Baltimore Inclusionary Housing Requirements Study

Final Report | November 2022

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Executive Summary

Inclusionary housing ties the creation of affordable homes to the construction of market-rate units. Successful inclusionary housing policies align with housing needs, provide public incentives needed to support inclusionary housing units, and are targeted in neighborhoods where most market-rate development is occurring. Inclusionary housing programs are designed to address systemic and contemporary racism in housing and zoning policies which often exclude households of color - particularly Black households - from accessing homes in certain neighborhoods. While it can provide affordable housing in neighborhoods with access to services, educational, and employment opportunities, inclusionary housing alone cannot address the long-standing disparities in the U.S. housing system. Inclusionary housing policies must be part of broader concerted and sustained efforts to increase housing stability and invest in communities that have been historically marginalized through public- and private-sector decisions.

2007 Inclusionary Housing Ordinance

In 2007, the Mayor and City Council enacted Ordinance 07-474, Inclusionary Housing, ("2007 Ordinance"), to encourage economic diversity across Baltimore neighborhoods by providing affordable rental and homeownership opportunities in communities experiencing an increase in market-rate housing without imposing financial burdens on developers. Originally scheduled to sunset in June 2020, the City Council approved Ordinance 20-367, which extended the Inclusionary Housing Program through June 30, 2022.

Under the 2007 Ordinance, the City was responsible for providing developers with resources to offset the cost of creating inclusionary housing units in one of two ways: direct funding or a density bonus. The 2007 Ordinance also established an Investment Threshold, the maximum amount of subsidy the City could provide to create inclusionary housing units. If the subsidy needed to make a unit affordable exceeded the Investment Threshold, the developer could be exempted from providing the inclusionary housing units. The City estimates that 34 inclusionary housing units were created under the 2007 Ordinance.

Study Objectives

In May 2020, the Department of Housing & Community Development (DHCD) issued a Professional Services Request for Proposals to seek qualified consultants to assist the Department with updating the City's Inclusionary Housing Ordinance and providing recommendations that would increase the number of inclusionary housing units. DHCD awarded the project to the Enterprise Project Team, which consisted of Enterprise Advisors, Enterprise Community Partner's Mid-Atlantic Market Office, and HR&A Advisors. The study included three phases.

- Phase One: Assessment of the 2007 Ordinance
- Phase Two: Development of a Policy & Legislative Framework for Future Policy
- Phase Three: Delivery of Final Recommendations & Report

Alignment with City Equity Assessment

This study is part of the City of Baltimore's commitment to advancing equity in all aspects of its operations and policymaking. According to Ordinance 18-160, which established the City of Baltimore's Equity Assessment Program, equity means "closing the gaps in policy, practice, and allocation of City resources so that race, gender, religion, sexual orientations, and income do not predict one's success, while also improving outcomes for all." The DHCD is committed to equitable community development that benefits all Baltimoreans.

Community Engagement

This inclusionary housing study included robust community engagement that involved detailed stakeholder interviews, meetings with a steering committee that provided policy feedback, and publicly posting the interim report for public comment.

DHCD received a total of approximately 39 comments from individuals and organizations. Comments generally fit in one of four categories: affordability, subsidy, market typologies, and maximizing inclusionary housing requirements under the 2007 Ordinance (which was in place during the public comment period). Several of the comments recommended changes to inclusionary housing requirements established under Ordinance 07-474, which sunset in June 2022, and are not applicable to the recommended inclusionary housing policy.

Key Findings

The consultant team's analysis found that the 2007 Ordinance did not meet its objectives for two primary reasons:

1. The financial burden of generating new affordable housing units was placed on the City.
2. There was a lack of alignment between the 2007 Ordinance and market dynamics.

The study also included a financial feasibility analysis that examined the cost to create inclusionary housing units under the 2007 Ordinance thresholds. The analysis found that full implementation under the 2007 Ordinance requirements would only minimally increase the number of units created to 10-20 per year with an annual minimum cost of between $1-$3 million. The analysis also found that full implementation of the 2007 Ordinance would require a significant increase in - or complete elimination of - the development threshold.

