Inclusionary Zoning and Density Bonusing

Comprehensive Guidance

Released: March 7, 2025

BRITISH COLUMBIA
Ministry of Housing and Municipal Affairs

Land Acknowledgement

The B.C. Public Service acknowledges the territories of First Nations around B.C. and is grateful to carry out our work on these lands.

We acknowledge the rights, interests, priorities, and concerns of all Indigenous Peoples - First Nations, Métis, and Inuit - respecting and acknowledging their distinct cultures, histories, rights, laws, and governments.

Acknowledgements and Preface

The best practices in this guide were developed through collaboration among the Province, local governments, and representatives from the development community.

Local governments who adopt these recommended practices can improve the transparency and clarity of their inclusionary zoning and density bonus programs.

We would like to thank all the participants involved in the development of this Guidance document, including local governments through British Columbia, non-profit organizations, and developers who provided important feedback on the contents of the Guidance.

Enquiries

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Disclaimer

The information contained in the Inclusionary Zoning and Density Bonus Comprehensive Guidance is provided as general reference and while all attempts have been made to ensure the accuracy of the material – the guide is not a substitute for legal advice. Local governments should receive their own legal advice to guide inclusionary zoning and density bonus implementation.

Please refer directly to the latest consolidation of provincial statutes at BC Laws for specific development finance-related provisions and requirements within the legislation, including *Local Government Act*, the *Community Charter,* the *Vancouver Charte*r and the *Offence Act.*

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Chapter 1: Introduction

1.Introduction

1.1 Purpose of the Guide

The Province of British Columbia (B.C.) passed a set of legislative amendments in 2023 and 2024, known as the local government housing initiatives. This was done to enable more housing to be built, in the right places, faster. As part of this legislative package, the *Housing Statutes Amendments Act, 2024* made changes to Division 5 of Part 14 of the *Local Government Act* (*LGA*) and Part XXVII Division 3 of the *Vancouver Charter* to provide local governments with several new authorities, including a new inclusionary zoning tool and amendments to the existing density bonus tool.[1]

This Comprehensive Guidance document (guide) outlines legislative requirements and provides technical information and best practices to support the effective use of these new and enhanced tools.

There are diverse local government contexts across B.C. in terms of size, geography, and land use rules and patterns. Given this diversity, this guide serves as a reference rather than as a rigid document, although applicable legislative requirements are identified.

The content of this guide is neither a substitute for applying the legislation, nor should it be relied upon as legal advice. Local governments should seek legal advice as necessary when implementing inclusionary zoning and density bonusing tools.

1.2 Legislative Changes Overview

In relation to inclusionary zoning and density bonus, legislative amendments to the *LGA*, *Vancouver Charter, Community Charter* and the *Islands Trust Act* included:

- A new inclusionary zoning tool that enables local governments to require that new residential development include affordable housing units;[2]
- Amendments to the density bonus tool, which is an existing tool that enables local governments to provide the option to a developer to build to a higher density in exchange for providing amenities or affordable housing;[3]
- Rules and requirements for when local governments choose to use inclusionary zoning and density bonus tools;

[1] Changes were made to the *LGA, Vancouver Charter, Community Charter,* and *Islands Trust Act*.
[2] *LGA* s. 482.7-482.95; *Vancouver Charter* s. 565.17-595.195.
[3] *LGA* s. 482, s. 482.1-482.6; *Vancouver Charter s.* 565.1, s. 565.11-565.16.

- Protections for developments that are instream[4] when new and amended inclusionary zoning and density bonus bylaws are passed;
- Transition time for local governments to update their existing density bonus bylaws to follow the new legislative requirements;[5] and,
- Rules for how inclusionary zoning and density bonusing work together and align with other tools such as the Amenity Cost Charges (ACCs) and Transit-Oriented Development Areas (TOAs).

1.3 When Inclusionary Zoning and Density Bonus apply

As of April 25, 2024, the inclusionary zoning tool is available for use by local governments and any changes to density bonus bylaws must comply with new legislation. Local governments must bring existing density bonus bylaws into compliance with legislative amendments[6] by a date set by Lieutenant Governor in Council regulation. As of the publishing date of this document, this date has not been set, and this document will be updated as needed to reflect new information.

Under the transitional provisions, a density bonus zoning bylaw that received first reading before April 25, 2024, is considered to be instream.[7]

1.4 Where Inclusionary Zoning does not apply

Most of the Local Trust Committees (LTCs) of the Islands Trust do not have access to inclusionary zoning authority, because their unique history, context, and mandates for governance do not support the high densities needed to effectively use this tool. LTCs retain their ability to adopt and implement density bonusing to encourage affordable housing and amenity contributions in their communities.

Bowen Island can use inclusionary zoning since it is an island municipality and has all the same powers and duties as a local government. Bowen Island is subject to the same checks and balances as other local governments when using inclusionary zoning, such as

[4] Developments are considered instream if the application has been received to the satisfaction of a local government and applicable fees have been paid. See *LGA* s. 4825, s. 482.93, and *Vancouver Charter* s. 565.15, s. 565.193, s. 634 (3).
[5] *LGA* s. 797 and *Vancouver Charter* s. 634.
[6] *LGA* s. 482 (1.1), (2.2 to 2.4); *LGA* s. 482.1 (1) and 482.2; *Vancouver Charter* 565.1 (1.1), (2.2 to 2.4); *Vancouver Charter* 565.11 (1) and 565.12.
[7] *LGA* s. 482.5 and s. 797 (3), and *Vancouver Charter* s. 565.15.

the requirement to consult and undertake a financial feasibility analysis[8] to ensure that the use of this tool will not deter development.

1.5 How to Use the Guide

This guide includes the following chapters:

1. An **INTRODUCTION** chapter introduces the key legislative amendments and provides details about how to use this guide and its purpose.
2. An **OVERVIEW OF TOOLS** chapter describes the inclusionary zoning and density bonus tools and the legislative rules and requirements for their use, as well as how these tools work together and with other provincial initiatives.
3. A **STEP-BY-STEP GUIDE FOR DEVELOPING BYLAWS** details the suggested process for developing, amending, and adopting an IZ or DB bylaw, from bylaw development to adoption. Steps include identifying community needs for affordable housing and amenities, consulting with affected parties, undertaking a financial feasibility analysis, as well as considering optional and required bylaw elements, bylaw variances, and alternative compliance options. Best practices and policy considerations are included in each step.
4. A **FINANCIAL FEASIBILITY ANALYSIS** chapter provides best practices, details of required inputs and factors impacting a feasibility study, and key methodological options and approaches to undertaking a financial feasibility analysis.
5. A **BYLAW ADMINISTRATION** chapter outlines details on housing agreements, reserve funds, reporting requirements, monitoring considerations, and implementing different partnership models.
6. An **APPENDIX** contains links to additional resources.

[8] A financial feasibility analysis must be completed when developing or updating an IZ or a DB bylaw. Please see Chapter 4 for more information.

Chapter 2: Overview of Tools

2. Overview of Tools

2.1 Inclusionary Zoning

Inclusionary Zoning, illustrated in Figure 1, is a land use planning tool that allows local governments to require affordable housing in new residential developments.

As of April 25, 2024, local governments in B.C. can choose to adopt an inclusionary zoning (IZ) bylaw to require new residential developments to include a certain amount of units[9] to be affordable or special needs housing.

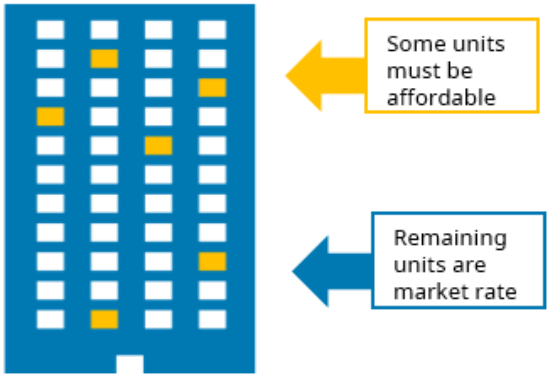

Figure 1: An example of inclusionary zoning in a development

Typically, local governments apply IZ bylaws[10] with an accompanying increase in as-of-right building densities as informed by a financial feasibility analysis,[11] in order to offset the costs to the developer of providing the affordable units. Once an IZ bylaw is in place, there is no further requirement to rezone. Establishing density permissions and affordability requirements up-front through an IZ bylaw increases certainty and transparency for new residential developments.

Risks that IZ bylaws could deter development are avoided by requiring local governments to undertake consultation, perform a financial feasibility analysis, and consider the bylaw's impact on development viability when developing a draft IZ bylaw. The province will be monitoring the implementation of inclusionary zoning and has regulation making authorities[12] to ensure intended outcomes are being achieved.

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[9] *LGA* s.482.7 (3) and *Vancouver Charter* s.565.17 (3) enable the amount of units to be defined as the percentage of all housing units, and/or a proportion of the GFA of the residential component of the development.

[10] The legislation refers to inclusionary zoning bylaws as 'affordable and special needs housing zoning by-laws'. For the purposes of this Guidance document, they are referred to as inclusionary zoning bylaws (IZ bylaws). See *LGA* 482.7 and *Vancouver Charter* 565.17.

[11] As-of-right or "base" density refers to the buildable floor area permitted without requiring discretionary approvals from planning authorities.

[12] Including but not limited to *LGA* s. 482.7 (8) and *Vancouver Charter* s. 565.17 (8).

Legislative Flexibility

Inclusionary zoning is typically most effective in creating new affordable housing in high density, urban areas, where the higher land costs support its use and there is often the greatest need for more affordable housing. The amount of affordable housing created through inclusionary zoning will vary from one community to the next, as well as within areas in a community, depending on the local housing market. Consequently, if local governments choose to use inclusionary zoning, they are required to undertake a financial feasibility analysis to ensure that its use will both support new affordable housing supply and not hinder new development.

IZ Bylaw Content Requirements

Local governments must include specific information in an IZ bylaw[13], including:

- the amount of affordable units, including the number or percentage of all housing units, and/or proportion of the GFA of the residential component of the development;
- the tenure of the affordable units, such as rental or strata;
- the affordability of the units, including the sales price or rent to be charged for the affordable units; and,
- the length of time affordable units must be maintained.

Local governments may also establish requirements[14] including the:

- ownership and management of the affordable units (such as requiring that the affordable units be owned or operated by a non-profit housing provider or local government housing corporation); and,
- the number of bedrooms in the units (such as 2+ bedrooms).

The provisions of the IZ bylaw may also vary[15] according to:

- the tenure of the market units in the building (such as between purpose-built rental or strata condominium projects);
- different areas in the local government;
- specific parcels of land;
- different sizes or types of housing units; and/or,

[13] *LGA* s. 482.7 (2)(3) and *Vancouver Charter* s. 565.17 (2)(3).
[14] *LGA* s. 482.7 (1) and *Vancouver Charter* s. 565.17 (1).
[15] *LGA* s. 482.7 (4) and *Vancouver Charter* s. 565.17 (4).

- type of construction materials (such as wood frame or concrete construction).

Alternative Compliance Options

Local governments may choose to include either or both of the alternative compliance options in an IZ bylaw, which allows a developer the option to:

- provide cash in-lieu of affordable units[16]; and/or,
- provide the affordable units on a different site by agreement.[17]

These alternative compliance options may be useful where delivering physical affordable housing units on site is not feasible or efficient. For example, where an IZ bylaw would result in a few affordable housing units in an otherwise market-rate residential building, which are typically more costly to operate and maintain over time.

Adopting or Amending an IZ Bylaw

In adopting or amending an IZ bylaw, a local government must[18]:

- consider the most recent Housing Needs Report;
- provide one or more opportunities for consultation with affected parties;
- undertake a financial feasibility analysis that considers certain matters; and,
- consider whether the bylaw would deter development.

Administering an IZ Bylaw

Once an IZ bylaw is adopted, local governments must:

- prepare and submit an annual report[19] that specifies bylaw outcomes;
- make considerations, information and analysis used to adopt an IZ bylaw available to the public upon request[20]; and,
- upon request, provide the Inspector Municipalities with any information related to the creation of the bylaw.

For detailed information about adopting or amending an IZ bylaw please see Chapter 3, Step-by-Step Guide for Bylaw Development.

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[16] *LGA* s. 482.91 and *Vancouver Charter* s. 565.191.
[17] *LGA* s. 482.92 and *Vancouver Charter* s. 565.192.
[18] *LGA* s. 482.9 (1) and *Vancouver Charter* s. 565.9 (1).
[19] *LGA* s. 482.94 and *Vancouver Charter* s. 565.194.
[20] *LGA* s. 482.95 and *Vancouver Charter* s. 565.195.

Statutory Exemptions

Certain developments are required to be exempt from an IZ bylaw. Local governments cannot impose inclusionary zoning on developments owned by an affordable housing provider[21], including:

- a public corporation, owned by a municipal or regional government, a health authority, the province of BC or the federal government;
- a nonprofit society or registered charity; or,
- a nonprofit housing cooperative.

The intention is for inclusionary zoning to be imposed on new market rate residential development. This restriction helps to ensure that inclusionary zoning does not unintentionally impact the development of much needed new affordable housing supply.

2.2 Density Bonusing

Density bonus or density bonusing, is an existing land use planning tool that provides the developer with the option to build to a higher density in exchange for providing amenities or affordable housing. An illustration of how density bonus works is illustrated in Figure 2.

This tool has been updated to enhance clarity in its use, and consistency with inclusionary zoning.

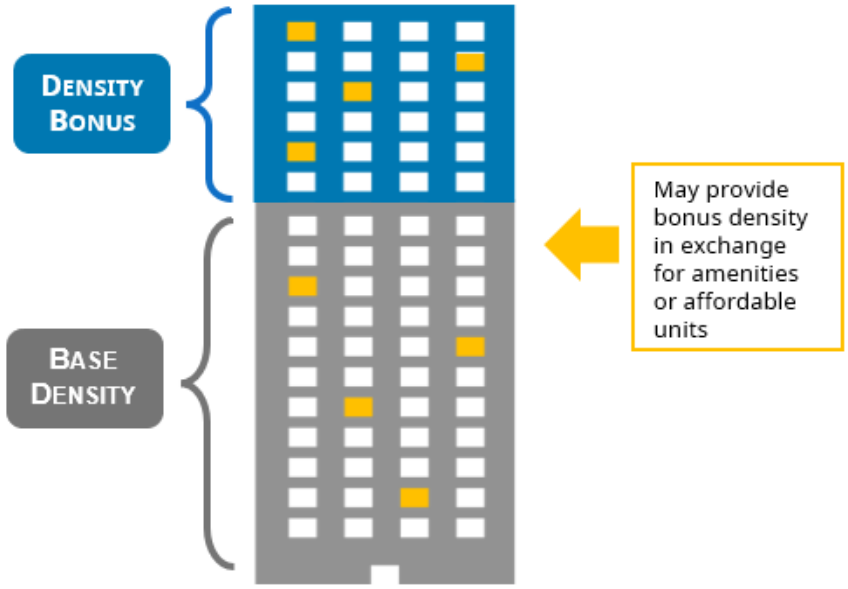

Figure 2: Example of density bonus in a development

[21] *LGA* s.482.7 (7) and *Vancouver Charter* s.565.17 (7).

New Legislative Requirements

When using density bonus to secure affordable housing contributions, local governments must set out specific criteria in a density bonus bylaw (DB bylaw),[22] including:

- the amount of affordable units, including a number or percentage of all housing units, and/or proportion of the GFA of the residential component of the development;
- the tenure of the affordable units, such as rental or strata;
- the affordability of the units, including the sales price or rent to be charged for the affordable units; and,
- the length of time affordable units must be maintained.

Local governments may also establish requirements[23] including the:

- ownership and management of the affordable units (such as requiring that the affordable units be owned or operated by a non-profit housing provider or local government housing corporation); and,
- the number of bedrooms in the units (such as 2+ bedrooms).

The provisions of the DB bylaw may also vary[24] according to:

- different forms of tenure;
- different areas in the local government;
- specific parcels of land;
- different sizes or types of housing units; and/or,
- type of construction materials (such as wood frame or concrete construction).

