

Inclusionary Zoning

Joint Public Hearing – Planning Board and Ordinance Committee

August 11, 2021

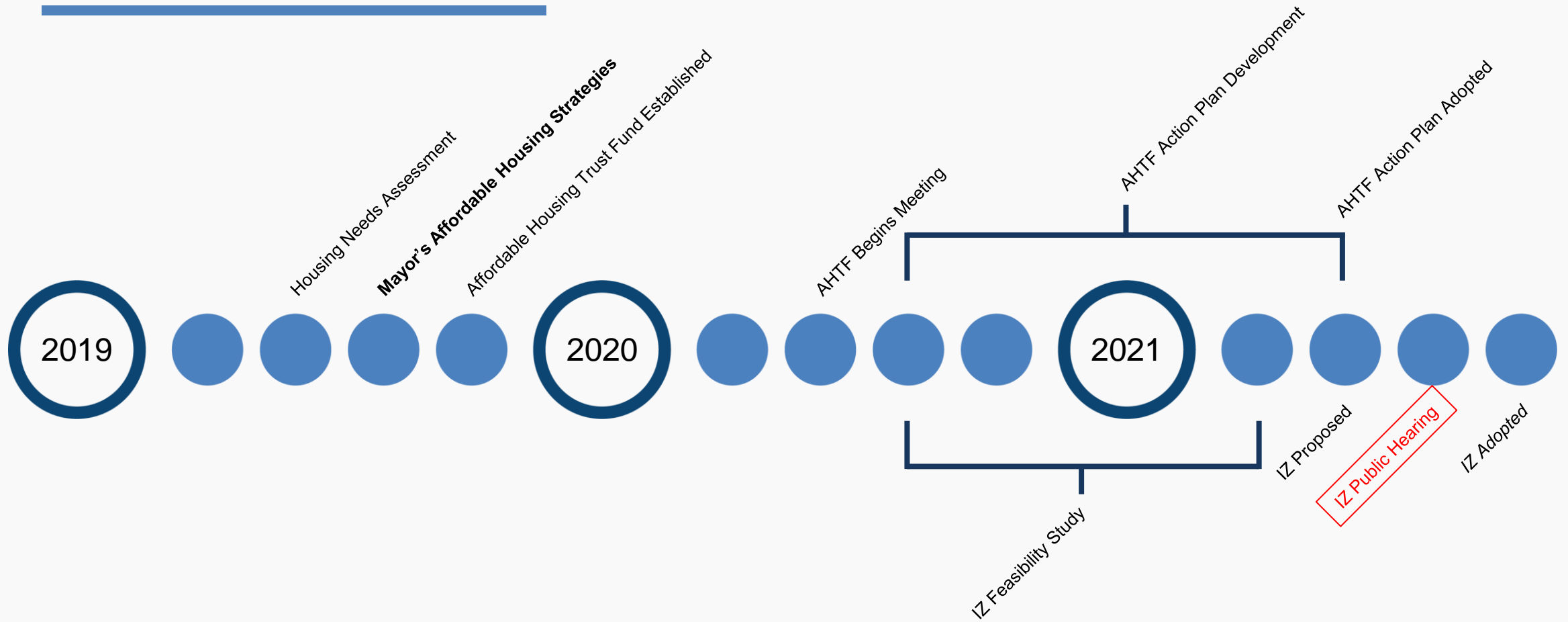


Inclusionary Zoning

- Inclusionary zoning (IZ) requires developers to set aside a portion of units in new residential development as below-market affordable housing
 - Leverages private sector housing market to create Affordable units
- IZ ordinances are unique to each municipality
 - What kinds of projects are subject to IZ requirements?
 - What percentage of units are required affordable?
 - What are the income limits?
 - What is the level of affordability?
 - Are there alternative methods of compliance?