The Enterprise Project Team also studied the feasibility of a more traditional inclusionary housing approach that relies on incentives rather than subsidies. They modeled the feasibility of a traditional policy across the City's 2017 Housing Market typologies (core, strong, and transitional) and determined that an inclusionary housing policy would be most feasible in core submarkets. Developments in core submarkets would still require an additional incentive, a 15 percent tax abatement, to make inclusionary housing units feasible. The analysis concluded that a five-to-ten percent inclusionary housing set aside requirement put in place under a traditional policy structure could have yielded 270-540 affordable units between 2016 and 2021 based on the market-rate development that was built during that time, significantly exceeding the number of units produced in the lifespan of the 2007 Ordinance.

Policy Recommendations

In order to effectively meet its policy goal of increasing the number of inclusionary housing units, the Enterprise Project Team recommends that the City consider the following policy framework when replacing the 2007 Ordinance:

- Goal: economic diversity by requiring affordable rental units in market-rate developments without imposing financial burdens on developers
- Size: mandatory for all residential development with 30+ units seeking major public subsidy (excluding affordable housing funding)
- Geography: inclusionary housing units would only be mandatory in core submarkets
- Set aside: at least 10 percent of all residential units must be dedicated inclusionary units, including, at minimum:
    - Five percent of total residential rental units priced for households with incomes that do not exceed 60 percent of the area median income as defined by HUD
    - Five percent of total residential rental units priced for households with incomes that do not exceed 80 percent of the area median income as defined by HUD
- Affordability period: units would have a required 30-year affordability period
- Incentive: the City would approve an additional 10-year 15 percent tax abatement alongside High Performance Market-Rate Tax Credits or comparable major public subsidy
- Streamlined process:
    - Developers would be required to submit an approved Inclusionary Housing Plan prior to being issued a building permit and execute a regulatory agreement
    - A deed restriction must be recorded with Baltimore City before a certificate of occupancy is issued
- Rules, regulations, and protocol: DHCD will adopt a program manual that includes clear details on the administration, operation, and enforcement of the policy
- Unit comparability: no differences between the design, marketing, management, and leasing between market-rate and inclusionary housing units
- Reports:
    - Developers would be required to submit annual reports to DHCD
    - DHCD would public an annual report of the program's effectiveness
- Fees-in-lieu could be requested, but would require approval by the Board of Estimates

Introduction

Importance of Inclusionary Housing Policies

Though a variety of policies and incentives support the creation of affordable units, supporting the broader equitable neighborhood development goal of creating economically diverse and inclusive communities by increasing housing opportunities for families who have been historically excluded from higher market communities and the opportunities these neighborhoods provide is critical. Inclusionary housing programs are designed to address systemic and contemporary racism in housing & zoning policies. Many housing and zoning policies often exclude households of color, particularly Black households, from living in certain neighborhoods.[1] Inclusionary housing can provide affordable homes in neighborhoods with access to services, educational, and/or employment opportunities by tying the creation of affordable homes for low- and moderate-income households to the construction of market-rate housing.

At the same time, inclusionary housing alone cannot address the long-standing disparities in the U.S. housing system. Inclusionary housing policies must be part of broader concerted and sustained efforts to increase housing stability and invest in communities that have been historically marginalized through public- and private-sector decisions.

Study Development Overview

In May 2020, the Department of Housing & Community Development (DHCD) issued a Professional Services Request for Proposals to seek qualified consultants to assist the department with updating Ordinance 07-474, Inclusionary Housing, ("2007 Ordinance")[2] and awarded the project to the Enterprise Project Team, which consisted of Enterprise Advisors, Enterprise Community Partner's Mid-Atlantic Market Office, and HR&A Advisors. The study was developed over three phases.

Phase One: Assessment of 2007 Ordinance

During phase one, the project team assessed the 2007 Ordinance, as well as complementary tools and processes, to understand how effective the 2007 Ordinance was in advancing the City's housing affordability & equity goals. This phase also included the review of past projects, plans, and studies regarding the inclusionary housing program, as well as best practices of inclusionary housing policies in other markets. The Enterprise Project Team completed this assessment by working closely with City of Baltimore staff and other key stakeholders.

Phase Two: Policy & Legislative Framework for Future Policy

Phase two included a scan of market conditions to understand development activity in Baltimore, including evaluation of rents & sales prices, development conditions (i.e., construction costs, land prices), recent development trends (e.g., total units built, locations), and projected development activity based on a pipeline of under construction and planned developments. Using these inputs, the Enterprise Project Team calculated the

[1] For a more detailed discussion of disparities affecting Black households in Baltimore, see the region's 2020 Analysis of Impediments.
[2] The 2007 Ordinance sunset on June 30, 2022.

total unit production and the potential number of inclusionary units that could have been developed between 2016-2021 under various policy scenarios.