[22] The legislation refers to density bonus bylaws as 'density benefits zoning by-laws'. For the purposes of this Guidance document, they are simply referred to as density bonus bylaws (DB bylaws). See *LGA s. 482 and Vancouver Charter s. 565.1.*

[23] *LGA* s. 482 (2) (b) and *Vancouver Charter* s. 565.1 (2) (b)
[24] *LGA* s. 482 (2.5) and *Vancouver Charter* s. 565.1 (2.5)

Local governments may choose to include either or both of the alternative compliance options in a DB bylaw, which allows a developer the option to:

- provide cash in-lieu of affordable units or amenities[25]; and/or,
- provide the affordable units on a different site by agreement. [26]

These alternative compliance options may be useful where delivering affordable housing units on site is not feasible or efficient.

Local governments may continue to secure amenities[27] through density bonusing, including by specifying the number, type, and 'extent' (quantity in area) of amenities that are required in exchange for additional building density.

Local governments must follow new rules and requirements when amending or adopting DB bylaws, including to:

- provide one or more opportunities for consultation with affected parties; and,
- undertake a financial feasibility analysis that considers certain matters.

The amendments to density bonus authorities also clarify the rules and requirements when collecting cash in-lieu of affordable housing units or amenities and/or affordable housing units off-site at an alternative location.

Once a DB bylaw is adopted, local governments must prepare and submit an annual report that specifies bylaw outcomes, including the number of density bonus units that have been required under the bylaw and for which building permits have been issued in the previous year.

[25] *LGA* s. 482.3 and *Vancouver Charter* s. 565.13.
[26] *LGA* s. 482.4 and *Vancouver Charter* s. 565.14.
[27] *LGA* s.482 (2) (a) and *Vancouver Charter* s.565.1 (2) (a).

Density Bonus Transition Timeline

As of April 25, 2024, any changes to density benefits zoning bylaws must comply with new legislation. Local governments must bring existing density benefits zoning bylaws into compliance with legislative amendments[28] by a date set by Lieutenant Governor in Council regulation. The earliest potential date of this regulation is June 30, 2025. As of March 2025, this date has not been set, and this document will be updated as needed to reflect new information.

By the date set by regulation, local governments:

- Must update existing density benefits zoning bylaws so that they comply with new requirements, which include identifying required conditions that must be set for affordable housing units, having a financial feasibility analysis, and undertaking consultation.
- Can only use density benefits zoning bylaws to obtain amenities and affordable housing on density levels set above minimum allowable densities in Transit-Oriented Areas.

In order to support this transition:

- A density benefits zoning bylaw that received first reading before April 25, 2024, is considered to be instream.[29]
- A local government does not need to undertake a new financial feasibility analysis as part of updating their bylaw if an analysis that meets the legislative requirements has already been undertaken to inform the contents of the existing density benefits zoning bylaw.
- The first annual report for affordable housing and amenities obtained under the new requirements would apply for June 30, 2026.
- It is recommended that local government consider adopting new area-wide density bonus bylaws, to avoid risks of inconsistencies with various density bonus sites, including built out or existing site-specific zones.
- If an existing building is being used under the authority of a pre-existing density bonusing bylaw, it is considered a legal non-conforming use, and the owner / operator of that building is still lawfully able to use the building in that way even after the density bonusing bylaw is changed to comply with the new rules.[30]

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[28] *LGA* s.482 (1.1), (2.2 to 2.4); *LGA* s.482.1 (1) and s.482.2; *Vancouver Charter* s.565.1 (1.1), (2.2), (2.3), (2.4); *Vancouver Charter* s565.11 (1), s.565.12.
[29] *LGA* s. 482.5 and s. 797 (3), and *Vancouver Charter* s. 565.15.
[30] *LGA* s.528 and *Vancouver Charter* s. 568.

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. Please refer to Chapter 3 Step-by-Step Guide for Bylaw Development for more information regarding agreements for off-site units.

2.3 How IZ and DB Bylaws Work Together

Inclusionary zoning and density bonus 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, shown in Figure 3, local governments may be able to encourage even more housing to be built on the site.

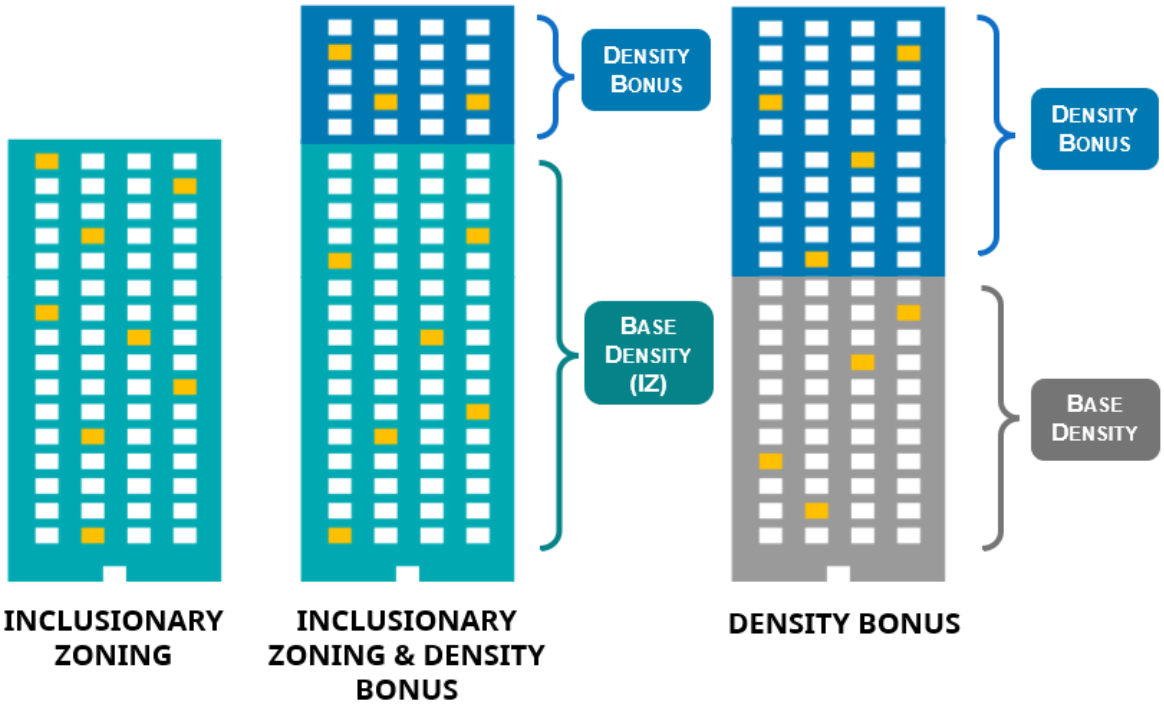

Figure 3: Examples of how IZ and DB work together in a development

2.4 How Inclusionary Zoning and Density Bonus work with other Provincial initiatives

Inclusionary zoning and density bonus are part of a broader toolkit that local governments can use to achieve their planning and financing objectives. The following section explains how inclusionary zoning and density bonus work alongside other tools, including: Proactive Planning (e.g. Housing Needs Reports, Official Community Plans and Zoning), Housing Targets, Transit-Oriented Development Areas, Small-Scale Multi-Unit Housing, Tenant Protection Bylaws, Amenity Cost Charges, Development Cost Charges, and Residential Rental Tenure Zoning.

2.5 Proactive Planning

Key proactive planning changes were made to the *LGA* and *Vancouver Charter* in November of 2023. These included updates to provisions related to housing needs reports (HNR), alignment of official community plans (OCPs) and zoning bylaws with HNRs, and changes to the public hearing process for housing projects.

As a result of the 2023 amendments, local governments are now required to update HNRs every five years, using a standardized method to calculate the total number of housing units their communities will need over the next 5 and 20 years. Municipalities are also required to update OCPs to include statements and map designations to meet anticipated housing needs over 20 years, as identified in their HNR, and to align their zoning bylaws with OCPs and HNRs to pre-zone for the total amount of housing their community needs.

Because proactive planning involves ensuring sufficient zoned capacity to accommodate long-term housing needs, local governments may wish to use inclusionary zoning and density bonus to help ensure a portion of any anticipated land value gains that result from increasing allowable building heights and densities benefit the community in the form of affordable housing.

Density bonus units must be excluded when determining the number of units needed to align zoning bylaws with the 20-year housing need, as identified in the most recent HNR. When aligning zoning bylaws with HNRs, only the base density should be included in the assessment of zoned capacity, as bonus density is optional and subject to conditions. Calculating zoned capacity using only the base density ensures that the analysis provides a more accurate and realistic understanding of the housing that can be most readily developed.

2.6 Housing Targets

The *Housing Supply Act* and *Housing Supply Regulation,* introduced in 2022, enabled the Province to set housing targets in municipalities with the greatest need and highest projected population growth. Municipalities issued Housing Target Orders (HTO) are required to build the number of units set out in their HTO and to report annually on progress and actions taken to meet the target. HTOs identify a total number of net new units to be built within a five-year period and include guidance on tenure, affordability, unit type, and supportive rental units. These categories are not requirements; however, municipalities are encouraged to strive toward meeting the unit breakdowns.

Inclusionary zoning and density bonus can be used by municipalities with HTOs to support housing diversity while meeting targets.

2.7 Transit-Oriented Development Areas

In Fall 2023, the Province amended the *LGA* and *Vancouver Charter* to establish transit-supportive densities adjacent to prescribed transit stations. Specifically, this legislation required 31 municipalities to designate Transit-Oriented Areas (TOAs) by June 30, 2024, within 800 metres of passenger rail stations (e.g., SkyTrain stations) and 400 metres of bus exchanges and West Coast Express stations that are listed in regulations.[31] The intent of these changes is to ensure that higher-density residential development and complete communities can be built near transit stations in British Columbia.

Parcels of land in TOAs that are zoned to permit residential as a primary use are subject to the minimum allowable density framework. This means that municipalities cannot reject rezoning applications based solely on density and height if the proposal is less than or equal to the density and height set out in the regulations[32] for the TOA. The TOA Policy Manual includes additional details on these policies.

Inclusionary Zoning can be applied to the Minimum Allowable Density

Inclusionary zoning provides local governments with a new tool to secure affordable housing in TOAs, where it can often be challenging for the non-profit sector to build affordable housing due to the high cost of land. Inclusionary zoning can be applied within or above the minimum allowable densities and heights set out in the regulations.[33] For example, where a site is subject to a minimum allowable density of 5 Floor Area Ratio (FAR) and height of 20-storeys, a local government could apply an IZ bylaw to require that a portion of the units provided within those minimums be affordable.

Local governments undertaking an inclusionary zoning financial feasibility analysis should ensure it includes an analysis of applicable TOAs and whether there could be opportunities to introduce an affordable housing requirement in areas where the minimum allowable density framework has increased development permissions. Implementing inclusionary zoning in TOAs is recommended as soon as possible to harness the value of the increased density before the most accessible and profitable sites undergo redevelopment.

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[31] Order in Council 678/2023 lists all the transit stations to which the legislation applies.
[32] Order in Council 674/2023 (*LGA*) and Order in Council 676/2023 (*Vancouver Charter*) establish the minimum allowable heights and densities that apply within different TOAs.
[33] *LGA* s. 482.7 (6) and *Vancouver Charter* s. 565.17 (6).

Density Bonusing can only be applied above the Minimum Allowable Densities

Rules have been established for how density bonusing can be used in TOAs, as of April 25, 2024.[34] By a date set by Lieutenant Governor in Council regulation, local governments must ensure density bonus bylaws comply with legislative amendments, including:

- Only applying density bonus on greater than the minimum allowable densities and heights set out in the regulations in TOAs.
- Density bonus can be used on densities higher than inclusionary zoning densities in TOAs, shown in Figure 4Figure 4 to maximize affordable housing outcomes, subject to applicable Provincial or Federal statutes.[35]

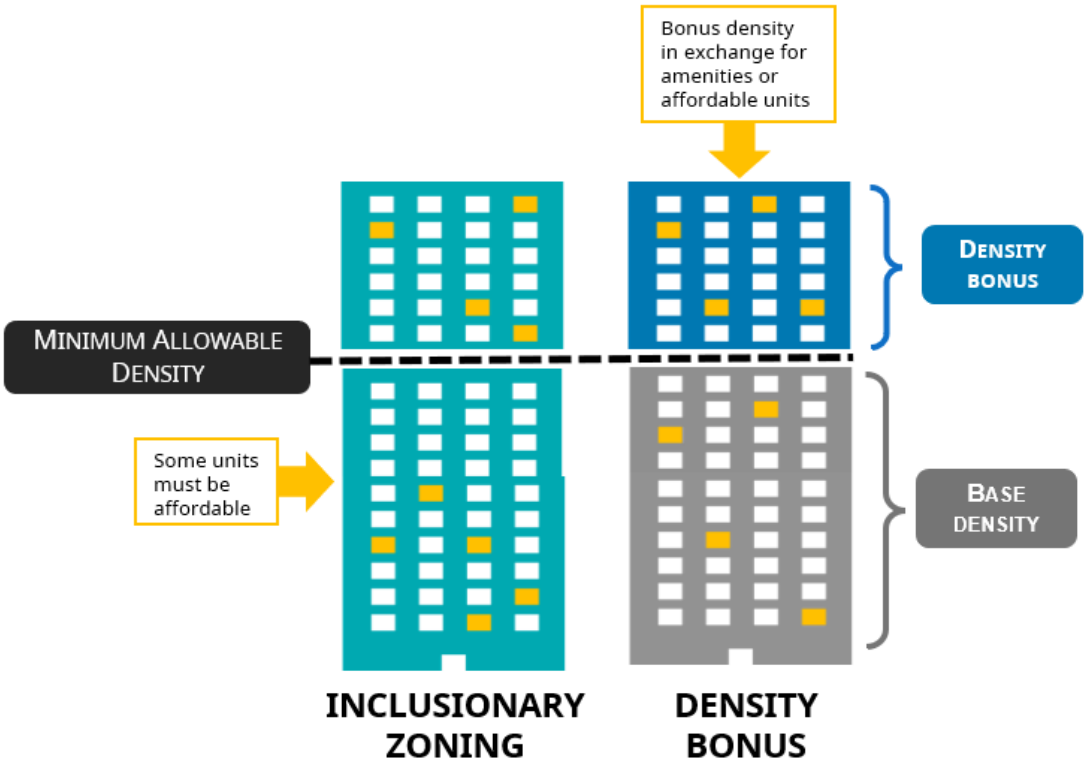


Figure 4: How IZ and DB work in TOAs

[34] *LGA* s. 482 (1.1) and *Vancouver Charter* s. 565.1 (1.1).
[35] For example, ALR, Airport Zoning Regulations under the *Aeronautics Act*, Federal Crown land, environmentally sensitive areas, as well as heritage designated objects and sites.

2.8 Small-Scale Multi-Unit Housing

Local governments were required to update their zoning bylaws by June 30, 2024, to permit small-scale multi-unit housing (SSMUH) development in areas that have previously been restricted to single detached houses or duplexes. In most urban areas, the new SSMUH zoning allows between three and six dwelling units per residential lot. Outside of urban areas, secondary suites and detached additional dwelling units are permitted almost everywhere in the province. These changes aim to increase housing density and permit a broader range of housing options (e.g., secondary suites, accessory dwelling units, townhouses, multiplexes) to support local governments in meeting their long-range (20-year) housing needs.

For more information please refer to the Provincial SSMUH Policy Manual.

SSMUH and Density Bonusing

Local governments may not apply density bonusing to achieve the minimum number of required housing units permitted by the SSMUH legislation.[36] There is an exception for lots where 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, shown in Figure 5.

Local governments may, however, use density bonusing to encourage additional units beyond the SSMUH minimum density requirements. The SSMUH legislation enables residential development on the scale of additional dwelling units and buildings with three, four or up to six units. Where a local government anticipates demand for the development of higher density than these minimums, a DB bylaw can be used to create affordable housing or amenities. A financial feasibility analysis will inform how much additional density would be needed to achieve meaningful contributions through the DB bylaw.