Timeline



IZ Financial Feasibility Study

- Formed an advisory group:
 - *Craig Spadafora, Malden City Councillor, At Large*
 - *Stephen Winslow, Malden City Councillor, At Large*
 - *Maria Luise, Special Assistant to the Mayor, City of Malden*
 - *Michelle Romero, City Planner, City of Malden*
 - *Deborah Burke, Executive Director, Malden Redevelopment Authority*
 - *Evan Spetrini, Senior Planner, Malden Redevelopment Authority*
 - *Brian Slater, Trustee, Malden Affordable Housing Trust Fund*
- Hired Levine Planning Strategies and Colliers International
- Funded by contributions from the City, MRA, MHA, and East Boston Savings Bank



IZ Financial Feasibility Study

- May 2020-January 2021
- Reviewed existing IZ literature and market data for Malden
- Conducted stakeholder interviews with market-rate and affordable housing developers, property owners, and housing service providers
- Developed financial model and alternative IZ requirements
 - Created model pro formas for four hypothetical developments
 - Tested impacts of potential requirements on each typology



Modeling Alternatives

	Alternative 1	Alternative 2	Alternative 3
Percentage of units that must be below-market affordable	15%	15%	20%
Income maximums for those units	80% AMI	50% AMI	80% AMI
Is there a density bonus for inclusionary projects?	No	Yes	Yes
Is parking adjusted for the below-market affordable units?	No	Yes	Yes



Modeling Alternatives

		<i>Percentage IZ:</i>		15%		20%	
	Baseline	<i>Income Level:</i>	80% AMI	50% AMI	80% AMI		
Density Bonus?			No	Yes	Yes		
Parking Adjustment?			No	1 space per IZ unit	1 space per IZ unit		
15 Unit Rental	9.39%	Change in IRR	-0.85%	-1.20%	0.17%		
	4.34%	Change in ROE	-0.44%	-0.67%	-0.09%		
30 Unit Rental	9.75%	Change in IRR	-0.85%	-1.07%	0.26%		
	4.56%	Change in ROE	-0.45%	-0.62%	-0.03%		
50 Unit Rental	6.41%	Change in IRR	-0.66%	-0.69%	0.23%		
	3.01%	Change in ROE	-0.32%	-0.39%	-0.04%		
15 Unit Condo	47.71%	Change in ROE	-12.21%	-9.99%	-6.55%		
15 Unit Condo¹	47.71%	Change in ROE	-7.29%	-4.75%	0.31%		

Orange indicates baseline or changed values that may challenge viability

¹ These numbers assume higher income levels for condominium projects (80% AMI rather than 50% AMI, and 100% AMI rather than 80% AMI)



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50 Unit Rental	6.41%	Change in IRR	-0.66%	-0.69%	0.23%	
	3.01%	Change in ROE	-0.32%	-0.39%	-0.04%	
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Alternative 2

Applicability:	8 units or more
Percent affordable:	15%
Income limits:	50% AMI – rental 80% AMI – homeownership
Density bonus:	1 additional market-rate unit per required affordable unit
Parking adjustment:	1 space required per affordable unit
Fee-in-lieu:	\$300,000 per required unit



Why Alternative 2?

- Since all three alternatives would not stop development altogether, selecting one became a policy decision
- Household eligibility is the key difference between the three
- Based on findings from Housing Needs Assessment (HNA)
 - 40% of Malden households make 50% AMI or less (~10,280 households)
 - 78% of those households are cost burdened – pay more than 30% of income on housing (~8,018 households)
 - **Approximately 1/3 of total Malden households make 50% AMI or less and are cost burdened**



Malden Inclusionary Zoning Proposal

August 2021



A. Purpose

In accordance with the findings and goals of the Malden Housing Needs Assessment of 2019, Inclusionary Zoning Feasibility Study of 2021, Affordable Housing Trust Fund Action Plan of 2021, and the Malden Master Plan of 2010, the purpose of this Section is to promote the development of permanent Affordable Housing in order to improve housing stability for low- and moderate-income households, mitigate the impacts of new residential development on the availability and cost of housing, and maintain an economically integrated community by promoting diverse affordable housing opportunities throughout Malden.

