



# THE CASE FOR INCLUSION

News and Legal Analysis on Issues Related to Diversity and Inclusion

## Inclusionary Zoning Ordinance Aims to Improve Affordable Housing in Worcester

BY BOWDITCH & DEWEY • NOVEMBER 9, 2022

The City of Worcester has proposed an Inclusionary Zoning Ordinance (the “IZ Ordinance”) aimed at improving the affordability of housing units within the city without stifling the level of housing production. The Worcester Zoning Ordinance currently does not contain any income-based restrictions on new multi-family development projects.

On November 9, 2022, the Worcester Planning Board will conduct the first public hearing on the IZ Ordinance. Once the Planning Board provides a recommendation to the Worcester City Council, the IZ Ordinance will be referred to the City Council Economic Development Committee for another public hearing before being referred back to the Worcester City Council for a vote to enact the IZ Ordinance.

The IZ Ordinance primarily consists of the following provisions:

### APPLICABILITY AND EXEMPTIONS

The IZ Ordinance will apply to multi-family developments, whether new construction, conversion, adaptive reuse or expansion of an existing structure, involving the net production of twelve (12) or more units or the division of land for the development of twelve (12) or more dwelling units.

The IZ Ordinance will *not* apply to any multi-family development project for which a zoning approval application (e.g., preliminary and definitive site plan review, special permit, variance or similar land-use approval) or building permit application has been filed prior to the ordainment of the IZ Ordinance and said application is approved within six (6) months of the filing date.

### AFFORDABILITY HOUSING REQUIREMENTS

Developments subject to the IZ Ordinance will be required to include at least: (i) 15% of the units restricted to households at or below 80% of the Area Median Income (“AMI”); (ii) 10% of the units restricted to households at or

below 60% of AMI; or (iii) a combination of both. AMI is the median household income for the metropolitan area that includes the city of Worcester and many surrounding communities as published by the U.S. Department of Housing and Urban Development (“HUD”), adjusted for household sizes.

Below are the 80% and 60% AMI limits for households ranging from 1-8 people as published by HUD:

FY2022 Income Limit Summary								
Worcester, MA HUD Metro FMR Area								
	Household Size							
	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
60% Limits	\$ 46,440	\$ 53,040	\$ 59,700	\$ 66,300	\$ 71,640	\$ 76,920	\$ 82,260	\$ 87,540
80% Limits	\$ 61,900	\$ 70,750	\$ 79,600	\$ 88,400	\$ 95,500	\$ 102,550	\$ 109,650	\$ 116,700

## LIMITATIONS ON RENT AND SALE PRICES

The IZ Ordinance incorporates two limitations on rents for affordable housing units: (i) rents may not exceed thirty percent (30%) of the gross income of the qualifying household; and (ii) the rents may not exceed the Fair Market Rents (“FMR”) published annually by HUD.

Below are the FMR for units ranging from efficiency/studio to four bedrooms as published by HUD:

FY2023 Fair Market Rent by Unit Bedrooms				
Worcester, MA HUD Metro FMR Area				
Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
\$ 1,231	\$ 1,272	\$ 1,635	\$ 1,990	\$ 2,196

Affordable housing units for sale (e.g., condominium units) must have a sale price that does not exceed the amount that an income-eligible household can obtain financing for through prevailing conventional or affordable mortgage products or exceed the median sales price for the property type at the time of sale as published by the Massachusetts Multiple Listing Service for the City of Worcester.

## PRESERVATION RESTRICTION

Developments subject to the IZ Ordinance will have a recorded affordable housing restriction on the number of required affordable housing units for a term of thirty (30) years.

## COMPARABILITY

There is a requirement that the affordable housing units be indistinguishable from the market-rate units (e.g., building materials, finishes, appliances, etc.) to ensure that they are of an equal quality, and the affordable housing units must have access to the same common areas and amenities as the market-rate units. The bedroom count and unit size must also be comparable. The affording housing units must be distributed throughout the development and cannot be grouped together.

## AFFIRMATIVE MARKETING

Developers will need to prepare an affirmative marketing plan consistent with federal and state fair housing laws to

ensure that the affordable units are marketed in a fair and equitable way.

## SEGMENTATION AND PHASING

The IZ Ordinance provides prohibitions and limitations on segmentation and phasing to prevent any circumvention of the applicable provisions.

## PAYMENT IN LIEU

Developers will have the option to provide a payment equal to three percent (3%) of the total construction value of all building permits for the development in lieu of providing the required number of affordable housing units. These funds will be paid into the Affordable Housing Trust Fund, which will be held for the development of additional affordable housing units.

## INCENTIVES

The IZ Ordinance provides certain incentives to partially offset the financial impact to developments subject to the IZ Ordinance including density bonuses, dimensional relief and off-street parking and loading relief.

Specifically, developments subject to the IZ Ordinance will be entitled to an increase in the maximum number of units permitted in the zoning district equal to the percentage of affordable units plus five percent (5%), up to a maximum of twenty-five percent (25%). The maximum density bonus in the Residence, General (RG-5) zoning districts will be limited to fifteen percent (15%).

Developments subject to the IZ Ordinance will also be entitled to a twenty-five percent (25%) reduction from the minimum off-street parking requirements provided that a Transportation Management Program (“TMP”) is implemented to encourage the use of alternative means of transportation (e.g., walking, biking, public transportation and ride sharing).

Furthermore, the Planning Board may grant a special permit to modify loading, parking dimensional, landscaping and layout requirements for developments subject to the IZ Ordinance, provided that there is adequate off-street parking and/or loading for the proposed use and a TMP is implemented. Any reduction in parking pursuant to the provisions of the IZ Ordinance may not exceed fifty percent (50%) of the required number of spaces and cannot be combined with other permitted reductions in the Zoning Ordinance.

**If you are interested in learning more about multi-family development in Worcester and the IZ Ordinance, please [register for Bowditch’s Annual Economic Development Summit](#) on November 10, 2022.**