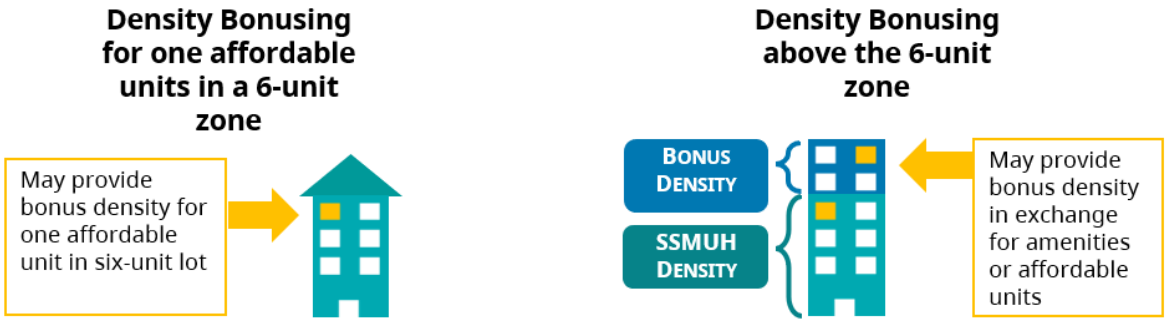


Figure 5: SSMUH and Density Bonus

[36] *LGA* s. 481.5 (1) to (4) and *Vancouver Charter* s. 565.05 (1) to (4).

SSMUH and Inclusionary Zoning

Local governments may apply inclusionary zoning in SSMUH zones if a financial feasibility analysis demonstrates that the affordable housing requirements under the IZ bylaw would not deter development. It should be noted that due to the low-density nature of SSMUH zones, inclusionary zoning may not be effective in providing affordable housing units in most contexts.

2.9 Tenant Protection Bylaws

Legislative changes to the *LGA* in 2024 provide municipalities with the authority to develop tenant protection bylaws (TPBs) that require owners to provide 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. Municipalities may adopt TPBs that require landowners (building owners) to provide the following to tenants being displaced due to redevelopment:

- notice or information with respect to a redevelopment or other matters as outlined in the TPB;
- financial compensation for the termination of tenancy agreements; and,
- financial and/or other assistance to find and relocate to comparable replacement units.

Local governments are encouraged to explore how TPBs can complement inclusionary zoning to protect tenants and maintain affordable housing when existing rental housing is redeveloped. For example, local governments can:

- Introduce bylaws that grant displaced tenants priority access to affordable units created through inclusionary zoning in a new development on the same site or another development by the same owner (e.g. Right of First Refusal). In cases where affordable units are provided off-site, developers may offer to relocate displaced tenants to these units prior to demolition, subject to an agreement (the off-site units agreement between the local government and developer).
- Consider aligning the definition of “affordable and special needs housing” in an IZ bylaw with the definition of a "comparable replacement unit" in TPBs.
- Tailor IZ bylaw requirements by area, site, and development type, allowing flexibility in integrating TPBs effectively.

While local governments can use IZ and DB bylaws alongside TPBs, they will need to consider the combined cost impacts of these requirements when assessing financial feasibility. When both TPBs and inclusionary zoning apply to a development site, their requirements should not be ‘cumulative.’ This means that developers should not be

required to fulfill the same obligations under both TPBs and inclusionary zoning for the same units.

For example, if a municipality's IZ bylaw requires 20 units to be affordable and the same municipality applies their TPB that requires 20 affordable units to be replaced in the new development, the developer should only be required to include 20 affordable units in the development. In such cases where IZ and TPB overlap, local governments may want to clarify which requirements apply to a specific development.

Combining TPBs and inclusionary zoning could complicate the development process for developers, making it more difficult to navigate. Additionally, overlapping requirements could negatively affect the financial feasibility of a project and may discourage development altogether. The Province intends on monitoring the impacts of both TPBs and inclusionary zoning implementation.

Please refer to the TPB Guidance for more information.

2.10 Amenity Cost Charges

In the fall of 2023, the Province introduced Amenity Cost Charges (ACCs), which is a development financing tool that allows local governments to collect fees for amenities such as community centres, recreation facilities, libraries, day cares, and public spaces. These amenities play a vital role in creating liveable, complete communities in areas experiencing growth. ACCs are intended to offset the capital costs associated with the increased need for local government services arising from development, while providing greater transparency and certainty to developers.

Importantly, section 570.4 of the *LGA* and section 523 I of the *Vancouver Charter* prevent local governments from imposing ACCs on affordable housing secured through an IZ bylaw. Local governments may also waive or reduce ACCs on the market component of a new residential development where an IZ bylaw applies.

The definition of ‘amenity’ for ACCs emphasizes public or publicly accessible amenities that provide benefits to the broader community. However, this definition applies only to the section (or ‘Division’) on ACCs in the *LGA*. For DB bylaws, there is no explicit definition of ‘amenity’, allowing flexibility. Local governments should seek their own legal advice when developing DB bylaws for amenities.

ACC Exemption for Inclusionary Zoning

Local governments are restricted from imposing ACCs on affordable units secured by inclusionary zoning[37], and are able to choose to reduce or waive ACCs on market units in the development.[38] Local governments may wish to review their objectives for offering financial assistance when considering waivers or reductions. Local governments should identify projects where development viability could be achieved through the delivery of ACC waivers or reductions.

Density Bonusing for Amenities Cannot Overlap with ACC Amenities

Local governments can use density bonusing to secure amenities, even on developments that are also subject to ACCs. However, density bonus cannot be used to secure an amenity already covered by an ACC. For example, if an amenity is listed in the local government's ACC bylaw, the local government cannot use density bonus to secure that same amenity.[39]

It is the responsibility of local governments to identify which amenities are eligible to be financed through ACCs and which are eligible to be provided under a DB bylaw respectively. A list of eligible amenities should be explicitly identified in a DB bylaw.

Examples of amenities that might be provided under a DB bylaw include:

- a childcare facility;
- a publicly accessible children's playground;
- a publicly accessible park(ette);
- a public plaza; and,
- a community garden.

[37] *LGA* s. 570.4 (1.1) and *Vancouver Charter s.* 523I (1.2).

[38] *LGA* s.570.6 (1) and *Vancouver Charter* s.523J (1).

[39] *LGA* s.482(2.1); *Vancouver Charter* s.565.1(2.1).

2.11 Development Cost Charges

Local governments may adopt Development Cost Charge (DCC) bylaws to impose fees on new developments, which fund the capital costs of infrastructure needed to service those new developments, such as sewage, water, and drainage systems; emergency response services and facilities (e.g. fire protection and police facilities); highways; solid waste and recycling facilities; and parkland.

DCC Exemptions and Reductions

Local governments may waive or reduce DCCs by bylaw for specific types of eligible developments including:

- non-profit rental housing, including supportive housing (outside of Vancouver only);
- for-profit affordable rental housing;
- a subdivision of small lots designed to achieve low greenhouse gas emissions; and,
- a development designed to have a low environmental impact.

Local governments can choose to amend existing DCC bylaws to waive or reduce DCCs for affordable housing created under a new IZ or DB bylaw.[40] This may help lower the project costs of the required affordable housing units to improve overall financial feasibility. However, local governments must consider the municipal revenue shortfall resulting from a DCC waiver and identify alternative ways to finance the infrastructure needed to service these new developments.

Local governments should also review and consider any TransLink and Regional DCCs that may be applicable, including any relevant waivers or reductions, when developing an IZ or DB bylaw.

[40] See *LGA* s. 563.

2.12 Residential Rental Tenure Zoning

In 2018, the Province amended the *LGA* and *Vancouver Charter* to provide local governments with the authority to zone for residential rental tenure (i.e., rental housing), and pass zoning bylaws that:

- require that new housing in residential areas be developed as rental units; and,
- ensure that existing areas of rental housing are preserved as such.

This rental zoning authority can only be used where multi-family residential use is a permitted use. Within these areas, local governments can:

- set different rules in relation to restricting the form of tenure of housing units for different zones and locations within a zone; and,
- require that a certain number, portion or percentage of housing units in a building be rental.

Local governments can apply rental zoning to parcels and areas where multi-family residential uses are permitted. This tool helps local governments preserve and protect existing rental housing and can promote a mix of rental and ownership housing options in new developments.

Both IZ and DB bylaws can be used on parcels and in areas with rental zoning. However, the different revenue potential of rental and strata developments must be carefully considered in the financial feasibility analysis of an IZ bylaw. Due to differences in development financing, strata developments are typically able to provide more affordable unit contributions compared to purpose-built rental projects.

Local governments should carefully analyze how IZ bylaws might affect the financial feasibility of market rental developments. They may adjust affordable housing requirements for rental projects (for instance, setting lower targets than for strata projects) to ensure both types of housing remain viable after applying inclusionary zoning. To further encourage rental housing, governments can use additional density bonuses beyond what inclusionary zoning allows, especially in areas where rental projects could face financial challenges. Local governments should also consider other incentives and supportive measures like reduced parking requirements and accelerated approvals to support the financial viability of rental projects where IZ is applied.

See Purpose-built rental information in subsection 0.

Chapter 3: Step-by-Step Guide to Bylaw Preparation

3. Step-by-Step Guide for Bylaw Development

This Chapter outlines an illustrative process for developing an IZ or DB bylaw, including the timing, best practices, and other considerations for each step as a draft bylaw is prepared. This chapter is provided as guidance only, and bylaws should be passed in compliance with the legislation, and upon receipt of legal advice.

The process of developing an IZ and DB bylaw includes two phases:

- **Phase 1: Bylaw Development**

  The first phase involves a thorough policy and technical analysis, including identifying community needs for affordable housing and/or amenities, determining required and optional bylaw content, consulting with affected parties, undertaking a financial feasibility analysis, and draft bylaw refinement. This phase is typically led by local government staff or a consultant and is guided by existing council or board-approved plans and policies. In some cases, council or board input on specific IZ or DB bylaws and policy inputs may be necessary during the development process.

- **Phase 2: Bylaw Approval**

  The second phase focuses on the decisions required to adopt the proposed IZ or DB bylaws within the local government.

The entire process is illustrated in Figure 6.

Phase 1: Develop a draft IZ or DB bylaw

Council or board provides direction to develop an IZ or DB bylaw. Bylaw development includes steps one through eight.

Step 1: Consider community needs

Consider OCP, zoning bylaw, HNRs and other plans or policies that identify the community's long-term housing and amenity needs. Consider early consultation with select affected parties.

Step 2: Perform a Financial Feasibility Analysis

Local governments must undertake an FFA to ensure that the bylaw is calibrated to local conditions and will not deter development.

Step 3: Consider bylaw elements for affordable housing

Local governments must determine the required content and consider optional bylaw content.

Step 4: Consider Density Bonus bylaw elements for amenities

Local governments have flexibility to determine amenities required as a condition of density bonusing.

Step 5: Consider alternative compliance options

Local governments can include an option in the bylaw for the developer to pay cash in-lieu of affordable units or provide them on a different site.

Step 6: Consider bylaw variances

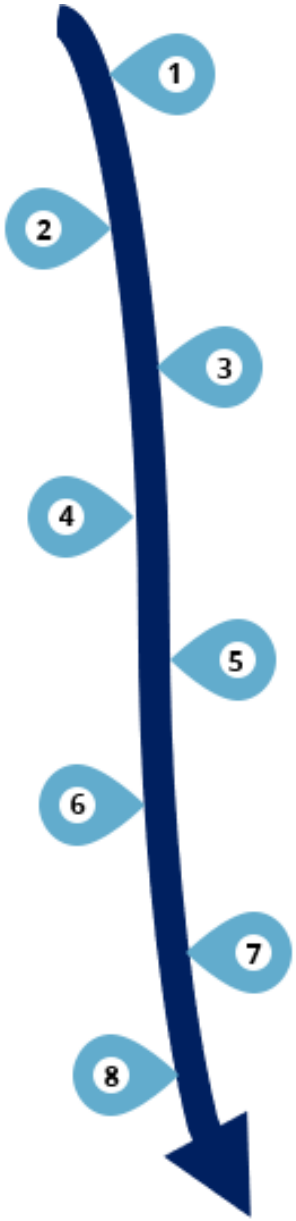
Local governments may vary IZ and DB bylaws requirements by location, unit type and size, building tenure, and construction materials.

Step 7: Consult with affected parties

Local governments must provide one or more consultation opportunities for parties they consider affected by the bylaw.

Step 8: Revise Draft Bylaw

Local governments should consider bylaw revisions based on consultation and analysis completed.



Phase 2: Adopt Bylaws

Local governments must conform to all relevant legal requirements when developing and adopting an IZ or DB bylaw.

Figure 6: Steps for developing an IZ or DB bylaw

3.1 Phase 1: Develop a draft IZ or DB bylaw

Step 1: Consider Community Needs

When developing a draft IZ or DB bylaw, local governments should ensure that the draft bylaw follows the statutory requirements set out in the *LGA*, *Vancouver Charter, Community Charter* and *Islands Trust Act* as appropriate and addresses any council or board direction on matters regarding affordable housing and amenities.

Local governments should consider undertaking early targeted consultation with affected groups, such as the development industry and non-profit housing sector. Input received early in the bylaw development process can help to inform the financial feasibility analysis undertaken in step 2.

The draft bylaw under preparation should be consistent with the new draft or current OCP and zoning bylaws, and other bylaws where relevant (e.g. ACCs, DCCs, TPBs) as well as address and respond to community needs for which the bylaw is being prepared.

Consider Housing Needs

Local governments should consider how IZ and DB bylaws will align with and support meeting a community's long term housing needs.

When developing an IZ bylaw, local governments must consider their community's most recent HNR. They are also encouraged to consider the HNR when developing a DB bylaw.

Consideration of HNRs help to ensure that the draft IZ and DB bylaws effectively address community-specific affordability and housing supply challenges. These reports identify a community's current and future housing needs through analyzing various factors influencing local housing demand and supply. These findings should inform the policy outcomes of the IZ or DB bylaw.[41] For instance, IZ or DB bylaws may support affordable housing for specific income groups that have been identified as having a specific need in the HNR. Please refer to the Housing Needs Report webpage for more information.

As a result of the 2023 amendments to the *LGA* and *Vancouver Charter*, municipalities must update their OCPs and zoning bylaws by December 31, 2025, to accommodate the 20-year number of housing units identified in their Interim HNR.

[41] [1] 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.

When municipalities proactively zone for sufficient housing capacity, only "base" as-of-right density[42] can be counted toward zoned capacity, and not the bonus density. Density bonus is considered optional because it provides the developer with the choice to build to a higher density, therefore it does not count towards meeting a community's long-term housing needs. As such, density bonus should be excluded from the zoned capacity calculations required to align zoning bylaws with HNRs.

Consider Amenity Needs

When developing a DB bylaw, local governments should consider their community's amenity needs, including:

- any ACC bylaws, to ensure that the draft DB bylaw does not double charge for the same amenity (see Chapter 2, section 2.10 for more information);
- OCPs, capital plans, local land use plans, and works and services bylaws that establish service standards and priorities for future development and upgrades; and,
- master plans and local land use plans that can detail inventories of existing amenities and identify any servicing gaps.

Step 2: Perform a Financial Feasibility Analysis

A financial feasibility analysis must be completed when developing or updating an IZ or a DB bylaw. This analysis helps determine whether the bylaw requirements are properly adjusted to local conditions and will not deter development.

For more information, please see Chapter 4: Financial Feasibility Analysis.

[42] As-of-right or "base" density refers to the buildable floor area permitted without requiring discretionary approvals from planning authorities.

Step 3: Consider Bylaw Elements for Affordable Housing

Bylaw Content Requirements

The following section outlines the required content for IZ and DB bylaws when securing affordable housing and provides best practices for each requirement for consideration.