Improve housing stability

Mitigate the impacts of new residential development

Maintain an economically integrated community



B. Applicability

1. The inclusionary zoning provisions of this Section shall apply to all projects and developments in all zoning districts that result in:
 - a. a net increase of eight (8) or more dwelling units, whether created, in whole or in part, through new construction in one or more buildings, and/or by alteration, extension, reconstruction, structural change or change of use of an existing building or buildings;
 - b. a net increase of eight (8) or more dwelling lots created through any subdivision of land; and
 - c. a net increase of eight (8) or more assisted living units in any nursing/convalescent home or other development.
2. Projects and developments shall not be segmented or phased in a manner to avoid compliance with the provisions of this Section. These provisions apply to the creation of units over a five-year period.
3. The provisions of this Section are intended to supplement other applicable provisions of the City's zoning ordinance, Chapter 12 of the Revised Ordinances of 2020, as Amended, of the City of Malden (the Ordinance), and do not supersede any other provision of the Ordinance unless expressly provided herein.
4. All provisions of this Section are use regulations and there shall be no variance of any provision.

Projects that result in 8 or more units are subject to inclusionary requirements



C. Special Permit

1. Special Permit Required. An Inclusionary Development, as defined herein this Ordinance, shall require a special permit.
2. Special Permit Granting Authority. The special permit granting authority (SPGA) for an Inclusionary Development shall be the Planning Board; provided that, where a project includes Inclusionary Development and a special permit is also required under other provisions of this Ordinance, the SPGA for the Inclusionary Development shall be the same SPGA as for the other special permit.
3. Required Findings. A special permit may be granted only if the SPGA finds the proposal complies with the requirements of this Section; and provided that the proposal complies with other applicable provisions of this Ordinance.

Most applicable projects already require a special permit under current zoning

This does NOT create duplicate processes



D. Provision of Affordable Housing Units

An Inclusionary Development shall provide a minimum of fifteen (15) percent of the total number of dwelling units as Affordable Housing Units, provided that, the total number used for this calculation shall exclude any units allowed under the Incentives provisions of this Section.

15% of total units
Affordable



E. Incentives

To facilitate the objectives of this Section, an Inclusionary Development shall comply with all applicable dimensional controls and parking requirements of the Ordinance, except for requirements regarding density and number of parking spaces and only as stated in the following incentive provisions:

1. **Density Bonus.** For every required Affordable Housing Unit in an Inclusionary Development, the developer may build one (1) additional dwelling unit in the development, regardless of the density requirement of the Ordinance for the additional unit or units. Except for the density requirement, all other dimensional controls of this Ordinance shall apply to an Inclusionary Development.
2. **Parking Adjustment.** For any Affordable Housing Units in an Inclusionary Development, the minimum number of on-site parking spaces shall be one (1) parking space per unit.

**1 additional unit
allowed for every
required
Affordable Unit**

**1 parking space
required for *each*
Affordable Unit**



F. Development Standards

An Inclusionary Development shall comply with the following Development Standards:

1. Ratio of Rental- to Owner-Occupied Affordable Housing Units. The ratio of rental- to owner-occupied Affordable Housing Units within the Inclusionary Development shall be the same as the ratio of rental- to owner-occupied market-rate units;
2. Mix of Affordable Housing Units. The bedroom mix of Affordable Housing Units within the Inclusionary Development shall be proportionally equal to the bedroom mix of market-rate units, i.e., studios, one-bedroom, two-bedroom, and/or three-bedroom units;
3. Siting of Affordable Housing Units. Affordable Housing Units shall be sited within the Inclusionary Development so as not to be in less desirable locations than market-rate units, shall be distributed evenly throughout the project, and shall be, on average, no less accessible to building features and public amenities, such as open space, parking, laundry facilities, access/egress, as market-rate units;
4. Design and Construction Standards. Affordable Housing Units within an Inclusionary Development shall be compatible in design, appearance, construction, and quality of materials with market-rate units. Interior features and mechanical systems of Affordable Housing Units shall conform to the same specifications as applicable to market-rate units; and
5. Timing of Construction. Affordable Housing Units within the Inclusionary Development shall be developed and completed coincident to the development and completion of market-rate units.

