Buffalo Commons Student Perspectives

Inclusionary Zoning in Buffalo: The Time Is Now

Carolynn Sozen

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The Buffalo Commons Student Perspectives Series gives students an opportunity to share original research and analysis on issues of importance to Partnership for the Public Good and its partners. This paper was prepared in Fall 2026 for the **Lawyers as Change Agents course at the University at Buffalo School of Law**. Thank you to Professor Sam Magavern for facilitating this student research.

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Executive Summary

"Whatever affects one directly, affects all indirectly," - Dr. Martin Luther King, Jr.[1] This profound, perpetual truth describes the relationship of individuals within a shared community. The constructs within our society impact all, and as members of a wider collective, we have a responsibility to each other. In Buffalo, our residents deserve this commitment to collective well-being.

Currently, the housing affordability crisis in Buffalo is urgent and mounting. Of renter households, 48% are experiencing housing cost burdens[2], and 29% spend more than half their entire income on housing.[3] Inclusionary Zoning (IZ) is one of the most effective policies for tackling this epidemic.[4]

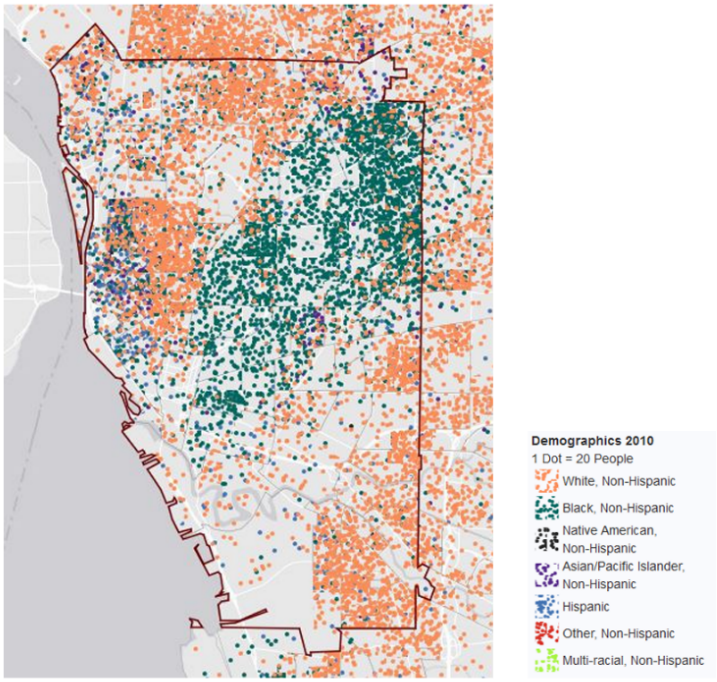
Inclusionary zoning not only provides affordable housing to communities in dire need but also combats systemic exclusionary practices that have been pervasive in Buffalo for decades.[5] This tool hits many social and economic ills with one stone and has proven in other municipalities to be effective.[6] Currently, more than 1,000 IZ programs have been implemented all over the United States.[7]

Inclusionary Zoning is a land-use policy that requires residential developers to set aside a portion of newly constructed housing developments at an affordable rate.[8] Low to middle-income community members can apply and qualify to reside in these units.[9] Many factors are considered when creating an IZ framework that works especially to meet a city's needs. The frameworks and elements suggested here should be considered when designing a comprehensive Inclusionary Zoning Policy for the City of Buffalo.

The State of Buffalo

Buffalo is the eleventh poorest city in the nation[10] and simultaneously faces some of the fastest increasing rents.[11] One in four Buffalonians live in poverty[12], and 29% of households spend at least 50% of their income on rent and utilities.[13] Alarmingly, from 2025 to 2026, the number of unhoused people rose 24%.[14] These serious housing and economic difficulties have origins not only from unforeseen economic restructuring, but also from intentionally discriminatory laws and practices.