IZ or DB bylaws securing affordable housing must include the following information:

A. the amount of affordable units, expressed as percentage of all housing units, and/or proportion of the GFA of the residential component of the development;

B. the tenure of the affordable units, such as rental or strata;

C. the affordability of the units, including the sales price or rent to be charged for the affordable units; and,

D. the length of time the affordable units must be maintained.

This information must be included in the IZ or DB bylaw to provide transparency and certainty for developers and the public.

A. Amount of Affordable Housing

Local governments must set out the amount of affordable housing to be provided under the IZ or DB bylaw. This can be expressed as the percentage of all housing units, and/or proportion of the GFA of the residential component of the development.

Establishing the appropriate amount of affordable housing is a key decision that local governments must make, because as the amount of affordable units increases, so does the financial impact on the development. This decision should be informed by the FFA, to ensure that projects will remain viable[43], while also providing affordable housing outcomes.

There is a trade-off between the amount of affordable housing and the affordability level (in terms of the extent to which rent or price is discounted from market). Requiring a higher amount of affordable housing in a development makes it more difficult to also provide deeper levels of affordability and still maintain a viable development.

Best practices for the amount of affordable housing

Local governments have a choice to set the amount of affordable housing units as percentage of all housing units, and/or proportion of the GFA of the residential component of the development.

[43] 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.

Setting the amount of affordable housing as a percentage of all housing units can create a high number of units, but they may be delivered as studios and 1 bedroom.

On the other hand, setting the amount of affordable housing as the proportion of GFA of the residential component of the development can support a lesser total amount of affordable units, but will enable larger family-friendly units (i.e., 2+ bedrooms).

A best practice for local governments is to require the greater of the percentage of all housing units or proportion of GFA. This may help to ensure that the developer is providing the intended amount of affordable housing units, and at the preferred size.

B. Tenure of the Affordable Units

The tenure of affordable units must be specified in the IZ bylaw, such as rental or ownership (e.g. strata) housing. It is recommended that local governments review their recent HNRs to understand the housing needs in their local community, including household incomes that are challenged to find affordable housing, as well as the tenure generally associated with that income level.

Providing affordable units as rental tenure supports long-term housing stability for lower income households in need of affordable housing. Rental housing is inherently more affordable than ownership housing because there is no requirement for a downpayment, or to qualify for a mortgage, and rental housing does not require the occupant to also pay strata maintenance fees, property taxes, home insurance, and other costs in addition to the mortgage payment.

While affordable home ownership units do not serve low-income households, these units can help moderate-income households in need of housing that is less expensive than market ownership while also helping them build equity. Tenure is important to define because it impacts the revenue and financial viability, as well as determines who owns the units and is responsible for fulfilling the housing agreement requirements. With substantial differences in the financial outcomes between rental and ownership tenure for the affordable units, clarity on the intent of which entity owns the unit and the tenure offered to the resident are critical.

Best practices for the tenure of affordable units

Providing the affordable housing units as rental tenure is the typical best practice. Affordable rental units typically respond to greater community need for supporting lower income households, while affordable homeownership units typically serve moderate- or high-income households by providing units at below-market and more attainable prices.

Where local governments identify a need for affordable ownership opportunities, there are several additional considerations to be aware of.

In the ownership tenure scenario, individual households purchase the affordable units from the developer and live in their unit. The initial purchase of affordable homeownership units is relatively straightforward, but ongoing monitoring of these housing agreements can be challenging.

Administrative challenges can arise with affordable ownership units, such as:

- ensuring that that the purchaser lives in the unit instead of renting it for profit;
- responding if people need to move and sell the affordable units; and,
- determining who enforces the housing agreement to ensure that the unit is sold at the affordable price (e.g. a prescribed percentage of market price), who benefits from any allowable appreciation of the unit, and who experiences a financial loss if the unit goes down in price.

The administrative challenges associated with affordable ownership can be avoided by having the affordable units owned by an organization that then retains a right of first refusal to buy back the units when the owner wishes to sell. This can be implemented similarly to how a housing cooperative manages unit turn over.

C. Affordability Level

The affordability level defines the maximum price point for the affordable rental (i.e. below market rent) and affordable ownership units (i.e. sale prices) achieved through the IZ or DB bylaw.

Best Practices for the Affordability Level

As addressed earlier in section A. **Amount of Affordable Housing**, there is a trade-off between the affordability level and the amount of affordable housing provided in a development. The greater the affordability level, the more difficult it is to also provide a higher number of affordable units and still maintain development viability. As a result, the more affordable the housing is to be, the fewer the number of units that can be obtained through inclusionary zoning or density bonus.

The community's HNR can help to inform the affordability level that is appropriate by identifying the local household incomes and the current rents and prices in the local housing market.

When aiming to achieve deeper levels of affordability, it is important to align these goals with existing provincial and federal funding programs and non-profit housing provider capacity. Non-profit housing providers are often best suited to operate subsidized housing and supportive housing.

After understanding the household incomes of potential residents of the affordable housing units, it is key to establish how the affordability level will be defined. The most common options are to base the affordability level on one of the following approaches:

1. **Benchmark approach**: a publicly available benchmark source;
2. **Income-based approach**: what is affordable for the average or median income; or,
3. **Market-based approach** (market prices): the affordability level for either affordable ownership or affordable rental can be based on any of these three methods.

1. Benchmark approach

The benchmark approach is an appropriate choice for affordable rental units. The most common source for the benchmark approach is the publicly available Canada Mortgage and Housing Corporation (CMHC) annual data for average market rent (AMR). An HNR will provide information on what proportion of AMR would be considered affordable to local household incomes in a specific community.

AMR represents rent levels in both new and existing structures, therefore, it is typically lower than what a tenant would pay when entering a new lease in the local housing market, and lower than the cost of a rental unit in a new building.

Commonly, 80 percent of AMR or lower is used when deeper affordability is intended. 100 per cent of AMR provides shallow affordability but may be able to generate more units.

Pros

- It is easier to gather data and easier to explain how the price is determined when using AMR.

Cons

- AMR is not directly related to the ability of the tenants to afford the unit.

2. Income-based approach

The income-based approach is appropriate for affordable rental housing units. It uses local household incomes and determines what would be affordable to certain income levels (e.g., the rent would be 30% of a specific household income level). This usually references household income deciles (from Statistics Canada) and aligns with a local government policy that targets affordability to specific income thresholds. Some local governments and funding programs use average or median income. Average or median income is easier data to gather; income deciles allow for a policy that is more targeted to specific incomes.

Another income-based approach is Rent Geared to Income (RGI), where the rents are calculated based on the income of the individual household. While this approach can offer deeper affordability, it can be challenging to achieve for a significant number of units unless there is an ongoing operating subsidy in place for the affordable housing units.

Pros

- Rent amount can be directly related to the ability of the tenants to afford the unit (e.g. the rent would be set at no more than 30% of a household income level).

Cons

- Incomes must be converted into rent amounts; and,
- Detailed income data (by decile) from Statistics Canada is only available every 5 years.

3. Market-based approach

A market-based approach gathers data on current rental and purchase prices and then applies a discount from those figures to determine the affordability level. Local governments may identify the discount from market prices needed to achieve affordability in the inclusionary or density bonus units. Market prices are the most difficult to determine accurately due to the variations in types of units, locations and common lack of statistically significant amounts of data. Market prices are also much more likely to change significantly within short periods of time than benchmark prices or income-based affordability levels.

Pros

- Rent or price amount directly related to the value of the market unit.
- This approach may be most suitable for units rented or sold at slightly below-market rates for moderate income households.

Cons

- Rent or price is not related to the ability of the tenants or purchasers to afford the unit.
- Is the most volatile measure, which could create uncertainty for both a developer's financial models and the operational forecasts of the operator of the units.

D. Duration of Affordability Requirements

Local governments must determine the length of time for which the affordability and IZ or DB bylaw requirements must be maintained. The longer the affordability of the units, the greater the benefit to the community.

The affordability duration is required to be secured through a housing agreement. The local government, the affordable unit owner(s) and the operator(s) of the affordable units need to plan for ongoing effort and costs to monitor and administer the units in compliance with the requirements in the housing agreement

The duration of the affordability should be tested through the financial feasibility analysis, since it has an impact on the development viability. As the duration increases, so does the financial cost of providing the affordable units.

Best practices for duration of affordability requirements

There are a number of options that local governments can consider, from shorter terms of 10 or 20 years to the greater of 60 years or the life of the building, or in perpetuity.

Longer affordability durations (e.g. the greater of 60 years or the life of the building) ensure that affordable housing is preserved for public benefit over the long term, regardless of unit turnover. Requiring affordable housing for the greater of 60 years or life of the building, or in perpetuity ensures that the community continues to benefit from the permanent increase in density that was provided through inclusionary zoning or density bonus.

On the other hand, shorter terms may be appropriate where there is more limited room identified through the financial feasibility analysis.

There are also administrative costs associated with longer durations of affordability.

Optional Bylaw Content

IZ and DB bylaws may also include additional requirements at the discretion of the local government, such as specifying the unit size (e.g. minimum GFA), type (e.g. 2+ bedroom units) and any ownership and operational requirements.

Unit size and type

Local governments can require that the affordable housing units be a minimum size (usually based on GFA) and/or have a specific number of bedrooms. The community's HNR may inform the need for different types and sizes of units.

These requirements can enhance the liveability and functionality of the affordable units, as well as support specific demographic groups, such as families with children and intergenerational households. Adding unit design requirements to a project that already has a proposed building design adds costs and may cause other design challenges. These costs rise dramatically if changes are introduced later in the project. It is best practice to align the size and design of the units with the needs of the housing operator at project

conception. It is often most efficient if the units match the size and configuration of market units, avoiding the need for costly customizations.

Ownership and Operational Considerations

IZ and DB bylaws can be designed to allow or require qualified organizations to take on key roles, including unit ownership, operations, and tenant selection. This flexible approach offers the greatest potential for achieving improved affordability outcomes, facilitating partnerships with nonprofit operators where needed, as well as ensuring the development project remains viable.

Different ownership and operational options include:

Transfer of Ownership

Refers to "turnkey units" which are transferred at low to no cost to a non-profit housing provider or municipal housing corporation to own and operate the units. These units may be most appropriate for deeply affordable units (e.g. income assistance rates or supportive housing units). The sale price could be based on affordable rents that can service a mortgage, ensuring the units become part of the permanently affordable housing stock. Turnkey units are likely not feasible in many contexts since they have higher financial cost to the developer, and a local government should use the financial feasibility analysis to test whether project viability is maintained.

Non-profit Operator

Local governments can require that the affordable housing units be operated by a non-profit organization. This may be appropriate when the affordable housing rental units provided are targeted towards a specific demographic group and tenants would benefit from specialized support services (e.g. people with disabilities, low-income seniors, or transitional housing units for women fleeing violence). In this case the local government should consider a bylaw that fosters collaboration between the private and non-profit sectors, leveraging the strengths of both – the developer's capacity to build housing and the non-profit's expertise in long-term affordability management and tenant supports.

Affordable Homeownership Administrator

The local government has the option to allow the ownership of the affordable housing units to be transferred to eligible purchasers. In this case it's recommended that there be a designated administrator of the units to ensure that the eligibility parameters are met at the time of sale, and upon resale.

No ownership or operational requirements

Local governments could not include any ownership or operational requirements in the bylaw. This provides the developer with the option to own the units and contract the operations to a qualified property manager or sell the affordable units. The obligations of the affordable units would be secured on title with a housing agreement, and would bind any future owners of the units (see section 5.4 Housing Agreements for IZ and DB Bylaws

for more information). This option may be most appropriate for units provided at slightly below market rates where there isn't a clear benefit in requiring a non-profit or municipal housing corporation to own and operate the units (e.g. units that are rented at 10% below market rents and do not target any specific demographic group).

Best Practices for Ownership and Operational Considerations

Local governments should consider:

Early Involvement of Non-Profits

Engage non-profits early in the process to foster collaboration between the private and non-profit sectors, using the strengths of both—the developer's capacity to build housing and the non-profit's expertise in long-term affordability management and tenant support. There is a diversity of nonprofit housing organizations in the Province. It is recommended that local governments consult with local nonprofit housing operators to understand their interest and capacity in partnering to support affordable units secured through IZ or DB bylaws.

Clear, Enforceable Housing Agreements

Create clear agreements that outline roles and responsibilities, allowing for oversight to maintain accountability and alignment with affordability goals. For more information, please refer to section 5.4 Housing Agreements.

Ownership Flexibility

Offer flexibility regarding who owns the affordable units, enabling developers to own units, or a non-profit or other purchase to own the units where preferred. The policy framework should clearly outline options for unit ownership, including municipal or non-profit ownership if desired.

Operational Considerations

A mix of ownership in a building (e.g. a market rental or strata owner and a nonprofit owner of a rental) may create some operational challenges that should be considered when developing an IZ or DB bylaw and/or when securing the affordability requirements in a housing agreement:

- ongoing standards and costs of maintenance;
- agreement on sharing combined costs (e.g., landscaping, snow removal, cleaning); and,
- timing and cost of major capital repairs and replacement.

Step 4: Consider Density Bonus Bylaw Elements for Amenities

Local governments may continue to use DB bylaws to obtain in kind amenities.

Local governments have the flexibility to determine the number, type, and extent of amenities that may be required as a condition of permitting additional density under a DB bylaw. The general intent is to encourage landowners to include amenities that enhance the functionality and livability of new residential buildings and communities for both residents and visitors.

While the legislative authority has not been amended when using density bonusing to secure amenities, there are new rules and restrictions. Local governments must:

- undertake consultation and a financial feasibility analysis when developing a DB bylaw;
- establish dedicated reserve funds for any cash in-lieu contributions for amenities; and,
- publish an annual report of the DB bylaw outcomes of the previous year, including in kind and cash in-lieu contributions.

Rules have been established for how density bonusing can be used in TOAs. Following a date to be prescribed by regulation, local governments must ensure that their existing density bonusing bylaws comply with TOA requirements:

- Local governments can only apply density bonusing on densities and heights greater than the minimum allowable densities and heights set out in regulations in TOAs.
- Local governments can stack density bonus higher than inclusionary zoning densities in TOAs, shown in Figure 4Figure 4 to maximize affordable housing outcomes. This is subject to applicable Provincial or Federal statutes[44] which may supersede or have a limiting effect on the minimum allowable density framework.

[44] There are several scenarios where municipal bylaw requirements and Federal or Provincial statutes are applicable, the provisions of which supersede or have a limiting effect on the MD Framework. For example, the Agricultural Land Reserve (ALR), the Airport Zoning Regulations under the Aeronautics Act, Federal Crown land, flood plains, hazard areas, riparian areas and other environmentally sensitive areas as well as heritage objects and sites that are subject to heritage designation, and heritage revitalization agreements.

Best Practices for Density Bonus Bylaws for Amenities

When determining amenity requirements under a DB bylaw, the following best practices should be considered to ensure effective and equitable amenity provision:

Accessible

As applicable, amenities should be accessible and accommodate residents of all physical and cognitive abilities. This includes features like accessible entranceways, and bathrooms, signage and wayfinding designed for the visually impaired, pool lifts, etc.

Separate from Basic Living Requirements

Amenities provided in exchange for additional density should go beyond basic building features such as laundry rooms, elevators, mailrooms, and lobbies, which are already expected in any new residential building.

Flexibility in Amenity Types

To ensure clarity of the intent of a DB bylaw, local governments should provide a clear list of potential amenities that may be provided or conserved in exchange for additional density, while allowing for flexibility to adapt to the specific needs of the community. The DB bylaw can also allow alternative amenities to be proposed by developers, subject to approval by the local government.

Proportional to Density

Local governments should ensure that the value of the amenity contribution in the DB bylaw is proportional to the value of the increased density being offered. Additionally, amenity requirements should be scaled with the size and density of the development, (expressed as a percentage of permitted residential GFA). For example, a building with 500 residential units should provide more amenities than one with 250 units (given that it has twice the demand and need for amenities). The quantity or extent of amenity required under the DB bylaw should therefore be proportional to the quantity of additional building density provided.