Phase Three: Final Recommendations & Report

During phase three, the Enterprise Project Team developed a set of final recommendations to provide guidance to City of Baltimore staff and officials on a new inclusionary housing policy that increases the number of affordable units created through inclusionary housing while utilizing a more efficient review & approval process. This final report summarizes these recommendations.

Alignment with City Equity Assessment

This study is part of the City of Baltimore's commitment to advancing equity in all aspects of its operations and policymaking. According to Ordinance 18-160, which established the City of Baltimore's Equity Assessment Program, equity means "closing the gaps in policy, practice, and allocation of City resources so that race, gender, religion, sexual orientations, and income do not predict one's success, while also improving outcomes for all." The DHCD is committed to equitable community development that benefits all Baltimoreans.[3]

Community Engagement

Community engagement with stakeholders is essential to creating a successful inclusionary housing ordinance. The Enterprise Project Team, in collaboration with DHCD staff, engaged key stakeholders for the initial assessment of the 2007 Ordinance and formed a steering committee to provide feedback on the Baltimore Inclusionary Housing Requirements Study. Stakeholder engagement activities included:

- Conducted 27 stakeholder interviews to gain numerous perspectives, including those that administer the policy, developers, and local leadership (i.e., former deputy mayor and various City Councilmembers)[4]
- Multiple project updates to the project steering committee
- Project update to the Inclusionary Housing Advisory Board in July 2021

Subsequently, the interim draft report was posted for public comment in August 2021. DHCD received a total of approximately 39 comments from seven individuals and organizations that related to four overarching themes:

1. Affordability
2. Subsidy
3. Market typologies
4. Maximizing inclusionary housing requirements under the 2007 Ordinance (which was in place during the public comment period)

DHCD and the Enterprise Project Team evaluated all comments received as a part of developing the final report. Several of the comments recommended changes to inclusionary housing requirements established under Ordinance 07-474, which sunset in

[3] Click here for DHCD's full Equity Statement.
[4] For a full list of stakeholders, see Appendix 3: Stakeholder Interview List.

June 2022, and are not applicable to the recommended inclusionary housing policy model. For all public comments, see Appendix 4: Public Comments.

Key Findings

Phase One

The 2007 Ordinance applied to projects with more than 30 units that either received a major public subsidy or significant rezoning (affordability requirements illustrated in Figures 1 and 2).

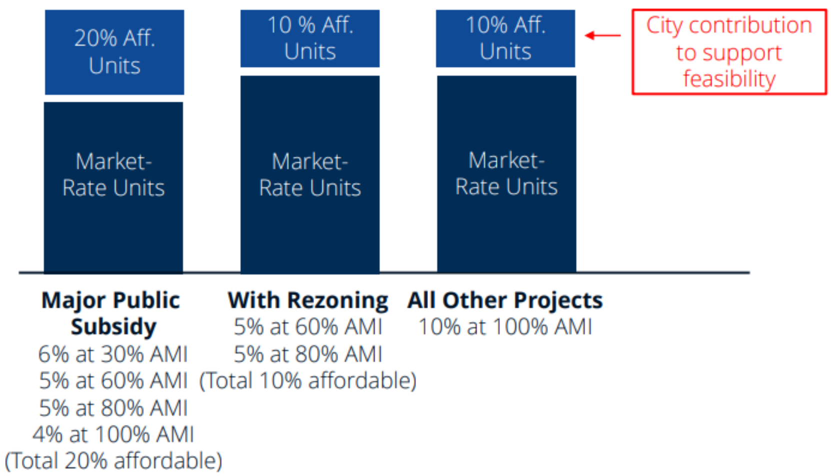

Figure 1: Affordability Requirements for Rental Developments

	Minimum Set Asides		
Affordability Level	*Major Public Subsidy*	*With Rezoning*	*All Other City Benefits*
60% AMI	5%		
80% AMI	10%	5%	
120% AMI			10%
Total inclusionary housing units	20%	10%	10%

Figure 2: Affordability Requirements for For-Sale Developments

While the 2007 Ordinance was in effect, most new market-rate multifamily projects in the city received the High Performance Market-Rate Rental Housing Tax Credit ("High Performance Tax Credit") and were rental developments. As such, they were typically subject to making 20 percent affordable[5] as inclusionary housing units and were required to be affordable for a 30-year period.