After the downfall of the industries that had fueled the city, a *white-flight* exodus out of cities to the suburbs ensued.[15] This, coupled with pervasive racism in housing, lending, and employment laws, combined to create the segregated zip codes and economic inequities we see today.[16] [17] Now, we face a housing crisis, as over 41% of Buffalo households experience issues like unaffordability, overcrowding, or substandard housing.[18]



Source: U.S. Housing and Urban Development Department, Affirmatively Furthering Fair Housing Map Tool, *Map 1- Race/Ethnicity,* (July 2016), https://egis.hud.gov/affht/#.

Figure 1. Racial Demographic Map of Buffalo, NY (2016)

What Is Inclusionary Zoning?

IZ policies require residential developers to create and maintain a certain percentage of the units within their market-rate developments available at prices or rents that are affordable, relative to the average income and living expenses of the area.[19] For example, a developer would be required to mark 20% of their units at an affordable rate and be allowed to keep 80% of the units in the same building at the market rate. The primary goal of IZ is to expand the affordable housing inventory to meet the housing needs of the community it reaches. IZ also aims to tackle other systematic inequalities.

When low-income households move to neighborhoods where more affluent families live and work, adults and children have better access to academic opportunities, quality housing, and have improved health outcomes.[20] [21] These residents have access to more jobs, transit, better schools, and they experience less stress and have better psychological well-being.[22] [23] [24] In 2021, researchers from George Washington University found that cities with IZ policies have better cardiovascular outcome, such as lower blood pressure, cholesterol, and blood pressure medication prevalence.[25] And lastly, and most notably, by promoting integration, IZ confronts and combats the ramifications of prior exclusionary zoning policies that have led to Buffalo being one of the most segregated cities in the U.S. today.[26]

Inclusionary Zoning in the United States and at Home

Across the United States, around 1,019 inclusionary housing programs have been implemented.[27] The most successful ones to date are in Montgomery County, MD, New York City, NY, and

Minneapolis, MN.[28] [29] The specific requirements of the program vary in each area, as they must adapt to local housing markets, community housing needs, area-wide economic strength, and policy goals. Encouragingly, the City of Buffalo has shown positive movement regarding the implementation of IZ, but those promises and resolutions have remained unrealized.

In 2016, the City updated its development and zoning policies through the *Green Code*, an ordinance that sought to modernize the city's outdated zoning laws and was designed to promote sustainable development and revitalize neighborhoods.[30] Then in 2017, the Resolution, *Request for Inclusionary Zoning Ordinance*, was adopted by Buffalo Common Council which called on the City's law department to draft a comprehensive IZ ordinance.[31] This resolution did not produce any substantive action.

In 2018, discussions were renewed when Council member Christopher Scanlon filed an *Inclusionary Housing Law* draft, prepared by Partnership for Public Good.[32] Unfortunately, this proposal remained in committee without legislative action until 2024 when it was filed, but has not been enacted.[33]

Finally, in 2023, the Common Council established the *Affordable Housing Task Force*, to address Buffalo's growing affordable housing challenges, and develop concrete legislative and policy solutions.[34] In their October 2024 report, the task force recommended explicitly that IZ policies be promptly adopted and enforced throughout the city to address the affordable housing crisis.[35]

How Is It Done?

The beauty of Inclusionary Zoning lies in its flexibility- it is tailored to meet the precise needs of the community it touches. IZ features vary, but the core of the program has the same goal across the board: to create affordable housing.