Step 5: Consider Alternative Compliance Options

There are two alternative compliance options for IZ and DB bylaws that local governments may choose to enable: off-site units, and cash in-lieu of in-kind affordable housing or amenity contributions. These options provide more flexibility for a developer to meet the bylaw requirements, rather than needing to build affordable housing units on the subject site when it may not be the best financial or operational option. Giving developers a range of options to follow with the bylaw helps avoid the risk of deterring new housing development and may also enhance affordable housing outcomes.

Option 1: Off-site Units

Local governments may include an option in an IZ or DB bylaw that gives the developer the option to provide the affordable housing units at a different location (also known as off-site development) instead of building them within the current development.

If the local government chooses to include this option within their IZ or DB bylaw, and a developer opts in to this option, both parties can enter into an agreement.

The agreement to transfer the units off-site must meet or exceed the bylaw's requirements, and must specify the following information:

- the parcel(s) of land where the affordable housing units will be located;
- who is to provide the affordable housing units on each parcel of land;
- when the affordable housing units are to be provided on each parcel; and,
- how the agreement to transfer the units off-site will meet or exceed the requirements established in the DB or IZ bylaw.

Who provides the units

The agreement to transfer the units offsite will need to specify who will build the units, who will own the units, and who will operate the units. Where conditions change and one or more of these actors must change, the agreement should either defer to, or replicate, the IZ or DB bylaw sections that enable transfer of these responsibilities between organizations.

Number of units to be provided

The best practice is to specify the amount of affordable housing to be provided offsite as the GFA (rather than total units to be provided).

When the affordable housing units are to be provided

When the affordable housing units are to be provided must encompass target calendar dates, and consideration of the development timelines for the subject site.

Agreements to transfer units off-site must meet or exceed the bylaw requirements. This alternative compliance option cannot lessen or relax the affordability requirements on an IZ or DB bylaw. If affordable housing units are delivered on a site separate from the development upon which DB or IZ bylaw requirements are imposed, then the affordability requirements must either be met or exceeded on the new site. For instance, this could mean that the same number of affordable units are provided but at a more discounted rent or purchase price.

It may be advantageous to both the developer and the local government to agree to have the affordable housing units provided offsite. For instance, when the cost of land is lower and there are less site/design constraints on the alternative site, as well as when the affordable housing units could be pooled from multiple sites into one standalone affordable housing building.

Some of the ways that offsite units can meet or exceed the bylaw requirements include, but are not limited to, providing:

- a greater number of affordable units or GFA;
- the affordable units in advance of the completion of the subject site, allowing an earlier move into the affordable units;
- larger units or additional family-sized units;
- deeper affordability that would enable a non-profit housing provider to acquire the entire block of units; and/or
- a location that has improved access to transit and other community amenities.

Option 2: Cash in-lieu

Local governments may choose to provide developers with the option to provide a cash payment ("cash in-lieu") instead of building all or some of the affordable housing or amenities on-site for both IZ and DB bylaws.[45] The collected funds are pooled together to be used for new affordable housing or amenities elsewhere in the community.

The cash in-lieu option may be preferred where only a small number of affordable housing units are required, because it's more expensive to operate on a per unit basis. In such cases, pooling the cash in-lieu funds from multiple projects enables a larger, more efficient project to be partially or fully funded from the funds in the reserve.

Where local governments give developers the cash in-lieu option, the bylaw must include:

- 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); and,
- the rate of the cash in-lieu payments (e.g. dollar value per square meter).

Cash collected through a DB or IZ bylaw for affordable housing or amenities must be put into dedicated reserve funds and can only be used to pay the capital costs for affordable housing or amenities (e.g. building, planning, engineering, legal, and interest costs).

There must be separate reserve funds for cash in-lieu secured by inclusionary zoning for affordable housing, density bonusing for affordable housing, and density bonusing for amenities.

The three cash in-lieu reserves are formally referred to as:

- a density benefits reserve fund for amenities;
- a density benefits reserve fund for affordable and special needs housing; and,
- an affordable and special needs housing reserve fund (for IZ).

The legislation includes limitations on how the reserve funds can be used, which are fully discussed in Chapter 5: Bylaw Administration.

[45] For IZ bylaws, see *LGA* s.482.91 and *Vancouver Charter* s.565.91. For DB bylaws, see *LGA* s.482.3 and *Vancouver Charter* s.565.13.

Policy Considerations and Best Practices for cash in-lieu

Calculating the amount of cash in-lieu for affordable housing

Local governments can determine the method[46] for estimating the capital costs and setting the monetary payment rate amounts. Capital costs include those related to providing, constructing, altering, or expanding affordable housing (e.g. building, planning, engineering, legal, and interest costs).

Local governments should use the financial feasibility analysis to consider whether the cash in-lieu rate impacts the project viability and should seek their own legal advice as they develop their IZ or DB bylaws.

It is a best practice for the cash in-lieu rates to be expressed in dollars per square metre (or foot) and be applied against the affordable housing GFA requirements in the bylaw. Expressing the dollars per square metre (or foot) ensures that the value received reflects the value of the density offsets provided by the bylaw. Expressing the rate as dollars per unit may be less effective, since the number of units will vary significantly from one development to the next.

[46] *LGA* s.482.91 and *Vancouver Charter* s.565.13.

Step 6: Consider Bylaw Variances

Local government can vary the bylaw to tailor requirements to best suit local conditions, such as varying requirements by location (e.g. area or parcel), or the development's type, size, tenure and construction materials.

Varying bylaw requirements based on different circumstances provides flexibility to establish rules that work for different contexts and helps to mitigate risks that the bylaw would deter development. As such, local governments should use the financial feasibility analysis and consultation with developers to ensure that the variances are effective and will not impact development viability.

While varying bylaw requirements are important for ensuring effectiveness, each variance adds complexity to the bylaw(s) and maintaining agreements.

Location (Area- and Site-Specific)

Local market conditions vary between communities, as well as within areas in a community. Therefore, local governments can tailor IZ or DB bylaw requirements by area and parcels. However, even with this variation authority, there may still be large, unique, or complex parcels where site-specific bylaw requirements or rezoning negotiations may still be appropriate.

Local governments should use the financial feasibility analysis to test bylaw requirements in multiple market areas to ensure that the bylaw will be effective in delivering both new housing supply and new affordable units. One consideration is aligning IZ or DB bylaw areas with major residential, geographic, or urban planning boundaries.

Construction Materials

The legislation enables local governments to vary IZ and DB bylaw requirements by construction material.

The choice of construction material – specifically, wood versus concrete – has a major impact on project costs, influencing the capacity for IZ and DB contributions.[47] The financial feasibility analysis may suggest that there is more or less opportunity for inclusionary zoning or density bonus contributions from projects that use a specific type of construction material.

Wood Construction

Local governments should test wood frame construction potential in their local market and in different areas in their community. Wood frame construction is typically less expensive than concrete, and in some market areas could be effective in providing

[47] Encapsulated mass timber is an emerging construction type that may need to be addressed differently than concrete or wood frame buildings when developing IZ and DB bylaws.

affordable housing units or amenity contributions through an IZ or DB bylaw. However, wood construction is limited in height by the BC Building Code, resulting in less opportunity to provide density increases to offset the costs of providing affordable housing or amenity contributions.

Concrete Construction

While concrete construction enables larger and taller buildings than wood frame developments, the cost of construction is typically much higher. Local governments should test the viability of concrete developments in their local housing market and within different areas to identify where an IZ or DB bylaw could be most effective and would not deter development.

In large urban areas, where concrete construction is financially viable, significant increases in height and density are feasible and density is valuable, so adding density can generate significant financial support for more affordable housing. However, in smaller markets, where strata prices and rents do not support high density construction and extra density has relatively low value, the amount of affordable housing that can be supported is therefore comparatively more limited.

Tenure of the Building

Local governments can vary the IZ and DB bylaw requirements based on the tenure of the building, which is most commonly either purpose-built rental, strata or freehold buildings. The tenure of the building affects the ability of the developer to afford to provide the affordable housing units and, therefore, should be considered in the FFA. Below is an overview of how IZ and DB bylaws interact with the three primary types of development: strata, purpose-built rental, and freehold.

Local governments should use the financial feasibility analysis to inform and set different affordability requirements for purpose-built rentals and strata developments. By considering tenure and its effect on financial dynamics, local governments can design their IZ and DB bylaws to maximize affordable housing contributions while ensuring the viability of new developments.

Purpose-built rental

Purpose-built rentals are built expressly for providing long term rental housing for tenants. As they age, purpose-built rentals tend to become more affordable and play a critical role in meeting housing needs in a community.

Local governments should test the viability of purpose-built rental developments in delivering affordable housing units or amenities through an IZ or DB bylaw. Due to development economics, purpose-built rental projects typically deliver fewer affordable housing units or amenities, compared to strata developments. At the same time, it may be

operationally easier to integrate market rental and affordable rental in the same building than to integrate market strata and affordable rental in the same building.

Local governments should use the financial feasibility analysis to assess what purpose-built rental projects in their communities (or areas/parcels within their communities) can provide, while still maintaining a viable development. To further encourage rental housing, governments can use additional density bonuses beyond what inclusionary zoning allows, especially in areas where rental projects would otherwise face financial challenges. Local governments should also consider other incentives and supportive measures like reduced parking requirements and accelerated approvals to support the financial viability of rental projects where IZ is applied.

Considerations for preventing the conversion of rental to ownership:

Should a local government decide that IZ or DB bylaw should not be applied to rental projects, it will be important to ensure that these buildings cannot be converted to ownership after construction. It would be against the intent of the bylaw(s) to exempt the project because it is a new rental, and then have it benefit from the sale of the units.

Strata (ownership)

Multi-residential strata developments projects typically have the potential to generate higher upfront revenues than purpose-built rentals and freehold tenure projects. The higher revenues generated from market-rate strata units can help offset the revenue losses incurred by including affordable housing units.

Low Density Freehold

Freehold (or fee-simple) developments are typically low-density detached and semi-detached developments and rarely suitable for IZ or DB bylaws. Their limited scale and lower density make them less suitable for creating significant community benefits, such as affordable housing or amenities.

Project Size Thresholds

Local governments may vary IZ and DB bylaws by the building size[48], and establish a minimum project size or the threshold at which they apply. A local government may also use a project threshold to establish different requirements by project size, such as providing an option for projects below a certain size threshold to provide cash in-lieu of affordable housing units or amenities. While setting a minimum project size is not required, it can help to improve bylaw effectiveness and ensure that the bylaw does not deter development. Local governments can use the financial feasibility analysis to understand the amount of affordable housing that can be secured (i.e. as the percentage of all housing units, and/or proportion of the GFA of the residential component of the development). This will help to inform a potential project size threshold, under which an IZ or DB bylaw would not apply, or cash in-lieu would be accepted.

Distribution of affordable housing units throughout a building

Local governments may consider the financial impact of affordable housing units that are either scattered throughout the building or provided as a larger block of units in a specific area or floor(s) of the building (see Figure 7). Managing a scattered portfolio of affordable housing units is more operationally expensive compared to managing larger blocks of units. There is a diversity of operators (private and non-profit), who specialize in managing scattered or blocks of units. Local governments can help to support implementation of IZ and DB bylaws by facilitating partnerships between developers and affordable housing operators.

Figure 7: Affordable housing distribution in a building

[48] *LGA* s.479 (1) (c) (iii) (A) allows local governments to regulate the siting, size, and dimensions of buildings and structures by bylaw. See *Vancouver Charter* s.565 (1) (d) for a parallel authority.

Step 7: Consult with Affected Parties

When developing an IZ or DB bylaw, local governments must consult with affected parties. Information gathered through these consultations should directly inform the draft bylaw. This can be done by identifying key issues, assessing the feasibility of proposed measures, and aligning the bylaw's objectives with community and stakeholder priorities.

Local governments are responsible for determining which persons, public authorities, and organizations to consult with on the draft bylaw, as well as deciding on the best approach for consulting with these groups. Note that consultation is not required if a local government is repealing an IZ or DB bylaw.

Consultation should be guided by an engagement strategy that is developed at the outset of the bylaw development process. The strategy should outline who will be consulted, the consultation methods, and how stakeholder input will inform the development of the draft bylaw.

Identifying affected parties

Local governments should specifically consider consulting with the following groups, among others.

Development Industry

Engaging developers early in the process of bylaw development allows for practical feedback on feasibility, financial implications, and market dynamics. Their input is critical in designing bylaws that balance affordability requirements with development viability. It also helps to create buy-in to bylaws early and to ensure that the financial analysis is perceived to be fair and representative of the local housing development environment.

Non-profit Housing Providers

Engaging non-profit housing providers allows local governments to gain valuable insights into addressing deeper levels of affordability, operational considerations for long-term housing management, as well as how to shape bylaws to support demographic groups in need of affordable housing. Engagement before the financial feasibility analysis ensures that the implications of deeper affordability, alignment of opportunities with funding programs, or specific operational requirements are understood. They need to be consulted particularly when the bylaw includes a requirement for the affordable units to be owned or operated by a non-profit, to ensure the local non-profit sector has the capacity and willingness to do so.

Neighbouring Local Governments

Collaboration with other neighbouring municipalities and Regional Districts ensures regional alignment in housing strategies. Engagement with neighbouring local governments can occur at any time during the process of developing the bylaw(s).

First Nations and Indigenous Peoples

Engagement and consultation with First Nations, Indigenous Peoples, and Indigenous non-profit providers can support a greater understanding of First Nations and Indigenous Peoples' housing priorities across the province, including locally and regionally, while supporting bylaws to be responsive to these priorities in a culturally appropriate way.

For more information, please refer to the following Provincial resources for:

- Consulting with First Nations;
- Local government and First Nations relations - Province of British Columbia;
- Distinctions-Based Approach Primer; and,
- Relationship building with Indigenous Peoples.

Public

Broader consultation on housing needs have likely already taken place with the public and/or community groups during the development of an HNR and/or updating an OCP. This should be used to inform the development of the IZ or DB bylaw.

Property owners may also be affected by a new or amended IZ or DB bylaw and may be consulted as the draft bylaw is being developed.

Engaging residents fosters transparency and openness, ensuring that the bylaw reflects community priorities (e.g. affordability) and inclusive development practices. Wider public engagement about the draft bylaw can create awareness of the intent of the bylaw before it is brought to council or board for consideration at a public meeting.

To ensure a diverse range of voices are engaged, care should be taken to ensure any public engagement intentionally involves equity-seeking groups and those in need of affordable housing.

Step 8: Revise Draft Bylaws

Based on the analysis undertaken and input received during the bylaw development phase, local government staff can revise the draft bylaw as necessary. The revised draft can then be submitted to the council/board for further consideration, progressing through second and third readings.