[5] Affordable housing costs, whether rent or mortgage payments, were calculated relative to defined household income levels. In line with standards established by the United States Department of Housing and Urban Development (HUD), housing costs equal to/less than 30 percent of a household's income are considered to be affordable. For example, the rental rate for a unit set aside

Under the 2007 Ordinance, the City was responsible for providing developers with resources to offset the cost of creating inclusionary housing units in one of two ways: direct funding or a density bonus. The 2007 Ordinance also established an Investment Threshold, the maximum amount of subsidy the City could provide to create inclusionary housing units. If the subsidy needed to make a unit affordable exceeded the Investment Threshold, the developer could be exempted from providing the inclusionary housing units. The City estimates that a total of 34 inclusionary housing units were created under the 2007 Ordinance.

In its first phase of work, the Enterprise Project Team found that the 2007 Ordinance did not meet its objectives for two primary reasons. First, the financial burden of generating new affordable housing units was placed on the City. Second, there was a lack of alignment between the 2007 Ordinance and market dynamics. Furthermore, in reviewing the 2007 Ordinance and conducting interviews with key stakeholders, the Enterprise Project Team found the following:

- Program and policy administration was complex and placed a significant burden on key users, specifically DHCD staff and developers. For example, DHCD staff were responsible for conducting financial analyses of developments to determine if a project was subject to the 2007 Ordinance requirements and, if so, what levels of affordability it needed to require. The complex process required to do this was legislated in detail via the 2007 Ordinance which limited the Department's ability to simplify the process. For those developments that were subject to the 2007 Ordinance, individual funding agreements, rather than a standard covenant, created different compliance terms that were administratively burdensome for both DHCD staff and property owners/management staff.
- DHCD took steps to improve communication and clarity by updating the project information sheet, as well as reinstating and incorporating inclusionary housing requirements as part of the Planning Department's pre-development and Site Plan Review Committee meetings.
- DHCD has an opportunity to re-define the inclusionary housing policy goals to reflect the City's commitment to equity.

Phase Two

In the second phase of the study, the Enterprise Project Team conducted financial feasibility analyses of the 2007 Ordinance and more traditional inclusionary housing policy models.[6]

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for a household with an income of 60 percent of the area median income ("AMI") is equal to 30 percent of the monthly income of a household at that income level.

[6] Note: for-sale multifamily development is not currently occurring in Baltimore due to market infeasibility. Therefore, the Enterprise Project Team did not test it for feasibility to determine supportability of an inclusionary housing policy. Still, the City can pursue other means to support affordable homeownership options as part of an inclusionary housing policy, such as in-lieu fees (detailed on page 10).

Analysis of the 2007 Ordinance

The Enterprise Project Team conducted a financial analysis to develop an understanding of the cost to the City to fund units under the 2007 Ordinance's structure. As previously noted, under this structure, the City of Baltimore provided direct monetary subsidies to support inclusionary housing units and set a threshold on the amount of funding the City of Baltimore could provide for an affordable unit. The thresholds limits were fixed and did not adjust over time in response to inflation or increased development costs. As a result, the ability to fund units within the threshold became increasingly difficult over time.

This analysis estimates the total cost to the City associated with subsidizing units based on four scenarios:

- Threshold established by the 2007 Ordinance
- Double the 2007 threshold
- Without any threshold
- Adjusted affordability levels

The analysis found that full implementation of the 2007 Ordinance affordability requirements would require a significant increase in, or elimination of, the thresholds outlined in the 2007 Ordinance. However, an increase or elimination to the threshold would require significantly more funding to support the resulting increased cost.

The analysis used a sample project with 100 units. This analysis examined rents at mid-rise buildings in core submarket locations and assumed a cost of $2.35 per square foot per month.

2007 Ordinance Threshold

At the 2007 Ordinance threshold levels, only three of the 20 required units would be funded by the City, for a total cost of $99,417. Figure 3 provides additional detail on units that meet affordability requirements in this scenario.

	30% AMI	60% AMI	80% AMI	100% AMI	Units Within Threshold
Studio	$162,004	$53,149	$0	$0	1
1 Bedroom	$289,989	$172,918	$94,871	$23,134	2
2 Bedroom	$347,781	$207,604	$114,153	$27,761	0
3 Bedroom	$434,764	$272,509	$164,167	$56,660	0
Threshold Limit	$125,000	$100,000	$50,000	$25,000	3

Greater than threshold limit and ineligible for funding

Less than threshold limit and eligible for funding

Total Affordable Units Funded: 3

Total City Funding Required: $99,417

Figure 3: Threshold Limits for City Contribution per Affordable Unit by Affordability Level

Doubled Threshold

If the threshold was doubled, it would cost the City more than $1 million to fund 11 affordable units. Figure 4 provides additional detail on units that meet affordability requirements in this scenario.