Features of successful programs include:

- **Model-** *What will the program's regulatory approach be? Will it be mandatory, voluntary, or a hybrid? Mandatory* is binding on all new developments, *Voluntary* offers incentives or benefits in exchange for participation, and *Hybrid* requires a developer to participate in the program if they receive any public benefit such as a subsidy or zoning variance that increases the value of the property.[36] Mandatory policies are the most common and the model for the most successful IZ programs.[37]

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- **Project Type-** *What's the threshold for projects to become subject to the IZ policy?* These specifications can be based on the number of units in the complex, the square footage, rental vs purchase options, or the receipt of a public benefit.[38] An ideal threshold is set at a level that does not capture so few developments that insufficient affordable units are produced but

also not at a level that would hinder growth by discouraging developers from pursuing projects.[39]

- **Set-Aside Percentage-** *What will be the portion of housing units within the development that must be affordable?* Successful IZ programs require that between 5% - 20% of the units be set at affordable rates, while the remaining portion are set at market rate.[40] Some cities create multiple set-aside requirements, depending on the model of the program designated for a specific kind of development.[41]

- **Area Median Income (AMI) Level-** *What income level of households will qualify for the affordable units?* After the AMI is determined in a particular area, an income limit is set to determine eligibility for the IZ affordable units.[42] For example, if the AMI of an area is $80,000, and an income limit of 30% is set, then $24,000 is the ceiling income for eligible households for affordable units. Current IZ policies include AMI levels set between 30% - 120% and are tailored to meet the needs of targeted income groups in the area.[43]

- **Affordability Period-** *How long should the developer maintain the affordable housing rates?* IZ policies are meant to have lasting positive effects on communities and must be designed to be maintained for years to come.[44] Many successful programs are permanent.[45]

- **Developer Incentives-** *What incentives for developers will encourage housing production and foster support for new legislation?* Some examples include: Density Bonuses, Additional Height, Fast-Track Permits, Design Flexibility, Fee Waivers, Subsidies, Parking Requirement Reduction, and Tax Abatements.[46]

- **Design Standards-** *What design standards should developers implement in the affordable housing units?* To further the IZ mission of promoting social and economic inclusion, residents of the affordable housing units should have uniform access to all building amenities, parking, entrances and exits.[47] Affordable units can be required to have the same floor plans as the market rate units as well as fixed furnishes, however some programs allow for smaller floor plans and only require the furnishes to be new and standard.[48]

- **Opt-Out Provisions-** *Will an Opt-Out provision be available, and if so, what will it entail?* Allowing developers to opt-out of the requirements of the IZ program by paying a fee that supports other housing solutions, is an effective way to garner funding to combat a housing crisis.[49] Many successful programs have created *Housing Trust Funds* to administer and invest funding specifically for housing issues, such as homelessness prevention, rental assistance, or even support a city's own affordable housing construction.[50]

- **Compliance Mechanism-** *What authority will oversee the IZ program's execution?* Successful IZ programs vary in designating the agency that will ensure its success. This ranges from trust fund administrators, public authorities, city development or housing agencies, or a combination.[51] [52] A crucial component to an impactful IZ program is an invested, qualified, and supported oversight agency that has tools and resources to ensure the success of the program.[53] These agencies oversee mechanisms such as oversight, compliance, building permits, income verification, annual reporting, and ongoing monitoring.[54]

Table 1. Successful Inclusionary Zoning Programs

City → *Features ↓*	**Albany, NY** [55]	**NYC, NY** [56]	**Montgomery County, MD** [57]	**Pittsburg, PA** [58]	**Minneapolis, MN** [59]
Model	Mandatory	Mandatory	Mandatory	Mandatory	Mandatory
Project Type	New residential or mixed-use developments & redevelopments with 20+ new dwelling units	10+ units OR 12,500 sq ft of residential floor area	New developments of 20+ units	Rental & Owned units- any construction or substantial improvement of housing projects with 20+ units	New Residential projects with 20+ units
Set Aside %	5%	25 - 30%, depending on option	12.5 - 15%	10%, or 12% of Off-Site Units	8% - 20%, depending on AMI & Public funding provided
Income Target (AMI)	70%	10 - 90%, depending on option	65 - 70%	50% (rental), 80% (Ownership)	30% - 50%, depending on Set-Aside
Affordability Period	Permanent	Permanent	99 years (rentals), 30 years (Ownership)	35 years	20 yrs if no city financial assistance, 30 yrs if financial assistance received
Developer Incentives	Up to 100% parking Reduction. One additional story beyond the normal height limit. Up to 20% more dwelling units than would otherwise be permitted.	Density & Height Bonuses, Parking reductions, and Tax exemptions	Density & Height Bonuses, Fee waivers, Tax abatements	Density & Height Bonuses, Riverfront development flexibility	Financial assistance, Tax credits, Loans & grants through Housing Trust Fund
Design Standards	Must be comparable to market-rate units in: floor area, finishes & features.	Shared entrances & exits. Affordable units throughout at least 65% of residential floors. Proportional bedroom mix. Minimum comparative unit sizes.	Exterior architectural uniform. Smaller unit sizes & lower-cost interior finishes permitted. Integration of affordable units throughout development.	Core amenities like gym and pool access or a parking space must be shared with residents in all units.	Architectural & functional equivalence, proportional unit distribution & shared amenities.