3.2 Phase 2: Adopt bylaws

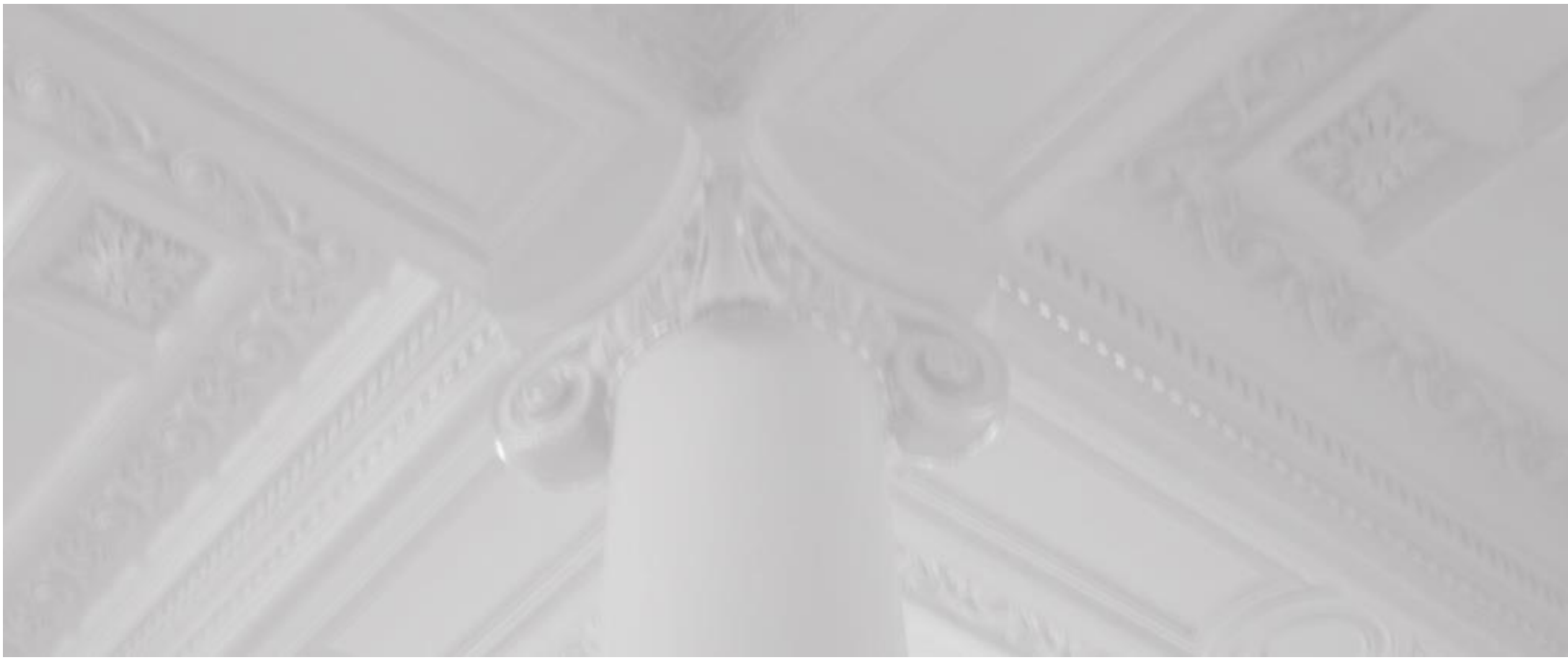
Local governments must follow all applicable legal requirements when developing and adopting an IZ and DB bylaw.

Local governments are encouraged to present a draft of the IZ or DB bylaw to the council or board along with the findings of the background research, consultation to date and the FFA. The draft bylaw can be revised based on initial direction and then be submitted to the council or board for further consideration, progressing through second and third readings.

No public hearing is required for the adoption of an IZ or DB bylaw if there is an OCP in effect for the area where the IZ and/or DB bylaw applies, and those proposed bylaws are consistent with that OCP.

The IZ or DB bylaw must be reviewed and approved by the council or board in an open meeting to ensure transparency and public accountability. Once adopted, the IZ or DB bylaw comes into effect.

For more information on the bylaw adoption process for local governments, please refer to the local government bylaw adoption process website.



Chapter 4: Financial Feasibility Analysis

4. Financial Feasibility Analysis

A financial feasibility analysis (FFA) must be completed when developing or updating an IZ or a DB bylaw. This analysis helps ensure that the bylaw requirements (e.g. the amount of affordable housing and level of affordability) are properly tailored to local market conditions. The purpose of an FFA is to help determine how much affordable housing or amenities can reasonably be required under an IZ or DB bylaw while maintaining the financial viability[49] of development projects. For IZ the FFA ensures that the affordability requirements in the bylaw will not deter development.[50] Since DB is an incentive (and not a requirement like IZ), the FFA does not need to consider whether the DB bylaw would deter development.

The following chapter provides a high-level overview of the legislative requirements, suggested process and preferred skills for undertaking an FFA, as well as methodological options and considerations. This overview does not provide a detailed step by step guide for undertaking the FFA, since it is recommended that only professionals with the preferred skills undertake this technical work (See section 4.3 for more information).

4.1 Legislative Requirements

Local governments must account for certain factors and considerations when undertaking an FFA. This is to understand what is financially viable for projects to provide within their local context.

The scope of the FFA for an IZ bylaw[51] must account for:

- local housing market conditions;
- the costs of residential construction;
- the degree to which different factors affect the project feasibility;
- the amount of density needed to ensure the feasibility of constructing the affordable housing units and not deter development; and,
- any other prescribed matters or information.

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

[50] 'Deter' means that the bylaw requirements would result in most of the properties intended to be development candidates in the foreseeable future being non-viable for development at the time the FFA is completed.

[51] *LGA* s. 482.9 (2) and *Vancouver Charter* s. 565.19 (2).

The scope of the FFA for a DB bylaw[52] must account for:

- local housing market conditions;
- the costs of residential construction;
- the degree to which different factors affect the feasibility of meeting the proposed bylaws requirements;
- the amount of density needed to offset the costs of the required contributions; and,
- any other prescribed matters or information.

It is important for the FFA to also consider how specific factors affect financial feasibility for affordable housing, including:

- the ownership and operation of the units;
- the number of bedrooms in the units;
- the duration of the housing agreement;
- the tenure of the affordable housing; and,
- the affordability level of the units.

The FFA will typically consider more options than what is included in the bylaw, as it evaluates different scenarios and variables to determine what bylaw components are most appropriate for local market areas.

Some examples of why multiple scenarios can be modelled include:

- assessing multiple amounts of affordable housing units required, affordable rental rates, and affordability levels is key to finding the right balance. The FFA may find that deeply affordable units (e.g. at the disability assistance shelter rate) are not financially viable or would not generate enough units to be practical within the market areas; and,
- assessing the costs of different construction materials and built forms, will help identify where there is enough financial potential to support IZ or DB contributions within one or more of the market areas.

If requested, local governments must make the considerations, information and analysis used to adopt or amend a bylaw available to the public. Any information respecting the contemplated acquisition costs of specific properties does not need to be provided.

[52] *LGA* s. 482.2 (2) and *Vancouver Charter* s. 565.12 (2).

4.2 Analysis Outputs

The main outputs of an FFA for an IZ bylaw are the density needed to make the required affordable housing requirements financially viable or, alternatively, the affordable housing requirement that is viable at a given total project density.

The main outputs of an FFA for a DB bylaw are whether the value created by the bonus density can offset the cost of delivering the required amenities or affordable housing or whether additional bonus density is required to offset the contributions.

Other important outputs from the analysis are data that can be used to establish cash in-lieu rates for contributions.

Density Requirements

Density is commonly measured as either GFA which is a fixed amount of developable area, or floor area ratio (FAR) which is a relative measure that shows the total building area as a multiple of the site area.

For IZ bylaws, the FFA calculates the:

- affordable housing requirements that are viable at a given total project density; or,
- total project density (GFA or FAR) needed to make development viable with the affordable housing requirements of the bylaw.

Once the analysis identifies the required minimum total project density in the IZ bylaw, the local government must decide how much additional density is required in different areas. The amount of additional density should align with broader planning goals, including the OCP, and the HNR, to ensure that IZ bylaws fit within the community's long term growth management framework.

For DB bylaws**,** the FFA identifies:

- whether development is likely financially viable at the assumed base density in the bylaw in the absence of bonus density and in the absence of meeting any DB bylaw requirements for amenities or affordable housing;
- the land value created by any bonus density over a specified base density; and,
- the amount of bonus density needed to offset the cost of the amenity or affordable housing bylaw requirements to ensure utilizing the bonus density is financially viable.

Density bonus calculations differ from the IZ analysis because they focus on the value of the voluntary extra density granted beyond the as-of-right permissions and the cost of amenities required in return for the extra bonus density.

Once the analysis identifies the required bonus density to support the amenity or affordable contributions, it is up to local governments to determine how much bonus

density to offer in different areas. These decisions should be guided by local priorities, community benefit goals and broader planning frameworks.

By clearly outlining the density thresholds for IZ and DB bylaws, the FFA ensures that these bylaws are grounded in market realities while supporting local housing and community goals.

Cash in-lieu Rates for Affordable Housing

The cash in-lieu amount is based on the same estimated costs that the developer would otherwise incur to meet the IZ or DB conditions.

The intent is to provide local governments with flexibility to determine the methodology for setting the cash in-lieu rates, which should be based on the estimated capital costs of providing the affordable units.

Cash in-lieu Rates for Amenities

The cash in-lieu amount for amenities has the same requirement as for affordable housing - that the amount is based on the estimated capital costs that the developer would otherwise incur. The local government will likely need to undertake analysis to evaluate the current expected costs of the types of amenities that will be part of their DB bylaw. This may be a separate analysis to the FFA since isolating the costs of a suite of specific types of amenities is likely out of scope for a residential development financial analysis.

4.3 Recommended skills to perform an FFA

Conducting an FFA for IZ and DB bylaws can be complicated and may require specialized expertise to ensure the analysis is thorough and provides a clear foundation for the bylaw's development. It is recommended that local governments collaborate with the right set of professionals, whether internally or externally. This is to create bylaws that are practical and effective in increasing the affordable housing supply or amenities needed in a community, without affecting the viability of the development.

Key skills that are recommended for performing an FFA for IZ or DB bylaws include:

- **Valuation Expertise:** Ability to assess the value of existing uses.
- **Market Analysis:** Ability to assess current property ownership and rental market prices and identify market variability within a municipality.
- **Development Knowledge:** Ability to understand common residential development costs and revenue assumptions, their sources, and usage.
- **Prototypical Development Modelling:** Familiarity with standard residential development types and how they are applicable to IZ or DB bylaws.
- **Land Use Planning:** Ability to identify areas within a municipality where IZ or DB bylaws could be effectively applied.

- **Land Value Analysis:** Ability to analyze land values for theoretical residential developments to evaluate the effect of IZ or DB bylaws across multiple scenarios.

These skills are typically found among professional land economists and some land use planning or engineering professionals. Early involvement with these professionals is critical to the success of the FFA.

4.4 Hypothetical FFA Process

The following provides a snapshot of a potential FFA process from start to finish, noting that the process will likely vary by local context.

FFA Process Overview

1. **Receive direction from council or board** to analyze the financial impact of proposed IZ or DB bylaws and bring recommendations forward for consideration.
2. **Create a local government project team** by identifying the right professionals to perform the FFA analysis, either internally or externally
3. **Decide on what scenarios will be examined** in the FFA, including baseline housing market data, the policy assumptions such as testing a range of affordability levels and amounts of affordable housing units required, and the types of potential development sites that should be included in the FFA.
4. **Validate the housing market data and policy assumptions**, plus the scenarios that will be tested with industry. Gather feedback from the development and non-profit housing sectors on the support and opposition for various options.
5. **Perform the FFA**.
6. **Review the FFA preliminary results** and adjust the market assumptions or potential bylaw options to best align with the market realities and desired bylaw objectives. Potentially eliminate some scenarios or bylaw options.
7. **Consider consulting on preliminary FFA results with local developers** in order to receive feedback on the range of bylaw options for consideration and opportunities for sensitivity testing.
8. **Finalize the FFA,** which will include a range of bylaw options that will have higher and lower financial risk, and stronger and weaker alignment with the desired outcomes.
9. **Select the recommended options**, or suite of options to inform the draft bylaw.

4.5 Potential Methodologies

Local governments may determine what methodological approach to use for the FFA, if it meets the legislative requirements. The FFA helps local governments balance the need for affordable housing and local amenities with the financial viability of residential development.

Specifically, the FFA assesses whether enough additional density is provided under the draft bylaw to offset the costs to the developer for providing the affordable housing or amenities. If there is not enough additional density provided developers may not proceed with new projects, which could limit both market and affordable housing growth.

An FFA is a point-in-time analysis that provides a snapshot of the housing development context and representative market(s) at a specific point in time. It is a best practice to refresh the analysis periodically to understand changes in the local residential development industry and how the IZ or DB bylaw requirements should be adjusted to respond to these changes.

There are two common methodologies that can be used for the FFA (other methods could be considered as long as the legislative requirements are met):

- Residual land value analysis; and,
- Analysis of expected development profit.

Residual Land Value Method

Residual land value method (RLV) is a common technique used to estimate the land value of a site, which is based on the estimated revenues from the completed project and the estimated development costs (excluding land costs).

It includes the following steps:

- estimate the likely value of the completed project;
- deduct all of the estimated development costs (except for the land cost);
- deduct a target profit margin; and,
- calculate the land residual (i.e. completed value, less costs, less profit).

The land residual is the maximum that a developer can afford to pay for the site and earn the target profit margin. As a check, the FFA could compare the results of the RLV analysis with recent sales prices of development sites (if development site sales evidence is available) to ensure the RLV results are consistent with market land value evidence.

If the residual land value estimate is approximately equal to or higher than the current market value of the property[53], then this indicates the site is financially viable for development under the proposed bylaw density.

Density increases can raise the residual value by boosting revenues and offsetting the costs of providing affordable units or amenities. If the residual land value is significantly lower than the current market value of the property under its existing use and zoning, then it can be assumed that the site is not viable for development under the proposed bylaw density.

As shown in Figure 8: Residual land value created with increased densityFigure 8, this example site has received an increased bonus density, so it can build more units. In exchange, the development can provide a certain number of affordable units. The figure also shows how development costs (e.g., hard costs, soft costs, and profit margins) increase as density increases.

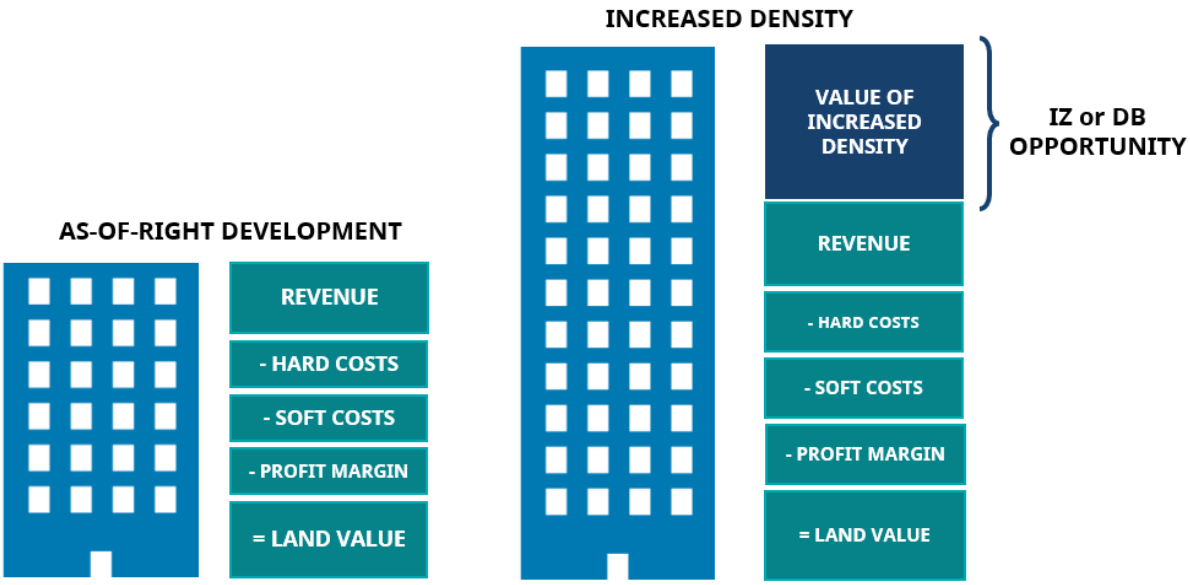


Figure 8: Residual land value created with increased density

[53] The current market value of a site is the higher of the land value supported by the existing zoning and the value supported by the existing use (e.g. the net income generated by a rental or commercial building or the value of an existing residence).

Estimated Profit Model

A similar methodology to RLV is to estimate the profit that would likely be realized by a new project if the land acquisition cost is equal to the current market value of the property under its existing use and existing zoning. This method focuses on examining the potential profit to determine project viability.

It includes the following steps:

- estimate the likely value of the completed project;
- deduct the assumed land acquisition cost (i.e. the existing market value of the property under current use and zoning);
- deduct all the other estimated development costs; and,
- calculate the profit (completed value less land costs less development costs).

If a development scenario achieves the target profit margin, then it would be considered financially viable.

The FFA methodology is not prescribed by legislation, and local governments can determine the most appropriate method, such as the RLV method, the estimated profit method or both.