	30% AMI	60% AMI	80% AMI	100% AMI	Units Within Threshold
Studio	$162,004	$53,149	$0	$0	2
1 Bedroom	$289,989	$172,918	$94,871	$23,134	8
2 Bedroom	$347,781	$207,604	$114,153	$27,761	1
3 Bedroom	$434,764	$272,509	$164,167	$56,660	0
Threshold Limit	$250,000	$200,000	$100,000	$50,000	11

Greater than threshold limit and ineligible for funding

Less than threshold limit and eligible for funding

Total Affordable Units Funded: 11

Total City Funding Required: $1,092,549

Doubling the current threshold levels would require over $1 million in City funding in the example project, a level of funding that is not sustainable for the City.

Figure 4: Example Project – Lifetime Subsidy Required Per Affordable Unit, Doubled Thresholds

No Threshold

If the threshold was removed, it would cost the City more than $2.9 million to fund all 20 affordable units. Figure 5 provides additional detail on units that meet affordability requirements in this scenario.

	30% AMI	60% AMI	80% AMI	100% AMI	Units Within Threshold
Studio	$162,004	$53,149	$0	$0	4
1 Bedroom	$289,989	$172,918	$94,871	$23,134	11
2 Bedroom	$347,781	$207,604	$114,153	$27,761	5
3 Bedroom	$434,764	$272,509	$164,167	$56,660	0
Threshold Limit	None	None	None	None	20

Greater than threshold limit and ineligible for funding

Less than threshold limit and eligible for funding

Total Affordable Units Funded: 20

Total City Funding Required: $2,979,834

Removing all thresholds would require the City to provide nearly $3 million in funding to support the 20 affordable units.

Figure 5: Example Project – Lifetime Subsidy Required Per Affordable Unit, No Thresholds

Adjusted Affordability Requirements

An alternative to adjusting the threshold for funding affordable units was to adjust the affordability level of affordable units provided. To understand the impact of this approach, the Enterprise Project Team modeled the impact of providing all affordable units at (1) 60 percent of the AMI and (2) 100 percent of the AMI under the threshold levels for the same sample 100-unit development.[7] A set aside of 20 percent of units priced for households with incomes of 60 percent of the AMI would qualify four affordable units at a total cost to the City of $213,000. The same set aside at 100 percent of the AMI would qualify 10 affordable units at a total cost to the City of $231,000. Figure 6 provides additional detail on units that meet affordability requirements in these scenarios.

20% of Units at 60% AMI

	60% AMI Threshold	Units Within Threshold
Studio	$53,149	4
1 Bedroom	$172,918	0
2 Bedroom	$207,604	0
3 Bedroom	$272,509	0
Threshold Limit	**$100,000**	Total Units: 4

Total Affordable Units Funded: 4

Total City Funding Required: $212,596

20% of Units at 100% AMI

	100% AMI Threshold	Units Within Threshold
Studio	$0	0
1 Bedroom	$23,134	10
2 Bedroom	$27,761	0
3 Bedroom	$56,660	0
Threshold Limit	**$25,000**	Total Units:10

Total Affordable Units Funded: 10

Total City Funding Required: $231,340

Figure 6: Example Project - Lifetime Subsidy Required Per Affordable Unit, Adjustments to AMI Requirements

Assessment of Traditional Inclusionary Policy Model Implementation

The Enterprise Project Team also conducted a feasibility analysis of a more traditional inclusionary housing policy model to assess if a different policy approach could better meet the City's objectives. It structured this analysis to consider hypothetical development scenarios utilizing building typologies and market conditions seen in Baltimore.

In contrast to Baltimore's 2007 Ordinance, a more traditional policy structure requires developers of market-rate developments subject to the policy to provide inclusionary housing units without exemptions. Some policies use land use or financial incentives such as a density bonuses, parking requirement reductions, or tax abatements to offset the costs associated with creating affordable units. In a general sense, a traditional policy is designed to leverage economic gains from increased real estate activity and provides offsetting incentives rather than direct financial subsidy in exchange for affordable units, although some policies do not provide any offsetting incentives.

