements for how and when cash is collected and spent.
Transfer Agreement Option	• No existing requirements or rules.	• Clarifies process and rules for accepting affordable units on a different site
Annual Reporting requirements	• No existing requirements or rules.	• Creates new annual reporting requirements

Developing a Density Bonus Bylaw

The following section outlines the key requirements and considerations when developing a DB bylaw, including:



Local governments must ensure that during the development of a DB bylaw, that the processes undertaken and bylaws that result conform to all relevant legal requirements.

Density Bonus Bylaw Preparation – Affordable Housing

Local governments may continue to use DB bylaws to obtain affordable housing or cash in-lieu of affordable housing. If money is collected through a DB bylaw for affordable housing, that money must be placed in a separate reserve fund and only used to pay for the capital cost (e.g. building, planning, engineering, legal, and interest costs) of providing affordable housing.

Local governments must set out specific criteria in a DB bylaw used to secure affordable housing, including:

- the amount of affordable units (e.g. number or percentage of total units that are affordable);
- the tenure (e.g. rental or strata);
- the affordability level (e.g. below-market sales price or rent); and
- the length of time that the units are subject to these bylaw requirements (e.g. the greater of 60 years or the life of the building).

Local governments may also:

- require that the affordable housing units be owned and/or operated by a non-profit housing provider or municipal housing corporation;
- set a minimum number or percentage of family-sized units (i.e. 2+ bedroom units);
- allow developers to provide the affordable housing units on a different site from where the DB bylaw applied, by agreement; or
- allow developers the option to provide cash contributions instead of building the affordable units in the new development.

When designing a DB bylaw, local governments can also choose to tailor bylaw requirements to suit different development situations, such as for:

- specific area or parcels of land;
- different building sizes or types of housing (e.g. apartment or townhouse);
- different construction materials (e.g. wood vs concrete); and
- forms of tenure (e.g. purpose-built rental vs strata condominium).

Density Bonusing Bylaw Preparation - Amenities

Local governments may continue to use DB bylaws to obtain in-kind amenities or cash in-lieu of amenities. If money is collected through a DB bylaw for an amenity, that money must be placed in a separate reserve fund and only used to pay for the capital cost (e.g. building, planning, engineering, legal, and interest costs) of providing the amenity.

Housing and Amenity Needs

Local governments should consider their community's long-term amenity and housing needs when developing a DB bylaw. As per Bill 44, by December 31, 2025, municipalities (not regional districts) must update their Official Community Plans and zoning bylaws to allow for the number of housing units needed over the next 20 years as identified in their Interim Housing Needs Report. When municipalities proactively zone for sufficient housing capacity, they can only count "base" density towards this zoned capacity and not bonus density that might be used through a DB bylaw. Density bonus provides the developer with the option to build to the higher density, in exchange for an amenity or affordable housing contribution. Therefore, this density is considered 'optional' and does not count towards meeting a community's long-term housing needs.

Consultation

When developing or amending a DB bylaw for affordable housing or amenities, local governments must provide at least one opportunity to hear input from impacted groups. The local government is responsible for determining which persons, public authorities, and organizations need to be consulted based on who will be affected by the bylaw. Feedback received from impacted groups should inform additional refinements to the draft bylaw.

No consultation is required to repeal a DB bylaw.

Financial Feasibility Analysis

A financial feasibility analysis must be completed when developing or updating a DB bylaw. This analysis helps determine the bylaw conditions (e.g. the amount of affordable housing and/or amenities) and the amount of the cash in-lieu payment if included as a compliance option in the DB bylaw.

The analysis must consider certain matters, including but not limited to:

- All development-related costs (e.g. construction materials, financing, charges, sales prices).
- How different development types and factors impact a project's ability to provide affordable housing units or amenities.
- The amount of increased density needed to offset the costs to the developer for providing the affordable housing units or amenities.

If requested, local governments must make certain information used to inform the analysis available to the public.

Alternative Compliance Options

There are two alternative compliance options for DB bylaws.

Cash-in-lieu Option

Local governments can choose to give developers the option to provide a cash-in-lieu payment instead of building the affordable housing units or amenities.