Ensures that Affordable Units are not smaller, less desirable, or of poorer quality than market-rate units



G. Alternative Methods of Compliance

1. Off-Site Location. It is intended that Affordable Housing Units be included on the project site of an Inclusionary Development, however, the SPGA may approve of the provision of Affordable Housing Units in an off-site location in order to meet the requirements of this Section, only in conformance with the following requirements:
 - a. Affordable Housing Units shall comply with all requirements of this Section including all Development Standards;
 - b. Affordable Housing Units shall be located in the same neighborhood as the Inclusionary Development; and
 - c. The SPGA must find that the provision of off-site units is in the interest of the common good and does not conflict with the intent of this Section or any other provisions of this Ordinance.
2. In-Lieu Payment. A developer may make a one-time cash payment to the Affordable Housing Trust Fund of three hundred thousand dollars (\$300,000) per required Affordable Housing Unit in lieu of providing the required Affordable Housing Units. This fee shall be adjusted for inflation annually based on the change in the Consumer Price Index for All Urban Consumers (CPI-U) Housing Index for the Boston-Cambridge-Newton, MA-NH area or any successor index. The City of Malden shall update and publish the adjusted fee-in-lieu annually beginning on July 1, 2022.
3. Fractional Units. Where the required number of Affordable Housing Units results in a fraction of a unit, the required number shall be rounded down to the nearest whole number and the difference shall be realized as a cash payment made to the Affordable Housing Trust Fund equal to the fractional unit multiplied by three hundred thousand dollars (\$300,000).
4. Conveyance of Land and/or Buildings. The conveyance of land and/or buildings in lieu of providing Affordable Housing Units shall not be accepted as an alternative form of compliance.

It is intended that Affordable Units are built on site but the ordinance provides flexibility

In-lieu payment to Trust is approximately the cost for developer to build on site



H. Household Eligibility

An Inclusionary Development shall comply with the following regulations:

1. **Rental.** For Inclusionary Developments with rental Affordable Housing Units, all required Affordable Housing Units shall be reserved for households earning income up to fifty percent (50%) of the median income of the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development. Additional Affordable Housing Units beyond the required fifteen percent (15%) shall be reserved for households earning up to eighty percent (80%) of the median income of the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.
2. **Homeownership.** For Inclusionary Developments with homeownership Affordable Housing Units, all required Affordable Housing Units shall be reserved for households earning income of fifty-one percent (51%) to eighty percent (80%) of the median income of the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development. Additional Affordable Housing Units beyond the required fifteen percent (15%) shall be reserved for households earning up to one hundred percent (100%) of the median income of the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area published annually by the U.S. Department of Housing and Urban Development.
3. **Local Preference.** To the maximum extent permitted by law, including the regulations of the Department of Housing and Community Development or any successor agency, any special permit granted hereunder shall include a condition that a preference for Malden residents shall be included as part of the lottery and marketing plan for the Affordable Housing Units.

Rental units:

- Required – 50% AMI
- Additional – 80%

Ownership units:

- Required – 80% AMI
- Additional – 100%

Preference for Malden residents



I. Affordability

An Inclusionary Development shall comply with the following regulations:

1. Rental. For Affordable Housing Units, payment of housing and related costs (including utility costs for heat, electricity, water, and hot-water, and including access to all amenities that are typically offered to a tenant in the building, such as parking, access to an onsite gymnasium, and other such amenities) shall be set at a level not to exceed thirty percent (30%) of annual gross income for the renting household.
2. Homeownership. For homeownership Affordable Housing Units, the maximum sales price for initial purchase and subsequent sales shall be set at a level such that housing related costs (including utility costs for heat, electricity, water, and hot-water, mortgage payments, insurance, real estate taxes, and condominium fees) do not exceed thirty percent (30%) of the purchasing household's annual gross income.
3. Preservation of Affordability. Affordable Housing Units required by and provided under the provisions of this ordinance shall remain affordable to the designated income group in perpetuity, or for as long as legally permissible. Sales prices, resale prices, initial rents, and rent increases for the Affordable Housing Units shall be restricted by legally permissible instruments such as, but not limited to, deed covenants or restrictions, contractual agreements, or land trust arrangements, to ensure long-term affordability and compliance with this Ordinance.
4. Right of First Refusal. The developer of an affordable homeownership unit developed as a result of this ordinance shall agree to execute a deed rider consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the Affordable Housing Trust Fund's right of first refusal to purchase the property at the point of original sale or any subsequent resale in the event that a qualified purchaser cannot be located, or in the event of a foreclosure on the property.