Policy Components

Set Asides

The analysis modeled several different affordability requirements, including:

- Five percent of units affordable to households with incomes of 60 percent of the AMI
- Five percent of units affordable to households with incomes of 80 percent AMI

[7] While this analysis was conducted in 2021, the Enterprise Project Team does not believe that there would be significant differences if the numbers were analyzed using updated market conditions as of the release of this report.

- Ten percent of units affordable to households with incomes of 80 percent AMI, and
- Five percent of units affordable to households with incomes of 60 percent AMI AND five percent of units affordable to households with incomes of at 80 percent AMI (for a total 10 percent set aside)

Geography
Because inclusionary housing leverages market-rate development to provide affordable homes, it is important to understand where market-rate development is occurring and how market conditions vary across the city of Baltimore. The Enterprise Project Team evaluated the potential for market-rate development in three submarket areas (defined for this study and informed by Baltimore's Housing 2017 Market Typology):

- Core submarket areas – Areas where the majority of new market-rate development is occurring and prices are highest. This includes areas along the harbor and adjacent to Downtown.
- Strong submarket areas – Remaining markets in Baltimore that have potential to support new market-rate development today. This includes areas such as Cross Keys or Hampden.
- Transitional submarket areas – Locations that are maturing and could possibly support market-rate development in the future.

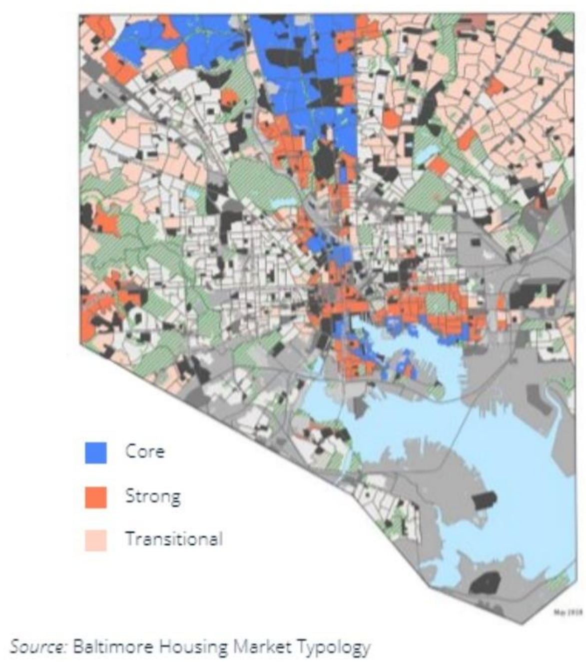

Figure 7: Market Typologies Based on Baltimore's Housing Market

Incentives
For the various set asides and geographies considered in this analysis, the Enterprise Project Team tested the financial viability of development and the potential need for incentives to support certain set asides or depths of affordability. The purpose of an incentive is to offset the reduction in rents for the affordable units created under an inclusionary housing policy (see Figure 8). Cities across the country, including New Haven,

Connecticut and Yonkers, New York, provide incentives (e.g., direct funding, land use incentives) to developers creating inclusionary housing units.

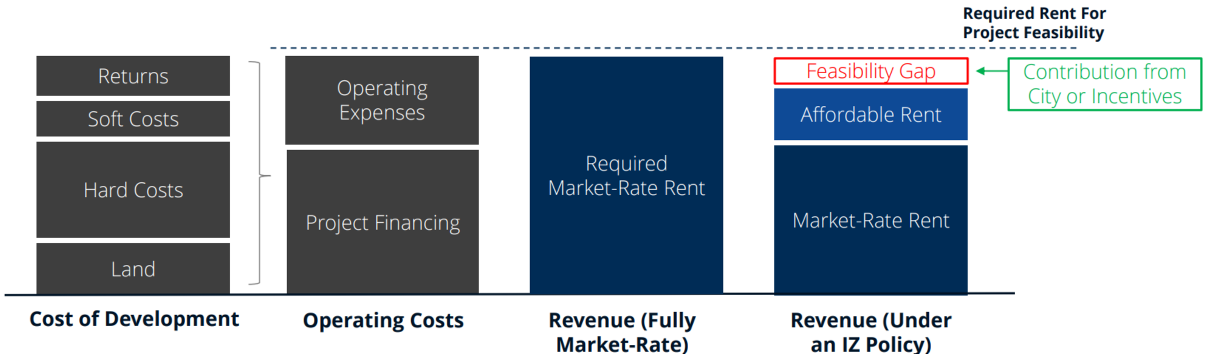

Figure 8: Financial Feasibility Framework

This analysis included scenarios that allowed for up to a 15 percent tax abatement (in addition to the existing High Performance Tax Credit). The abatement would be provided for 10 years to align with the term provided to the High Performance Tax Credit. The analysis did not consider land use incentives (e.g., density bonuses) as they were not found to provide any additional project value based on existing zoning and market conditions.