Opt- Out Provision	$50k fee required per unit- to Albany Housing Trust Fund	Smaller Developments- dependent on size- Pay fee to Housing Trust Fund, Off-Site Construction, Hardship waiver	3% of each market-rate unit's price, off-site construction, or land transfer	Off-Site Construction	$15-$22/sq ft fee, off-site alternative, or preservation of existing affordable housing. To Cities' Trust Funds
Compliance Mechanism	Albany Community Dev Agency	NYC Department of Housing Preservation & Dev	Dept. of Housing & Community Affairs	Dept. of City Planning	Community Planning & Economic Dev Dept.

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Case Studies

ALBANY, NY

In 2017, Albany implemented IZ across the city and subsequently amended the program in 2023 and 2026.[60] [61] Since the enactment, **59** affordable units have been created.[62] Albany's IZ program requires that developers submit an Affordable Housing Compliance Plan, and Albany's Fair Housing Officer monitors compliance.[63] Notably, in response to the City's stalled development projects, Albany Common Council adopted amendments to the program to include reduced set-asides, strengthened oversight, and an opt-out provision.[64] Developers can now make a fee-in-lieu payment of $50,000 per required affordable unit into *Albany's Housing Trust Fund.*[65] This option is beneficial as it provides alternatives for developers and markets to adjust to new policies, all the while staying true to the IZ framework's original purpose - to combat the housing crisis.

MINNEAPOLIS, MD

The City of Minneapolis adopted IZ policies in 2018, and the program took effect in 2020.[66] Since then, **248** affordable family units and **278** affordable student bedrooms have been permitted for construction, totaling **526** units.[67] Most notably, the program's opt-out provision has allowed developers to pay an fee-in-lieu, which has generated approximately **$6.79 million** for the city's *Affordable Housing Trust Fund.*[68] The fund provides loans for developers to construct new affordable rental housing and preserve and rehabilitate existing affordable housing.[69]

NEW YORK CITY, NY

NYC has implemented IZ policies since 2016 in zoned neighborhoods within Brooklyn and the Bronx, then expanded the program to include more neighborhoods within all 5 boroughs.[70] [71] In 2024, the NYC Mayor's office reported that **3,255** affordable units were produced that year.[72] Notably, NYC's IZ policies have varied optional frameworks for developers to choose from, as legislators recognize the needs of diverse communities and markets.[73]

Table 2. NYC's IZ Framework Options

	Set Aside %	Income Target
Option 1	25%	Average 60% AMI, including 10% of total residential floor area at 40% AMI
Option 2	30%	Average 80% AMI
Option 3- Deep Affordability	20%	Average 40% AMI
Option 4- Workforce	30%	Average 15% AMI, including 5% at 70% AMI and 5% at 90% AMI

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Source: New York City Department of Housing Preservation and Development, Mandatory Inclusionary Housing (2025).[74]