- The local government must determine if it will allow the option for cash payments, and also has flexibility to determine how and when this option will apply. For instance, a local government can vary requirements for cash payments based on area, location, size or type of development (e.g. townhouses or apartments), construction materials (e.g. wood or concrete), or form of tenure (e.g. purpose-built rental, strata).
- The rate of the cash in-lieu payments (e.g. dollar value per square meter) will be informed by the financial feasibility analysis and must be based on the capital costs of building the affordable housing units or amenities.
- Cash collected through a DB bylaw for affordable housing or amenities must be put into a dedicated reserve fund and can only be used to pay the capital costs for affordable housing or amenities (e.g. building, planning, engineering, legal, and interest costs).

Transfer Agreement Option

Local governments may choose to give developers the option to provide affordable housing units on a different location instead of building them within the current development. Allowing this option may enable a greater number of affordable housing units to be delivered and may support non-profit housing providers to own and operate entire buildings, rather than some units in a private development.

If the local government chooses to include this option within the DB bylaw, they can enter into an agreement with the developer to provide the affordable housing units on a different site or sites.

The agreement must specify the following information:

- The number of units to be built on another parcel of land;
- The parcel(s) of land where the affordable housing units will be located;
- Who is to provide the affordable housing units;
  When the affordable housing units are to be provided; and
  How the transfer agreement will meet or exceed the requirements established in the DB bylaw. The agreement cannot be used to lessen or relax affordable housing requirements.

Adopting the Bylaw

A local government's council or board must consider the DB bylaw in an open meeting and the bylaw comes into effect once adopted.

No public hearing is required for the adoption of a DB bylaw if there is an official community plan (OCP) in effect for the area where the DB bylaw applies, and if the DB bylaw is consistent with that OCP.

Density Bonus Implementation

Transition to New Requirements

Changes to density bonus legislation will come into effect on the date set by the Lieutenant Governor in Council, which must be on or after **June 30, 2025**.

At this time, all existing DB bylaws must comply with the new legislative requirements and Density bonus will no longer be able to be used within the minimum allowable densities in Transit-Oriented Areas (see section below for more information).

If local governments amend existing DB bylaws after Royal Assent (April 25, 2024), but before the date prescribed by regulation (June 30, 2025, or later prescribed date), then they will be required to comply with the new legislative requirements.

To help support the transition, local governments are allowed to use financial feasibility analyses completed before Royal Assent, that were undertaken to inform density bonus updates, provided they satisfy the current legislative requirements.

If a local government enters into an agreement for some or all affordable housing units to be provided on other parcels of land, there are specific requirements for these agreements that came into effect on April 25, 2024.

Housing Agreement

A housing agreement is required to ensure that the affordable housing and the other bylaw conditions are secured over time. The housing agreement must be registered on title before the building permit is issued for the project.

Reserve funds

Under the amended density bonus authorities, there are new rules and requirements for how cash payments are collected and used. Local governments must set out what the conditions are to receive the bonus density in the associated bylaw. The DB bylaw may set out the allocation of cash contributions toward either amenities, affordable housing, or both, as well as the associated rates. Payments must be deposited in separate reserve funds received for amenities and affordable housing units, respectively.

Local governments may choose to continue to use funds collected before new density bonus rules come into effect or add this funding into the new reserve funds.

Cash payments received through a DB bylaw must be paid at the time the building permit is issued for the development. Authority to make payments from both reserve funds must be authorized by the DB bylaw.

Reserve Funds for Amenities

If money is received by a local government for the conservation or provision of amenities, the local government must establish a density bonus reserve fund for amenities.[7]

Money in this reserve fund, along with interest on it, can only be used to pay:

- The capital costs of conserving or providing amenities;
- The principal and interest on a debt incurred by a local government as the result of conserving or providing amenities; and
- A person or public authority under a partnering agreement to conserve or provide amenities.

Reserve Funds for Affordable Housing

Local governments must establish a dedicated density bonus reserve fund for affordable housing[8] to collect money for affordable housing through a DB bylaw.