4.6 Key Variables

A comprehensive FFA includes many variables, including:

Housing development variables

These variables are largely outside of the influence of a local government, though assumptions on how optimistic or pessimistic trends in these variables are viewed will influence the results of the FFA. There are several housing development variables that must be considered in the FFA as per legislation[54], however an FFA may also include additional variables for consideration as appropriate; and,

Bylaw input variables

These variables include policy decisions and considerations of the local government. The FFA can consider the draft bylaw content that is required and optional as per legislation.[55]

[54] As per *LGA* s.482.2 (2), 482.9(2), *Vancouver Charter* s.565.12 (2), s.565.19 (2).
[55] As per *LGA* s.472.7 (1-4), s.482 (2.2-2.5); *Vancouver Charter* s.565.17(1-4); s.565.1 (2.2-2.5).

Housing Development Inputs and Assumptions

An FFA relies on a range of inputs and assumptions to provide accurate and reliable results. These inputs form the foundation for assessing the viability of IZ or DB bylaws and should reflect the most recent market data available and follow established industry standards. While these elements should be clearly expressed in the analysis, many will not be included in the eventual IZ or DB bylaw.

These inputs represent some of the cost and revenue assumptions that guide an FFA and should be derived from currently available data. Local governments will want to seek their own advice on what should be considered, including but not limited to:

- hard construction costs for buildings made of different material types (e.g., wood vs. concrete);
- soft development costs such as engineering, architecture, construction management, municipal fees, and financing costs;
- market value of land: the current value of the land under its existing use and zoning;
- property taxes and interest rates;
- market sale prices and rents: strata unit sale prices and rental rates; and,
- market capitalization rates.

Key assumptions in an FFA that could rely on existing industry standards and practices include:

- **net to gross saleable/rental floor area:** the analysis will need to be based on realistic assumptions about the net to GFA of new buildings.
- **financing assumptions:** about mortgage size (loan to cost ratio), interest rates, and amortization periods based on government housing programs and industry lending practices;
- **discount rate:** used to determine the present value of future cash flows for comparison with current costs of construction; and,
- **cost contingencies**: a buffer for unexpected expenses.

By clearly outlining these housing development inputs and assumptions, the FFA provides a framework for evaluating the feasibility of IZ and DB bylaws.

Bylaw Input Variables and Assumptions

There are several bylaw input variables[56] that must be tested through the FFA, including:

- Amount of affordable housing units or floor area, which specifies the percentage of all housing units, and/or proportion of the GFA of the residential component of the development.
- Level and duration of affordability, which defines the affordability levels (i.e. sales or rental prices) and the duration for which units must remain affordable. The depth of affordability is usually expressed as a proportion of local rents or prices (e.g. 80 per cent of Average Market Rent by bedroom type).
- Housing tenure, such as rental or ownership tenure.
- Requirements regarding ownership and operations, or the number of bedrooms of the affordable units (if any).

Please refer to Chapters 2 and 3 for more detailed information about optional and required bylaw content, including:

The following key policy considerations are the major decisions that must be made to undertake the FFA and develop the IZ or DB bylaw:

- Is there a preferred tenure for the affordable units?
- Is there a preferred option for ownership of the affordable units?
- Will incentives be provided or included in the FFA (e.g. parking reductions, capital grants, or waivers of planning and development fees and charges)?
- What is the target demographic or depth of affordability for the affordable housing, including the maximum permitted rents?
- Will consideration of purpose-built rental projects be included in the analysis or bylaw?
- How will affordable unit rents or prices be regulated over time?
- How long will affordability be secured?

[56] *LGA* s. 482.2 (2)(c), 482.9 (2)(c), and *Vancouver Charter* s. 565.12 (2)(c), s. 565.19 (2)(c).

4.7 Factors Affecting Financial Feasibility

Financial feasibility in development projects depends on various cost and revenue factors, outlined below. These factors help to determine whether a project can generate enough profit to meet the minimum required returns for developers and lenders.

Development Revenues

Development revenues are influenced by many factors such as project density, zoning parameters, transit access, the amount of affordable housing, project location, the tenure of the units and other factors.

Project Density

The density of a project directly affects both revenues and costs. Higher development density generally leads to more saleable or leasable floor area, which increases revenues. However, there is a tradeoff: as floor area increases, so do the construction costs.

In the context of IZ and DB bylaws, the amount of additional density will usually result in additional height above the current zoning permissions.

Developers aim to maximize height until the cost of building an additional floor (including ordinary profits) equals the revenue that floor generates. Beyond this point, adding more floors reduces profit. Put simply, developers stop building higher when the cost of constructing another floor exceeds the revenue it can bring in.

Incorporating density considerations into an FFA allows local governments to understand the tradeoffs between the costs and revenues of additional density, ensuring IZ and DB bylaws strike the right balance to support development.

Quantity, Depth and Length of Affordable Housing

Requiring a larger proportion of affordable units, deeper levels of affordability, and longer terms of affordability, all reduce development revenues. This is because fewer units can be rented or sold at higher market rates.

By evaluating how affordability requirements impact revenues, local governments can design IZ and DB bylaws that maximize affordable housing without compromising the financial viability of projects.

Location

Central and desirable places, such as those with access to transportation, community amenities, or scenic views, command higher prices for both rental and ownership units. In more peripheral locations (e.g., suburbs or rural areas) the revenue potential can be lower due to typically lower rents and purchase prices. However, this is context dependent and an FFA will be used to determine the prices and rents that are relevant to specific communities and areas within communities.

If market conditions vary significantly within the intended locations for the IZ or DB bylaw, the FFA should include these multiple market areas. The recommended policies in the bylaw(s) may need to be tailored by area to ensure that the IZ bylaws do not deter development and DB contributions can be sufficiently offset by bonus density.

Tenure of Housing

The tenure of housing, whether strata or rental, has a significant impact on a project's financial structure and revenue potential.

Strata projects are often more financially appealing to developers due to their financing model. Once the project is completed, units are sold to buyers, allowing construction loans to be paid off and providing the company with the financial capacity to move on to their next project.

Rental developments typically require long-term mortgages and ongoing operating costs that are paid for by the rental income. Cash flow and mortgage cost uncertainties can make rental projects less attractive than strata projects.

Considering housing tenure in an FFA helps local governments understand the different implications of IZ and DB bylaws on the financial dynamics of rental and ownership projects.

Development Costs

Development costs are also a critical factor in determining the financial feasibility of a project. These costs are categorized into three main types: hard construction costs, soft costs, and financing costs.

Hard Construction Costs

Hard construction costs include materials and labour and are directly influenced by the building's total size and the materials used. Construction costs are higher for concrete buildings than wood frame or modular construction. Generally, as building size increases, so do construction costs. Also, as building height increases, the cost per square foot (or square metre) of the building can increase.

Through examining different material choices and building heights, FFAs can better evaluate how these factors influence project feasibility. This is needed for local governments to design IZ and DB bylaws that are responsive to different built forms and construction materials.

Soft Development Costs

Soft development costs include fees and expenses related to engineering, architecture, studies, consulting services, and government charges (such as DCCs, ACCs, and permit fees) required for development.

- **Development Cost Charges (DCCs)**: These are collected to cover the capital costs of infrastructure such as roads, water, and sewage systems.
- **Amenity Contribution Charges (ACCs)**: These support livable and complete communities in growth areas by providing amenities like community centers, recreation centers, daycares, and libraries.
- **Development and Building Permit Fees**: These fees cover the costs associated with processing applications and ensuring that the proposed development complies with applicable laws and regulations.

By examining the impact of government charges in the FFA, local governments can understand how these charges affect project feasibility. This enables them to identify, if possible, when waivers of fees and charges may be desirable to reduce the financial risk that the IZ or DB bylaw may deter development.

Financing Costs

Higher interest rates make it more expensive to service debt for construction loans and long-term mortgages for rental projects. They also lower the price that households can afford for ownership housing. Both implications of higher interest rates lower a project's viability.

In addition to interest rates, a key factor in the FFA is the loan-to-cost (LTC) or loan-to-value (LTV) ratio. Developers must balance how much upfront cash they can bring to a project with how much financing costs they can handle. Financial lenders like banks closely examine these ratios when deciding whether to lend money to a project and what interest rates to offer.

Including financing costs such as interest rates and construction duration in the FFA ensures a clear understanding of how debt servicing impacts project feasibility.

Profit Assumptions

Developers use different financial return metrics based on the type and tenure of development, as well as their specific investment goals and strategies. Regardless of the metric, developers typically expect higher returns for projects with greater risks. They also strategically time their developments to minimize risk and maximize their investment's overall value.

Minimum Required Rate of Return on Equity, Costs, or Revenues

Developers rely on various financial benchmarks to evaluate the project's profitability. These are often the rate of return on equity invested (metrics such as Internal Rate of Return or Cash-on-Cash Return), total project costs (metrics such as Development Yield), or revenues (metrics such Overall Project Margin).

The target rate of return for any of these benchmarks varies between developers, depending on their equity investment, risk tolerance, liquidity constraints, interest rates, market conditions, and project costs incurred, as well as requirements of lenders to see some minimum level of profitability to ensure the project is achievable.

Part of the consultation process could include validating these key financial factors, including profit margins or development yields with the local development industry. These discussions may not lead to consensus on the variables, but input will provide some guidance on the range of profit measures that are appropriate considering the local development context. The financial analysis expert will then be able to use this feedback to select specific profit targets for the FFA.

A key component of the FFA is for the local government to consider appropriate profit measures to evaluate the financial feasibility of the modelled projects. The measure selected must resonate with the local development community and be understandable by government decision makers and the public. Use of a consistent financial measure enables comparisons between policy options and comparisons between FFAs in different years.

4.8 Incentives

When creating an IZ or DB bylaw, a key question is whether incentives will be provided to offset the financial impacts of the bylaws. Incentives here refers to benefits or waivers such as capital grants, operating grants, parking reductions, or waivers of planning and development fees and charges, which are above and beyond the additional or bonus density provided through the IZ or DB bylaw.

This is an important consideration for the FFA and final bylaw development. As part of the FFA, the impact of potential incentives on project viability could be considered.

4.9 Updating the FFA

Local governments should consider recent trends and the anticipated future changes in development financing, government fees, and market conditions when creating IZ and DB bylaws.

Local residential development viability is constantly changing as costs and revenue opportunities evolve so local governments should review the financial viability of IZ and DB bylaw requirements on a regular schedule, such as every three years.

However, more frequent updates to the FFA should be considered by a local government if there are significant changes in the market. To make this determination, key factors that should be monitored include but are not limited to:

- interest rates for commercial mortgages and construction financing;
- construction cost trends;
- changes in government fees and charges;
- market price trends; and,
- planned community development trends and the anticipated growth of infrastructure investments.

The local government should strike a balance between being responsive to these market risks and providing stable IZ and DB bylaws for the development industry to incorporate into their decision making.

Chapter 5: Bylaw Administration

5. Chapter 5: IZ and DB Bylaw Administration

This chapter focuses on the critical aspects necessary for effective implementation and monitoring of IZ and DB bylaws. It covers housing agreements, the establishment and management of reserve funds, the processes for reporting and monitoring, and the importance of partnerships. Additionally, it provides practical recommendations to support the successful execution of these components.

By understanding and addressing these key areas, local governments can create robust frameworks that not only meet legislative mandates but also foster collaboration among various stakeholders.

5.1 When to secure housing agreements and payments

A housing agreement must be secured on title before a building permit is issued in relation to a property that is complying with an IZ or DB bylaw.

Any cash payments received through an IZ or DB bylaw are payable at the time the building permit is issued for the development, and this money must be put into a dedicated reserve fund.

5.2 Protection for "Instream" Applications

New IZ and DB bylaws only apply to new development applications and will not apply to applications that are instream[57] at the time of bylaw adoption (i.e. applications currently under review). Developments are considered instream 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. In progress developments are unlikely to be able to absorb the additional costs resulting from a new requirement to provide affordable housing within their planned development.

[57] *LGA* s. 482.93 and *Vancouver Charter* s. 565.193.

5.3 Phase-in Period

Although developers can, to some degree, offset the cost of IZ by reducing the amount they are willing to bid for land, the imposition of IZ can impact the feasibility of development on sites that have already been purchased under the assumption of no IZ. For this reason, the Province has exempted developments with precursor or "instream" applications.

It may also be desirable for local governments to establish a transition period that phases in affordable housing requirements (for example, over a period of one to three years) to prevent reducing the supply of housing being prepared for development but where development applications have not yet been submitted for local government review.

How a Phase-in Period for IZ and DB Works

A phase-in period is a window of time between the passage of a bylaw and the bylaw coming into effect, providing time to adjust to the bylaw requirements. Due to the length of time for a development to move from land purchase to development application, there may not be sufficient time for some developments to adjust to the requirements of a new IZ or DB bylaw during the public consultation period.

Phasing in can be applied to any of the bylaw variables and could be different based on the type of market. The bylaw component that is most commonly phased-in is the amount of affordable housing. For example, with a goal of 10 per cent affordable housing, the phase-in could be implemented with no requirement for one year after the bylaw is enacted. This ensures that no active developments (but are not "instream") are affected, and then 5 per cent of GFA required in the next year, and 10 per cent in the following year giving the development industry time to bring forward new projects, and landowners time to adjust their pricing to include these new development costs.

5.4 Housing Agreements for IZ and DB Bylaws

What is a Housing Agreement?

A housing agreement is a contract that is entered into voluntarily by a purchaser or property owner with a local government, often as a condition of rezoning or sale of land. Housing agreements are a tool that supports non-market housing development and secures long-term affordable or special needs housing[58].

IZ and DB Housing Agreements

IZ and DB require a housing agreement to ensure that the affordable housing and other bylaw requirements are secured over time. These agreements must be registered on title before a building permit is issued for the project**.**

Housing agreements require a partnership between the local government, property owners and operating organization (where applicable). Each agreement includes terms and conditions agreed to between all parties prior to when an application is ready for construction.

Local governments are responsible for overseeing the agreements and monitoring and reporting on these requirements. The organization(s) that develop, provide, and/or operate the affordable housing must also adhere to the terms, as well as the residents of the affordable units.

Housing Agreement Considerations

Housing agreements are used to secure key elements of the IZ or DB bylaw requirements and can help to ensure clarity and enforceability over the long term.

It is recommended that housing agreements include the following information:

- the form of tenure of the housing units;
- rents or sales prices that may be charged, and how these rates may change over time according to formulas stipulated in the agreement;
- the length of time the units must remain affordable; and,
- the administration and management considerations for the units, including matters such as tenant selection process and income eligibility reviews.

Other key aspects for the long-term management of the housing agreement include:

- how and when transfer of ownership can occur between organizations;
- restrictions on self-dealing to ensure units go to the appropriate households;
- unit and tenant monitoring and reporting requirements;
- risk management through building maintenance oversight;
- conditions for early exit of the agreement;

[58] See *LGA* s. 483 for more information about housing agreements. Housing Agreements are often used in conjunction with Section 219 Covenants, which can regulate the use of land. Housing Agreements can include restrictions beyond those secured through a Section 219 Covenant, particularly with regards to restricting the user (occupancy) of the land.

- procedures for normal completion of agreement;
- recourse options for the local government to enforce the terms of the agreement; and,
- sufficient capacity of the local government and housing provider for reporting and monitoring.

Best practice is for housing agreements to include:

- clear direction for handling situations where either the municipality or the owning organization wants to exit the agreement. For example, if an affordable housing provider changes its mandate or ends their operations, the housing agreement should explain how the affordable housing units can be transferred to another organization or sold while keeping the housing agreement in place;
- clauses that address how to manage strata fees and special assessment; and,
- clauses on how the local government or owner can exit the agreement should there be financial insolvency or other situations that prevents reasonable continuation of the agreement.

5.5 Roles and Partnerships in Affordable Housing Ownership and Operations

Operating affordable units includes three roles:

- ownership of the unit;
- tenant (or affordable owner) selection; and,
- unit management.