MONTGOMERY COUNTY, MD

Montgomery County's pioneering IZ program has grown to be a model framework for municipalities across the United States. Established in 1974, the program has created 17,300 affordable units.[75] It was the first successful IZ program in the United States and has proven resilient and robust due to its ability to evolve in response to changing housing needs and markets.[76] The success of this program can be attributed to 2 components: annual quality review of the program, and a supported enforcement mechanism to ensure compliance. The County's Department of Housing and Community Affairs prepares a report for the County Executive and County Council, which evaluates affordable housing production, land transfers, and the fee-in-lieu revenue.[77] Subsequently, as needed, legislation is amended to ensure the program continues to address housing issues, while also ensuring that the IZ requirements remain economically viable for developers.[78]

A Successful IZ Program in Buffalo

Buffalo has a housing crisis, and a measured rollout will ensure inclusionary housing policies are successful and long-lasting. Currently, the residential developer market does not operate in accordance with any IZ legislation.[79] Additionally, there is no established regulatory agency or designated funding that would maintain, evaluate, and enforce IZ policies.[80] Based on data of IZ programs from all over the country, a supported program must be in place for IZ policies to be implemented effectively.

Additionally, the program must be evaluated annually, and its components should adapt to the market and affordable housing growth. Finally, a *Buffalo Housing Trust Fund* should be established to generate funding not only from in-lieu fees from developers, but other sources such as grants, taxes, and private contributors. In November 2025, Buffalo's Charter Review Commission was presented with the proposal of creating such a trust, but it did not advance to formal adoption.[81]

In 2016, The Buffalo Inclusionary Housing Coalition completed a comprehensive policy brief in support of Inclusionary Housing Legislation.[82] While the recommendations for IZ policies were sound, I recommend adjustments informed by my research.



Figure 2. Affordable Housing Development in Montgomery County, MD Source: Montgomery Planning,

Table 3. Recommended Inclusionary Zoning Policy for Buffalo

	My Recommendations	Housing Coalition's Recommendations[88]
Model	Mandatory	Mandatory
Project Type	New Residential Developments w/ 10+ units, any Residential project receiving Tax Incentives w/ 10+ Units	Residential Development w/ 10+ Units
Set Aside %	15%	30%
Income Target (AMI)	60%	60%
Affordability Period	Permanent	Maximum allowable by law
Developer Incentives	Density Bonus, Additional Story & Height, Parking Requirement Waiver	n/a
Design Standards	Externally, all units should be unified in design. All units will have access to all entrances/ exits, and amenities & parking areas. Interiors of affordable units can be less expensive than market-rate units, but should be durable, new quality, and	Affordable units should not be over-concentrated w/in a development. Comparable in unit type, # of bedrooms per unit, quality of exterior apparency, energy efficiency, quality of construction. Interior finishes may differ from market rates so long as they are durable, of good & new

	consistent with current standards for new housing.	quality, and consistent w/ current standards for new housing. Access to all on-site amenities available to market-rate units. Functionally equivalent parking.
Opt-Out Provision	Developers may pay $30k per required affordable unit into a Trust Housing Fund created for the City of Buffalo.	Not at this time
Compliance Mechanism	Buffalo Urban Renewal Agency and Office of Strategic Planning	The City of Buffalo will be responsible for enforcement during development and monitoring ongoing compliance. The City will not be the leasing agents and will not own any properties.

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Source: Buffalo Inclusionary Housing Coalition (2016). Recommendations in the first column are the author's own.

Notable differences from these two suggested frameworks include the set-aside, opt-out provision, and compliance mechanism. The Housing Coalition recommended the set-aside, or percent of units within the new development set at affordable rates, to be 30%. This set-aside percent is at the higher end of other IZ programs, and to adapt to a market that has no current IZ housing, more measured policies should be implemented. As the market grows, these factors such as set-aside, AMI, or incentives, can be raised or lowered. My recommendation is 15%.

Next, one of the most successful results of IZ programs is the ability to generate funding through an opt-out provision. At first glance, this may seem discouraging to developers; however, the profits of market-rate units generated by building projects more than 10 units will provide sufficient incentive to offset the costs of compliance.[84] Lastly, the City of Buffalo must designate and fund a specific agency to maintain the IZ policies adopted.