Feasibility Analysis Results

The feasibility analysis suggested that market-rate development, which would be the driver of new units under a future inclusionary housing policy, was only feasible in the city's core submarket areas. Given the wide variation in market conditions throughout Baltimore, this finding suggests that an inclusionary housing policy will be most successful when targeted geographically to core submarket areas. The phase two analysis found that market-rate development is not feasible in strong or transitional submarket areas - even with incentives (see Figure 9).

	Core		Strong		Transitional	
Building Typology	Mid-rise New Construction	High-rise New Construction	Mid-rise New Construction	Mid-rise Rehab	Mid-rise New Construction	Mid-rise Rehab
Feasibility Threshold – Target Yield on Cost	6.00%	6.00%	6.50%	6.50%	7.00%	7.00%
Actual Yield on Cost	6.10%	6.09%	5.14%	5.71%	4.58%	5.02%
Δ Target Yield on Cost	0.10%	0.09%	-1.36%	-0.79%	-2.42%	-1.98%
Feasibility	Feasible	Feasible	Infeasible	Infeasible	Infeasible	Infeasible

Multi-family rental development within core markets are feasible

Multi-family developments outside of core markets are currently infeasible based on market conditions in these locations.

Note: The Yield on Cost feasibility threshold is determined based on the capitalization rate (cap rate) in each location plus a spread of 125 basis points. Additional detail on inputs and assumptions is provided in the Appendix section.
Note: Baseline analysis assumes inclusion of High-Performance Tax Credit, since the incentive is available to most new development occurring in Baltimore.

Figure 9 | Feasibility of Market-Rate Development Across Housing Market Typologies

Set aside requirements greater than 10 percent, such as the City's previous 20 percent requirement in the 2007 Ordinance, were found not to be financially feasible, with or without incentives. The analysis found that additional incentives are required in order to support new developments that include an inclusionary set aside of 10 percent. Without additional incentives, the costs associated with providing affordable units reduce the financial viability of new development and impact the ability to produce new housing supply. Without additional incentives, it will not be feasible for developers to meet inclusionary housing affordability requirements in core submarkets, even for developments using the High Performance Tax Credit (see Figures 10 and 11).

Core Market Locations – Feasibility of IZ Requirement Without Incentives

	Baseline Feasibility: 0 Affordable Units	Scenario 1: 5% at 60% AMI	Scenario 2: 5% at 80% AMI	Scenario 3: 10% at 80% AMI	Scenario 4: 5% at 60% AMI 5% at 80% AMI (10% total)	Scenario 5: 6% at 30% AMI 5% at 60% AMI 5% at 80% AMI 4% at 100% AMI (20% Total)
Mid-Rise New Construction	Feasible	Infeasible	Feasible	Infeasible	Infeasible	Infeasible
High-Rise New Construction	Feasible	Infeasible	Infeasible	Infeasible	Infeasible	Infeasible

Figure 10: Feasibility of Inclusionary Housing Requirements without Incentives in Core Submarket Locations

Core Market – Feasibility of IZ Requirement With Incentives

	Baseline Feasibility: 0 Affordable Units	Scenario 1: 5% at 60% AMI	Scenario 2: 5% at 80% AMI	Scenario 3: 10% at 80% AMI	Scenario 4: 5% at 60% AMI 5% at 80% AMI (10% total)	Scenario 5: 6% at 30% AMI 5% at 60% AMI 5% at 80% AMI 4% at 100% AMI (20% Total)
Mid-Rise New Construction	Feasible	Feasible	Feasible	Feasible	Feasible	Infeasible
High-Rise New Construction	Feasible	Feasible	Feasible	Feasible	Feasible	Infeasible

This tax abatement is in **addition to the High-Performance Tax Credit,** which provides an effective abatement of 65% per year during its ten-year term. An additional 15% abatement would equate to a total effective incremental abatement of **80% for ten years**.