Money in this reserve fund, along with interest on it, can only be used to:

- Pay the capital costs for providing, constructing, altering, or expanding affordable housing (e.g. building, planning, engineering, legal, and interest costs).
- Pay the principal and interest on a debt incurred by a local government as a result of an expenditure for the capital costs of providing, constructing, altering, or expanding affordable housing; and
- Pay certain prescribed entities to provide, construct, alter, or expand affordable housing. These entities can include:
    - Municipal or regional housing corporations;
    - Non-profit housing providers;
    - Housing cooperatives;
    - A health authority;
    - An agent of the government of Canada, like CMHC;
    - A registered charity.

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[7] Please note that this fund is formally referred to as a "density benefits reserve fund for amenities". See section 482.3 (5) (a) in the *Local Government Act* and 565.13 (6) (a) of the *Vancouver Charter*.
[8] Please note that this fund is formally referred to as a "density benefits reserve fund for affordable and special needs housing". See section 482.3 (7) (a) of the *Local Government Act* and 565.13 (8) (a) of the *Vancouver Charter*.

Local governments cannot use density bonus reserve funds for affordable housing to pay operational costs, such as rent subsidies, staffing expenses, utilities, and property management services.

Reporting Requirements

Before June 30 in each year, local governments are required to prepare and consider a report that provides information on the DB bylaws. The report must outline the amenities conserved or provided as well as the number of affordable housing units that had a building permit issued under the DB bylaw during the previous year.

Additionally, local governments must report on the activity in density bonus reserve funds, for both amenities and affordable housing. This reporting must include the amount of cash payments received, the expenditures from each fund, and the balances of the funds at the start and end of the applicable year.

After it considers the report, the local government must make the report publicly available.

Annual reporting and making information publicly available support transparency and accountability of local governments when using the density bonus tool.

ALIGNMENT OF LOCAL GOVERNMENT HOUSING INITIATIVES

In the Fall of 2023, the Province passed a suite of legislation to shift to a more proactive land use planning and zoning approach, collectively known as local government housing initiatives. This shift enables more housing to be built, in the right places, faster.

This suite of legislation includes requirements for local governments to proactively plan for long-term housing needs, requirements to enable small-scale multi-unit housing, requirements for transit-supportive density near transit infrastructure (TOAs), new development finance tools like Amenity Cost Charges (ACCs), and protections for existing rental tenants.

Local Government Housing Initiatives

The table below summarizes the relationship between these initiatives and inclusionary zoning and density bonusing. Further detail on each initiative is provided in the next sections.

Initiative	**Inclusionary Zoning (IZ)**	**Density Bonus (DB)**
Proactive Planning (Bill 44)	• Local governments will be able to use IZ as part of their work to proactively plan to meet their long-term housing needs and must consider their recent housing needs reports when developing a draft IZ bylaw.	• DB is considered to be optional density and does not count towards meeting a community's long-term housing needs.

Small-scale multi-unit housing (Bill 44)	• N/A	• Local governments are free to use DB to encourage more units above and beyond the small-scale, multi-unit housing requirements.
		• Local governments may not use density bonusing to achieve the minimum number of required housing units except in the following circumstances:
		  ○ on lots for which the requirement of a minimum of six units applies, DB can be used for only one of the six housing units; and
		  ○ for allowable densities that exceed the minimum densities of the relevant SSMUH legislative requirements for that specific lot.

Initiative	Inclusionary Zoning (IZ)	Density Bonus (DB)
Amenity Cost Charges (ACCs -Bill 46)	• IZ units are exempt from paying ACCs. • Local governments can waive or reduce ACCs on the market rate units in a development.	• The policy intent is for ACCs to be calculated based on density that is planned for (the base density), and therefore not applied on bonus density floorspace/units.
Transit-Oriented Areas (TOAs - Bill 47)	• IZ can impose requirements for affordable housing within or above the minimum allowable densities in TOAs.	• The changes to density bonus come into effect on the date set by the Lieutenant Governor in Council, which must be on or after June 30, 2025. Following June 30, 2025, local governments can only apply DB above the minimum allowable densities in TOAs.
Tenant Protection Bylaws (TPB – Bill 16)	• If both TPB and IZ apply to the same development, their requirements should not be stacked on top of one another	• N/A

Inclusionary Zoning and Density Bonus

Density bonus and inclusionary zoning can be used on the same site, but density bonusing can only be used for densities higher than inclusionary zoning densities. By stacking density bonus higher than inclusionary zoning, local governments can encourage even more housing to be built on the site.