Housing costs do not exceed 30% of household income

Affordable Units remain affordable in perpetuity

Affordable Housing Trust has option to buy units if no qualified purchaser



J. Administration

1. Submission requirements. In addition to any other Submission Requirements of this Ordinance or the SPGA, an applicant for an Inclusionary Development shall submit the following with its application for a special permit:
 - a. Narrative that describes compliance with the Development Standards of this Section.
 - b. Narrative that identifies any proposed Alternative Methods of Compliance, including the reasons for the request and supporting documentation.
 - c. Lottery Plan for Affordable Units that includes Local Preference required by this Section.
 - d. Marketing Plan for Affordable Units that includes Local Preference required by this Section.
 - e. Draft legal instruments that describe Preservation of Affordability required by this Section.
2. Outside Consultants. The SPGA may hire and employ an outside consultant to assist the SPGA in its review of the application, any study and supporting documentation submitted in conjunction with a petition for a special permit, including conducting a peer review and analysis of any study or documentation, and the fees for the employment of said consultant shall be reasonable and paid to the City by the petitioner or applicant in advance of the consultant services being performed, and in accordance with M.G.L. c. 44, Section 53G.
3. Occupancy Permit. Notwithstanding any other provisions of this Ordinance or local, state or federal law, no occupancy permit for an Inclusionary Development shall be issued, in whole or in part, until all Affordable Units are created and the legal instruments that ensure Preservation of Affordability are recorded.
4. The developer/owner of an Inclusionary Development shall provide the City with required information to submit the application to the DHCD for inclusion of the Affordable Housing Units on the City's SHI before the issuance of the certificates of occupancy for the Affordable Housing Units.

Outlines
documents needed
to apply for special
permit

No occupancy until
preservation of
affordability is
recorded



K. Relationship to SHI

The Affordable Housing Units shall qualify as local action units in compliance with the provisions of 760 CMR for inclusion on the Subsidized Housing Inventory (SHI) or any successor inventory. Failure to gain approval to maintain compliance with the criteria for inclusion on the SHI, or removal of an Affordable Housing Unit from the SHI for any reason, shall be deemed to be noncompliance with this Ordinance.

Affordable Units
must count
towards
Subsidized
Housing Inventory



L. Compliance and Monitoring

1. Rental. Developers/owners of Inclusionary Developments with rental Affordable Housing Units shall be required to submit to the City of Malden an annual statement of rent level, rental income, verification of tenant income, and any other information necessary to confirm compliance with the requirements of this ordinance.
2. Homeownership. If the owner shall desire to sell, dispose of, or otherwise convey a homeownership Affordable Housing Unit, the owner shall notify the City of Malden prior to listing the property for-sale to ensure compliance with the requirements of this ordinance.
3. The City of Malden shall have the authority to develop standards and procedures appropriate to and consistent with the compliance and monitoring provisions of this Section.

Rental – must submit annual statements

Ownership – must notify City before listing property for sale

City will develop standards and procedures



M. Needs Assessment Review

The City of Malden, in cooperation with the Affordable Housing Trust Fund, shall undertake a housing market assessment and financial feasibility analysis to determine the suitability and performance of the provisions of this ordinance for potential revision and improvement not less than every five (5) years from the date of enactment of this ordinance. Upon completing its assessment the City of Malden shall recommend to the City Council any amendments to this ordinance deemed necessary to improve the means of providing Affordable Housing Units in the city.

Conduct study every 5 years to determine performance and make recommendations for improvements



Definitions

Affordable Housing Unit. A residential unit that is restricted by legally permissible instruments such as, but not limited to, deed covenants or restrictions, contractual agreements, or land trust arrangements in its sale, lease, and/or rental to an eligible household as defined in Section H of this ordinance at a price point such that housing and related costs do not exceed thirty percent (30%) of the renting/purchasing household's gross income.

Inclusionary Development. A project or development that results in a net increase of eight (8) or more dwelling units, whether created, in whole or in part, through new construction or by alteration, extension, reconstruction, structural change or change of use of an existing building.



Recap

Applicability:	8 units or more
Percent affordable:	15%
Income limits:	50% AMI – rental 80% AMI – homeownership
Density bonus:	1 additional market-rate unit per required affordable unit
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