It Can Be Done!

As an initial reaction, many developers frown at IZ policies. However, as entities that leave huge footprints in the housing markets and economic landscape in our city, they also have a duty to do so in a responsible way. It must benefit the community a whole, not just their bottom dollar. IZ policies can hold the developers to fulfill this responsibility by requiring they support and benefit the entire community, not just a privileged few.

Specifically, developers in Buffalo have long argued that mixed-income housing projects were financially unviable.[85] However, thanks to government subsidies, recently many projects of affordable or mixed-income housing have been developed voluntarily, often by private, for-profit developers.[86] [87] For example, in 2016 in the Hydraulics District, a development named **500 Seneca Street** transformed a vacant industrial factory into a complex containing apartments, offices, retail, and cultural space.[88] This $44 million project was financed by a combination of private investments

and public funding.[89] In 2018, project planning began for **American Lofts** at Silo City on the Buffalo River.[90] This development also received both private and public financing, specifically from NY State, and in 2025 the first residents moved in.[91] This development includes 168 affordable housing units.[92] The **North Aud Block**, currently under construction in Buffalo's Canalside district, will provide **187** affordable housing units and 64 at market-rate.[93] This project is heavily subsidized by NYS and the federal government and includes local property tax incentives.[94] [95]

Although none of these projects were created under an IZ policy framework, they are testaments to the financial viability of mixed-housing projects created through public-private partnerships. They are also examples of how government can, and should, position public dollars to be used on projects that benefit the wider community. Ultimately, a standard IZ model will establish a more systematic and predictable mechanism to create affordable housing not dependent on the availability of government financing or voluntary participation of developers.

The Trojan Horses

The lack of affordable housing is not the only driver for IZ policies. There are also a few trojan horses that, if left unaddressed, could contribute to making the Buffalo housing crisis worse. Those are the phenomena of *gentrification* and the *great inversion.*[96] On their face, they may seem like positive urban demographic trends, but very quickly, their potential detrimental effects become clear. *Gentrification* consists of high-income investment in lower-income neighborhoods, which eventually puts enough economic pressure on long-time residents until they are forced to move.[97] Some local businesses cannot survive in the newly transformed neighborhoods, and communities become easily fragmented.[98] [99]

The *great inversion* is a national trend where wealthier residents increasingly prefer to live in city centers.[100] This demographic shift causes rising housing costs for established residents, and a higher concentration of wealth in urban centers.[101] A testament to these patterns is that over the last few years, Downtown Buffalo has seen more than $3 billion in public and private investment.[102] If these patterns are left unchecked, neighborhoods will lose their businesses and character, and existing residents will be displaced by way of increased property taxes and a demographic change.[103]

These trends should not only be reined in, but capitalized on, to reap their benefits and not allow them to worsen the housing crisis. One way the legislature can do this is to tie booming investment to creating affordable housing through IZ. Numerous residential market-rate housing projects are completed every year with the support of public dollars in Buffalo.[104] These dollars come in the form of tax incentives such as tax breaks, tax abatements, tax reductions, and tax credits.[105] Many IZ programs require that if a developer is receiving any tax incentive, the IZ framework is triggered, and the developer must abide by the conditions.[106] Buffalo has an opportunity to leverage these public investments to ensure not only revitalizing development for some, but supportive housing development for all.

Make Good on the Pledges

Buffalo is a diverse, closely connected city where its residents have shared values of being neighborly and resilient. When I first moved here, a proud Buffalonian told me, 'You know what is special about Buffalo? It keeps its people.' People from here may move away for one reason or another, but they always come back. It's this cohesiveness the keeps the community strong and connected. It's because of this sense of belonging; we are driven to find solutions to uplift all of our neighbors.

Buffalo's residents demand and deserve safe, stable, inclusive, affordable housing and Inclusionary Zoning Policies can make this attainable. Make good on the pledges given and adopt legislation to bring this to fruition.

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