Proactive Planning

As per new legislation in the Fall of 2023 (Bill 44), local governments are required to update housing needs reports to proactively plan for their community's 20-year forecasted housing needs. Municipalities will also be required to update Official Community Plans and zoning bylaws to ensure their communities have sufficient land designated and zoned to meet long-term housing needs.

Local governments will be able to use inclusionary zoning as part of their work to proactively plan to meet their long-term housing needs and must consider their recent housing needs reports when developing a draft IZ bylaw.

Please note that density bonus provides the developer with the option to build to the higher density. Therefore, this optional density does not count towards meeting a community's long-term housing needs.

Small Scale Multi-Unit Housing

Small-scale, multi-unit housing (SSMUH) offers housing options that are ground-oriented and compatible in scale and form within established single-family neighbourhoods. These housing forms typically offer more family-oriented units than larger-scale multi-family housing and more affordable options than single-family dwellings.

Local governments may not use density bonusing to achieve the minimum number of required housing units except in the following circumstances:

- on lots for which the requirement of a minimum of six units applies, in which case local governments may establish conditional density bonus rules for only one of the six housing units; and
- for allowable densities that exceed the minimum densities of the relevant SSMUH legislative requirements for that specific lot.

Local governments are free to use density bonus to encourage more units above and beyond the small-scale, multi-unit housing requirements. In most communities, it is anticipated that inclusionary zoning will not be viable to apply to densities set at, or below, small-scale, multi-unit housing requirements.

Amenity Cost Charges

Amenity Cost Charges (ACCs) are a new development finance tool that allow local governments to collect funds for amenities like community centres, recreation centres, daycares, and libraries from new development that results in increased population. These amenities support livable and complete communities in areas of growth.

Where inclusionary zoning applies, the affordable housing units will be exempt from paying ACCs. Local governments can waive or reduce ACCs on the market rate units in a development where it is needed to protect development viability. The financial feasibility analysis will inform the level of waiver or reduction for ACCs.

Where density bonus applies, ACCs are calculated up to the base density, and therefore not applied to the bonus density. Amenity and affordable housing contributions can be collected as per the bonus density bylaw.

Under density bonus provisions, local governments can establish different density rules for a zone – one that is generally applicable for the zone (i.e., a “base density”), and other(s) that will entitle a developer to higher density (“bonus density”), if certain conditions are met either in relation to the conservation or provision of amenities or the provision of affordable and special needs housing.

Local governments can continue to use density bonus to collect for amenities and can apply both density bonus conditions and ACCs on the same development (or use the tools separately on different developments or in different areas). However, local governments cannot use density bonusing to collect for an amenity for which an ACC is being collected. For example, if an amenity project is included in the local government's ACC bylaw, the local government cannot use density bonusing to secure that amenity (section 482(2.1) of the LGA and section 565.1(2.1) of the Vancouver Charter).

It is intended that local governments take only the base density into consideration when developing their ACC program

Transit-Oriented Areas

In December 2023, the Province of British Columbia (BC) made amendments to the *Local Government Act* (LGA) and *Vancouver Charter* (VC) to establish transit-supportive densities adjacent to transit stations. These areas are referred to as Transit-Oriented Areas (TOAs) in the new legislation. TOAs are designated around prescribed transit stations to help achieve the goals of transit-oriented development such as mode shifting and creating complete communities. The TOA Policy Manual includes additional details on these policies.

Inclusionary zoning provides local governments with a new tool to secure affordable housing in TOAs, where it is often challenging for the non-profit sector to build affordable housing due to the high cost of land. The use of inclusionary zoning in TOAs will help support affordability by reducing residents' transportation costs and improving commute times and access to social infrastructure and employment opportunities.