Each of these roles can be fulfilled by any of the parties – the local government, developer, or non-profit housing provider. In addition, a third-party property manager can perform the unit management role. Creating an effective housing agreement includes identifying a group of organizations that want to work with each other and are likely have a good working relationship for each site/agreement.

The agreement should clearly define which party has responsibility for: unit ownership, tenant selection, and unit management.

Role of the Developer

Residential developers acquire land and initiate the development process. This is based on a financial analysis which determines how much equity they need to bring to the project, how much they can borrow, and whether the revenues from the sale or rental of the units will allow them to repay their debts and make a profit. They aim to minimize project risk, control the project timelines and management project costs. Adding a requirement to provide affordable units introduces some additional risk, lower revenues, and adds the potential need to work with other organizations to deliver and manage the affordable units. A developer can perform any of the roles as noted above, though a strata developer is less likely to be interested in ongoing operation of affordable units, and a rental developer may be more likely to want to retain ownership and operate the affordable units.

Larger developers with a rental management division often prefer to own and operate the affordable units to reduce risk and complexity in the project. While this model can simplify the arrangements, it does not typically deliver additional benefits such as supportive housing, which is often provided by a non-profit housing provider with staff that are trained in this type of work.

Role of the Non-Profit Housing Provider

Non-profit housing providers can bring valuable expertise in operating affordable housing units and buildings to a partnership with a developer. They need to assess their capacity to participate in the development process, which includes investing time, resources, and, in some cases, contributing equity to the project.

Involving a non-profit housing provider to own or manage the units can lead to increased affordability and better support for higher-needs households. While this arrangement may introduce more complexity due to more organizations being involved and often multiple sources of funding needing to be secured – it can often better meet the local governments and the community's affordable housing needs.

Role of the Local Government

The local government's involvement may include managing the process for creating the housing agreement, working with the developer to determine how tenant selection will be managed, and facilitating a partnership between a non-profit operator and a developer. If the local government owns a housing corporation, they will likely have the capability to perform any of the roles: ownership, tenant selection, and unit management. If the local government does not have an affordable housing entity, it may be preferable to have the developer or a non-profit housing provider manage tenant selection and the management of units.

In all cases, however, the local governments owning the units is an option.

5.6 Supporting Policies and Procedures

Below is a non-exhaustive list of optional policies and procedures that local governments can implement to support IZ and DB bylaws. Developing strong policies and procedures in these areas can help address potential issues and support the effective implementation of these bylaws. These can include:

- timing for registration of the housing agreement on title;
- selection of units;
- timing of unit acquisition; and,
- direction on how affordable units are to be represented on the strata council.

Timing for registration of the housing agreement

While the housing agreement must be registered on title before building permits are issued, discussions about its terms should begin as early as possible in the development application process. Some aspects of the housing agreement will be standardized, while others may allow for flexibility and require negotiation between the parties entering into the agreement. This negotiation period requires additional time during the development application process. Finalizing these aspects of the agreement before the local government is ready to issue the building permit reduces potential construction delays.

Since building permits and housing agreements are often managed by different departments within local government, it is essential to have a clear internal process to ensure that no building permit is issued until the housing agreement is registered on title. It is recommended that local governments seek their own legal advice throughout the negotiation and implementation of a housing agreement, including advice related to housing agreement contents.

Selection of units

A key reason to start discussing the housing agreement early in the application process is to identify which units in the development will be designated as the affordable housing contribution. Since the pre-sale of units occurs before building permits are issued, it is important for the specific affordable housing units to be selected before they are sold. These units must be set aside and cannot be sold to market buyers during pre-sales.

The process of selecting the units is often implemented through a memorandum of understanding (MOU), which specifies the selected units and their characteristics, such as GFA, number of bedrooms, and location within the building. The MOU provides a clear non-binding agreement for discussion and finalization of the housing agreement terms. It also allows parties to adjust the unit selection if the building design changes during development to ensure the same or similar outcomes are achieved.

Timing of unit acquisition

Where the affordable units are acquired by an organization other than the developer, clear agreements are needed for the timing of the downpayment or deposit on the unit and when the final price is determined. These agreements should involve the developer, local government, and the operating organization (e.g., housing provider).

Due to the often-large differences in price between pre-sales and post-construction sales, the local government should establish a clear policy that specifies when the price is set, the downpayment or deposit amount, and when the unit will be acquired.

Transfer of Ownership

The timing of when the unit ownership transfers from the developer to the owner and operator is a critical factor for understanding the financial viability of the operator and how quickly the community benefit of the affordable housing can be realized.

Where a non-profit housing provider is acquiring the units, it is important to clearly define when the final payments are due. This timing is critical for the provider's capital funding plan, which often involves coordinating funding and financing agreements with multiple levels of government. These complexities highlight the importance of having a well-defined timeline for the ownership transfer of the units in the housing agreement.

Over the course of the building's lifespan and the housing agreement, there may be a need for the ownership of the affordable units to transfer to a new organization. For example, a development company that initially owned and operated the units could decide to exit the rental business. Or a non-profit housing provider may need to adjust its portfolio or mandate. To address such scenarios, the housing agreement should include provisions outlining how the ownership of the affordable housing units can be transferred. Where the units are affordable ownership, the sale price is a mandatory part of the housing agreement. The agreement should also specify the price at which affordable rental units will transfer ownership, and who is party to any sales agreement. Defining the sales prices and who is party to the sales are key components, though the local government may wish to include additional oversight or guidance on selection of new owners of the affordable units.

Restrictions on Self-dealing

It is also important to ensure that the housing agreement is clear that the units will not be used for the personal benefit of the owner or operator, beyond the collection of rent. For example, the units must not be rented to family or friends, nor require additional fees to apply for the units.

Unit and Tenant Monitoring and Reporting Requirements

The legislation requires that the local government provide annual reports on the affordable housing outcomes of an IZ or DB bylaw. To accomplish this, the housing agreement should include requirements for the owner or operator to provide the necessary information in a timely manner.

Building Maintenance Oversight

Buildings or strata councils experiencing financial strain caused by unexpected repairs and major renovations can create a significant risk to the sustainability of the affordable housing units secured through an IZ or DB bylaw. The resulting special levies are particularly financially challenging for the owner or operator of the affordable units because they have a fixed and modest revenue stream. To address this risk, local governments are strongly encouraged to decide how they will handle special levies and include this in the housing agreement.

Options for mitigating special levy risks include:

- The local government monitors ongoing building maintenance through annual reports on the contingency reserve fund and the operating fund. The owner should participate in strata council to minimize potential cost exposure.
- The housing agreement can require that one or all the owners, the local government, and the operator have a contingency fund for special levies.

Exit of Agreement

The housing agreement should include clauses that allow for the early exit out of the agreement under specific conditions. This is needed in cases where the building is damaged due to natural disaster or other unforeseen circumstances (normal force majeure conditions), exceptionally large special levies, or when the units for unanticipated reasons cannot be operated in a financially sustainable manner.

Where the housing agreement is tied to the lifespan of the building, spanning decades or more, there may be rare circumstances where terminating the affordable housing agreement is in the best interest of all parties.

Completion of Agreement

The housing agreement needs to include the conditions for normal completion of the agreement. The IZ and DB bylaw conditions will be in effect for a long period of time, and future readers of the agreement need to be able to understand what the normal completion of the agreement is. These clauses need to minimize the possibility of premature redevelopment of the building as a means of excising the housing agreement.

For instance, a common example of a mechanism for executing the completion of an agreement is requiring the issuance of a demolition permit as a condition of removal of the agreement on title.

Recourse Options

The housing agreement should specify what recourse the local government has if the owner or operator of the affordable housing units does not comply with the housing agreement. This can range from financial penalties to forced sale or reassignment of the ownership or operation of the units. It is recommended that the local government retain legal counsel for creating enforceable recourse options.

5.7 Reserve Funds

Inclusionary Zoning

Any cash payments received through an IZ bylaw are payable at the time the building permit is issued for the development, and this money must be put into a dedicated reserve fund 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 in 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,
- to 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;
    - health authorities;
    - an agent of the government or the government of Canada, like BC Housing or the Canada Mortgage and Housing Corporation (CMHC); and,
    - registered charities.

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.

Density bonus

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. 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.

It is important to note that the reserve fund for amenities through a DB bylaw is separate and independent from the dedicated ACC reserve (Amenity Cost Charge Reserve Fund), even though both relate to amenities. Each of these reserve funds can only be used for the specific purpose for which the cash in-lieu was collected.

Reserve Funds for Affordable Housing

Local governments must establish a dedicated density bonus reserve fund for affordable housing 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 or the government of Canada, like BC Housing or CMHC; and,
    - registered charities.

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.

To ensure transparency on how the funds are intended to be used, and efficiency in the reviewing of potential projects to invest in the funds, a policy should be established at the time the bylaw is created to guide the disbursement of these affordable housing reserve funds. This policy should also include directions on where funds can be spent, explaining whether the funds must be spent within a certain distance from the original development site or within a specific geographic area.

By clearly defining these allowable uses and implementing a policy framework, local governments can ensure that cash in-lieu funds are effectively managed and directed toward affordable housing.

5.8 Reporting

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.

Annual reporting requirements support transparency and accountability when local governments use the inclusionary zoning or amended density bonus tool.

Local Government Reporting

As part of annual reporting processes, and before June 30 each year, local governments must prepare and consider a report that provides information on the outcomes of IZ and DB bylaws. These requirements are consistent with other local government reporting requirements, such as for ACCs and DCCs.

The report must outline:

- amenities conserved or provided (DB); and,
- the number of affordable housing units (IZ and DB) that had a building permit issued under the bylaw during the previous year.

Additionally, local governments must report on activity in the reserve funds, for both amenities and affordable housing. This report must include:

- in kind amenities or affordable housing received for which a building permit has been issued during the previous year;
- cash payments received;
- expenditures from each reserve fund; and,
- fund balances at the start and end of the reporting year.

Once the local government has created the report, it must be made publicly available. This ensures accountability and transparency in the management of the reserve funds.

Inspector Information

The Inspector of Municipalities (or, in the case of Vancouver, the Minister) may request additional information concerning an IZ or DB bylaw. This allows the Province to monitor the adoption and implementation of inclusionary zoning policies and bylaws across jurisdictions to ensure compliance with provincial legislation, if needed.

The information provided to the Inspector or Minister may include:

- information with respect to the amount of affordable housing units required by the bylaw;

- the establishment of any requirements with respect to the affordable housing units required under the bylaw;
- the provision of higher density for developments subject to bylaw requirements; and,
- the process of developing and, if applicable, amending a bylaw, including any public consultation undertaken.

Affordable housing operator and owner reporting

Each agency or organization that operates affordable housing through an IZ or DB housing agreement must submit an annual report to the local government containing the number of units managed and the rents being charged.

To promote transparency and ensure long-term viability, it is best practice for the owner of the affordable housing units to provide maintenance records to the local government. The owner of the affordable units should submit the strata corporation's annual report on the operating fund and contingency reserve fund to the local government, offering a clear picture of the financial health and upkeep of the property.

5.9 Monitoring

Local governments have the flexibility to update their IZ and DB bylaws as needed. It is important for local governments to consider the frequency of bylaw revisions to maintain a balance between policy predictability and adaptability to fluctuating market changes.

IZ and DB bylaw review and updates

Regular review and updates to the IZ and DB bylaw parameters and the associated FFA will help to ensure that the bylaw requirements reflect current market conditions (i.e. the bylaw requirements are not set too high so that it deters development or not set too low where more public benefits could be secured). The local government should strike a balance between being responsive to these market risks and providing stable IZ and DB bylaws for the development industry to incorporate into their decision making. Frequent bylaw updates allow for quicker responses to changing market conditions but increase uncertainty for the development industry and come with higher administrative costs for the local government.

It is recommended that a three to five-year review cycle is adopted for bylaw evaluation and updates. This cycle is aligned with the typical development timeframe for major residential development projects and provides organizations with a strategic planning horizon. More frequent annual or bi-annual updates to cash in-lieu rates could be undertaken to adjust to changing market conditions.

However, local government should monitor fluctuating market conditions such as changes in interest rates for commercial mortgages and construction financing, construction costs, government fees and charges as well as market prices. If there are significant changes in the market local governments should consider reviewing existing bylaws. Please refer to Chapter 4: Financial Feasibility Analysis for more information on updating FFAs.

IZ and DB bylaw evaluation

Local governments can help to ensure greater efficiency and alignment with land use and financial planning cycles, by reviewing and updating IZ and DB bylaws in conjunction with new or updated OCPs, HNRs, zoning bylaw, amenity and financial plans as well as other housing policies or programs.

A comprehensive policy review should monitor and evaluate the bylaw's impact, including reporting:

- the **number of units created** over the lifetime of the policy;
- the **number of units** currently **under agreement (built);**
- the **number of units with agreements (but not yet built);** and,
- **the number of units by rent levels.**

These additional measures provide an overview of the total number of units created, the units that will become available in the near future, and the affordability being achieved through the bylaw(s). These measures provide a snapshot of the value created to the community by the bylaw(s) beyond the transactions that occurred year over year.

Ongoing monitoring and reporting of the IZ and DB agreements require staffing at the local government, and well-defined procedures to meet legislative reporting requirements. Local governments need clear policies for managing existing agreements, creating new agreements, reviewing and updating the bylaws, and ensuring sufficient staffing to meet these responsibilities.

Appendix A:
Additional Resources

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This following are links to relevant legislation, best practices for consultations, helpful resources and considerations for developing inclusionary zoning and density bonusing bylaws.

- BC Housing– 2023 Housing Income Limits: https://www.bchousing.org/sites/default/files/media/documents/2023-Housing-Income-Limits-HILS-Effective-January-1-2023.pdf
- BC Housing – Funding Opportunities: https://www.bchousing.org/projects-partners/funding-opportunities/Building-BC
- BC Non Profit Housing Association – A Path to Partnership: A Guide to Navigating Non-Profit Partnerships with Developers of Mixed-Use Tenure Developments Report, 2021: https://bcnpha.ca/wp-content/uploads/2021/07/210729-Partnership-Report_final.pdf
- BC Non Profit Housing Association –Partnerships in Action: Insights for Implementing Non-Profit Partnerships with Developers in Mixed Tenure Developments Report, 2023: bcnpha.ca/wp-content/uploads/2024/11/231206_BCNPHA_Mixed_Tenure_Partnerships_in_Action_FINAL.pdf
- Government of British Columbia – Bill 47 Transit-Oriented Development Areas Distances, Transit Stations and Densities by Category: https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/tools-for-government/local-governments-and-housing/bill_47_tod_areas_categories.pdf
- Government of British Columbia - Building relationships with Indigenous peoples: https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship
- Government of British Columbia – Consulting with First Nations: https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations
- Government of British Columbia – Distinctions-Based Approach Primer:

  https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/distinctions_based_approach_primer.pdf
- Government of British Columbia – Housing Needs Reports: https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/policy-and-planning-tools-for-housing/housing-needs-reports
- Government of British Columbia - Local Government and First Nations relations

https://www2.gov.bc.ca/gov/content?id=3C2CADC65A4744FD9E16FDD812A60F4B

- Government of British Columbia – Local Government Bylaw Adoption Process: https://www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/bylaws/bylaw-adoption-process
- Government of British Columbia – Local Government First Nations Relations: https://www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/collaborating-building-relationships/relations
- Government of British Columbia – Local government housing initiatives: https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/housing-initiatives
- Government of British Columbia – Partnerships for Housing: https://www2.gov.bc.ca/gov/content/housing-tenancy/local-governments-and-housing/policy-and-planning-tools-for-housing/partnerships-for-housing
- Government of British Columbia – Public Notice Guidance Materials: https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/local-governments/governance-powers/public_notice_guidance_material_2022.pdf
- Government of British Columbia – Residential Tenure Zoning Bulletin: https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/local-governments/planning-land-use/residential_rental_zoning_bulletin1.pdf
- Metro Vancouver Regional District – A Regional Model for Inclusionary Zoning Report, 2024: https://metrovancouver.org/services/regional-planning/Documents/inclusionary-housing-policy-review-regional-model-policy-framework.pdf