Figure 11: Feasibility of Inclusionary Housing Requirements with Incentives in Core Submarket Locations

However, with an additional 15 percent tax abatement, it is feasible for developments in core submarket locations to set aside five percent of units for households at 60 percent of the AMI and five percent of units for households at 80 percent of the AMI (10 percent total set aside). A five-to-ten percent inclusionary housing set aside requirement put in place under a traditional policy structure would have yielded 270-540 affordable units between 2016 and 2021 based on the market-rate development that was built during that time, significantly exceeding the number of units produced in the lifespan of the 2007 Ordinance.

Policy Recommendations

In order to effectively meet its policy goal of increasing the number of inclusionary housing units while learning from the findings from phases one and two, the Enterprise Project Team recommends that the City consider the following policy framework when replacing the 2007 Ordinance:

Policy goal	Economic diversity by requiring affordable rental units in market-rate developments without imposing financial burdens on developers
Policy structure	Mandatory for all rental developments with 30 or more units seeking major public subsidy (excluding affordable housing funding) Note: does not include for-sale units in multifamily properties
Geography	Mandatory in core submarkets[8] only
Affordability requirements	At least 10 percent of all residential units must be dedicated inclusionary units, including, at minimum: · Five percent of total residential rental units priced for households with incomes that do not exceed 60 percent of the AMI as defined by HUD · Five percent of total residential rental units priced for households with incomes that do not exceed 80 percent of the AMI as defined by HUD Note: these affordability requirements (blend) provide the greatest number of affordable units considered to be financially feasible while also supporting the development of units affordable to low-income households with incomes of 60 percent of the AMI.
Affordability period	No less than 30 years
Offsetting incentives	10-year 15 percent tax abatement
Administration	To streamline the intake process, · Developers must receive approved regulatory agreement OR fee-in-lieu agreement before having building permit(s) approved · Deed restriction must be recorded with Baltimore County before a certificate of occupancy is issued DHCD must adopt a program manual that includes clear details on the administration, operation, and enforcement of the policy

[8] Submarket geographies to be revised every three years based on updates to the City's housing typologies map

Unit comparability	The developer must ensure there are no differences between market-rate and inclusionary housing units, including as it relates to: · Design and construction standards · Placement · Construction/leasing timeline · Management · Leasing requirements · Maintenance
Inclusionary Housing Plan	Developers developing inclusionary housing units will have to submit an inclusionary housing plan to DHCD for approval prior to receiving a certificate of occupancy; the plan must describe how the units will be marketed, as well as how tenants will be selected
Reporting	DHCD must submit an annual report that assesses the impact of the policy during the previous fiscal year Participating property owners must report annually on inclusionary housing unit occupancy and compliance
Fees-in-lieu	If subject to the inclusionary housing policy, developers may choose to pay a fee-in-lieu of developing required inclusionary housing units prior to issuance of building permit(s) Note: a fee-in-lieu option allows a developer to pay a fee to the City in place of providing inclusionary units in a new project. The funds can then be used by the City to support housing initiatives. Without a fee-in-lieu option, the production of affordable units through an inclusionary housing policy is limited to where market-rate development is occurring in the city and the types of buildings being built.

Please see Appendix 6 for a recommended policy framework provided for further review and discussion.

Additional Considerations

In addition to the policies recommended above, the City should also consider the following:

- Installing a multi-stakeholder advisory body to provide recommendations on policy and administration
- Revisiting the policy every three years to ensure it is responding to market conditions (housing market typologies, feasibility of affordability requirements, etc.)
- Implications of ongoing property tax reform efforts at the city level

Conclusion

This proposed policy framework is designed to leverage the City's housing affordability tools while leveraging market forces to create more inclusive and accessible neighborhoods. By considering lessons learned from the 2007 Ordinance and adopting national best practices to meet present-day Baltimore's market realities, the City has an opportunity to create a new inclusionary housing policy that will allow it to meet its goal of increasing the number of safe, quality affordable rental homes in areas with greater access to transit, jobs, educational institutions, and other critical resources.

Appendices

- Appendix 1: Phase One Report
- Appendix 2: Market Scan
- Appendix 3: Stakeholder Interview List
- Appendix 4a: Public Comments
- Appendix 4b: Public Comments
- Appendix 5: Financial Feasibility Analysis
- Appendix 6: Recommended Policy Framework