Rules have been established for how inclusionary zoning and density bonus work in TOAs:

- Following April 25, 2024, local governments may use inclusionary zoning to impose affordable housing requirements within or above the minimum allowable densities in TOAs;
- Following June 30, 2025, (or later date prescribed by regulation), local governments can only apply density bonusing on densities greater than the minimum allowable densities set out in regulations in TOAs.
- Local governments can stack density bonus higher than inclusionary zoning densities in TOAs to maximize affordable housing outcomes, subject to applicable Provincial or Federal statutes, the provisions of which supersede or have a limiting effect on the minimum allowable density framework.
- Local governments may continue to use density bonus outside of TOAs listed in Order-In-Council 678, but all DB bylaws must comply with new legislative amendments following June 30, 2025, or later.

Tenant Protection Bylaws

Bill 16 provides municipalities with the authority to develop tenant protection bylaws to require developers to provide added support for tenants facing displacement in cases of redevelopment. This includes financial assistance, moving assistance, help to find a new place to live, or the right to enter into a new tenancy agreement with the owner in another building.

Inclusionary zoning and density bonus are complementary and work in tandem with Tenant Protection Bylaws. Municipalities can implement bylaws giving tenants who have been displaced due to redevelopment priority access to affordable units created under inclusionary zoning or density bonus.

Municipalities will need to assess how the implementation of multiple tools could affect the overall viability of new residential developments. If both Tenant Protection Bylaws and inclusionary zoning apply to the same development, their requirements should not be stacked on top of one another.

Forthcoming Provincial policy guidance will outline best practices for operating Tenant Protection Bylaws, inclusionary zoning and density bonus together. The Province will monitor the impacts of both Tenant Protection Bylaws and inclusionary zoning implementation.

PROTECTION FOR IN-STREAM DEVELOPMENTS

New or amended inclusionary zoning and DB bylaws will only apply to new development applications and will not apply to applications that are in-stream at the time of bylaw adoption (i.e. applications currently under review). Developments are considered in-stream if the application has been received to the satisfaction of a local government and applicable fees have been paid. This ensures that developers can account for new affordability or amenity contribution expectations upfront and in their development planning.

MONITORING

The Province will be monitoring the implementation of inclusionary zoning and amended density bonus authorities to ensure that these tools are achieving the intended outcomes.

MORE INFORMATION

Comprehensive guidance on inclusionary zoning and density bonus tools will be published at a later date. More information on local government housing initiatives is available on the Ministry of Housing website located at: https://www.gov.bc.ca/housingInitiatives

Please direct any questions about this legislation to:

Ministry of Housing, Planning and Land Use Management Branch
Telephone: 250-387-3394
Email: PLUM@gov.bc.ca

GLOSSARY

"**affordable housing units**" means residential units provided for rent or purchase at below market rates.

"**capital costs**" typically refer to one-time costs of building affordable housing or amenities, such as construction costs, buying land or buildings, as well as planning, engineering, legal and interest costs.

"**cash in-lieu**" means a cash payment provided instead of building affordable housing units or amenities.

"**density bonus**" means a planning tool that allows developers the option to choose to build additional density, if specific amenities are provided.

"**density bonus bylaw**" or "DB bylaw" means a bylaw adopted to implement density bonusing. This is defined in legislation as an 'density benefits zoning bylaw'.

"**financial feasibility analysis**" means an analysis conducted to determine the viability of development.

"**housing agreement**" means a legal agreement between the local government and a property owner to secure certain terms and conditions relating to the provision of affordable housing units on a site.

"**Housing Needs Report**" or "**HNR**" means a report that identifies a community's current and future housing needs through analyzing various factors influencing local housing demand and supply.

"**in-stream**" means a development application that has been received to the satisfaction of a local government and applicable fees have been paid.

"**inclusionary zoning**" means a planning tool requiring new developments to provide a portion of the development as affordable housing.

"**inclusionary zoning bylaw**" or "IZ bylaw" means a bylaw adopted to implement inclusionary zoning. This is defined in legislation as an 'affordable and special needs housing zoning bylaw'.

"**minimum allowable densities**" means the prescribed densities which local governments must allow within Transit-Oriented Areas.