

Ensuring and Preserving Housing Affordability in Low-Density Intensification: Options for Brampton



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1. Introduction

The City of Brampton is experiencing serious and unprecedented housing affordability challenges. As a lower tier municipality in Peel Region, the City has control over local policy and zoning and can therefore play a lead role in planning policy, zoning, offering incentives to housing developers and non-profits, advocacy, and partnerships. The City is aiming to address its lack of affordable housing and the unaffordability of existing housing through the implementation of [Housing Brampton](#) (2021), its ambitious 5-year housing strategy and action plan.

Historically, growth in Brampton's housing supply has been primarily in low-density residential development, which is becoming increasingly unaffordable. Most of Brampton's residential zoning was restricted to single family homes until provincial Bill 108 (2019) required Ontario municipalities to begin allowing second units and units within a detached accessory structure in all detached houses, semi-detached houses, and row houses. Brampton now allows second units in all residential zones and is [in the process](#) of legalizing garden suites. The City is aiming to further improve housing choice and ensure residents have the opportunity to find safe, legal housing they can afford by enabling other forms of missing middle housing (lodging/rooming houses, triplexes, fourplexes and very small low-rise/low-density apartments or townhouses) within Brampton's low-density residential zones.

As Ballantyne (2020, p.20) notes, the impact of densification on affordability is contested, and “many voices urge caution as there is no guarantee that adding to the supply of market units without controls will result in greater affordability.” In fact, as Lee (2022, p.14) points out, the opposite is possible: “a challenge for upzoning detached housing neighbourhoods is that it could lead to even further land price inflation. This would undermine the potential gains from increased density...” As he explains, if there is a gap between the value that can be achieved through newly developed higher density and the combined cost of buying the land and redeveloping the property, speculators will bid up the price of the land. A [study](#) of the effect of upzoning around transit stations in Chicago, which found that property values increased significantly following the zoning changes (Freemark, 2019), is an oft-cited example by those sharing these concerns. Indeed, Condon (2022) has observed single units in a duplex in Vancouver are now selling for more than single family homes double the size on similar lots. Increasing land values not only worsen housing unaffordability, they make it increasingly difficult for developers to produce housing that can be rented at affordable rates (Condon, 2021 Dec. 22).

Another frequently raised concern (see Lee, 2022; Agnotti & Morse, 2017; [Skiba, 2021](#)) is that encouraging redevelopment to higher densities in low-density neighbourhoods has the potential to cause both the loss of existing more affordable housing and the displacement of tenants from homes where they currently pay affordable rents, forcing them into a rental market with few options they can afford. Ontario's [rent control](#) regulations, which exempt new units (including basement apartments and additions) created after November 15, 2018 from rent controls (Hale, 2018), are at odds with an effort to preserve housing affordability and add to the potential for upzoning to incentivize the loss of housing affordability rather than its improvement, while also fueling housing precarity and tenant displacement. Specifically, in Ontario, upzoning can create a dynamic where homes created before 2018 and subject to rent control will be redeveloped and replaced with units where there are no restrictions to how much a landlord can raise their tenants' rents each year.

The recent efforts of municipalities in the United States to address housing unaffordability through densification illustrate some of these challenges and demonstrate different methods for achieving densification that ensure and preserve housing affordability. In addition, a variety of methods are used in Canadian and American municipalities to ensure and maintain housing affordability that have potential applicability in this context. This report examines some of these experiences and methods and identifies options that the City of Brampton can consider to ensure new missing middle housing in existing built up areas will be affordable to middle and low-income people and that the affordability of existing and new housing is preserved.

2. Ensuring & preserving affordability through conditional upzoning

Minneapolis, Minnesota has received considerable attention for becoming the first city in the United States to amend its zoning code to eliminate single-family zoning. In addition to allowing accessory dwelling units city-wide (a policy that has been in place since 2014), as of January 1, 2020, Minneapolis [allows](#) 3 units within the same building scale and building size that is allowed for single-family dwellings (the zoning maintains height and floor area ratios) (City of Minneapolis, 2021).

The result of this zoning change on Minneapolis' housing supply has been [modest](#): between January 2020 and March 2022, Minneapolis approved 31 duplexes and 14 triplexes on lots that were once zoned for exclusively single-family development, an addition of 59 units to the Minneapolis' housing supply (Britschgi, 2022).

Even though the zoning change has had little impact on intensification or housing supply—due to the unprofitability of creating new units within existing height and floor area ratios (Britschgi, 2022)—early [research](#) on the impact of the zoning change on Minneapolis' property values found that a) it was associated with a 3% to 5% increase in the price of affected housing units, and b) that price increases were larger in inexpensive neighbourhoods and for properties that are small relative to their immediate neighbours (Demers, 2021). The findings suggest that relatively more affordable neighbourhoods and properties were subject to more intense land market speculation because of a perceived greater potential for profit.

The Minneapolis example demonstrates the validity of concerns that unless upzoning efforts are accompanied by explicit measures to ensure and preserve housing affordability and protect tenants from displacement, it may function to make the housing that is the most affordable in these single family zones more expensive, inaccessible, and precarious.

Cambridge, Massachusetts; Austin, Texas; and Portland, Oregon have employed alternative methods for increasing density in single dwelling zones that make increases in allowable density conditional on the creation of affordable housing, ensuring that upzoning improves housing affordability in the immediate and the long term. An upzoning initiative being developed for the City of Vancouver may implement some of the features of these other cities' approaches.

2.1 Cambridge, Massachusetts

Cambridge's [Affordable Housing Overlay District Zoning Ordinance](#) was adopted in October 2020. It covers the entirety of the city, but doesn't change the base zoning of land; instead it overlays more generous, voluntary rules: for projects where 100% of the units will be permanently affordable, it allows an increase in allowable density up to a floor-area ratio (FAR) of 2 (FAR 2) in single family zones, removes FAR requirements altogether in areas where the existing FAR is more than 1.00, removes minimum lot area requirements for dwelling units, and removes parking requirements. The Ordinance defines "affordable" as no more than 30% of a person's gross income, and requires that 80% of the units must be affordable to households at 30-80% of area median income (AMI), and 20% of the units must be affordable to households at 80-100% of AMI (City of Cambridge, 2020).

Because the overlay doesn't change the base zoning of the land and is voluntary, it is less vulnerable to court challenges than measures like inclusionary zoning because it doesn't exact concessions as a condition of project approval. The method also avoids sending "a signal to land markets that there may be speculative land value increases in store. Ideally, land prices stay stable" (Condon, 2021, p. 230).

Since taking effect, the overlay [appears to be](#) facilitating the redevelopment of existing larger multi-unit affordable housing projects, rather than functioning to intensify single family zones (City of Cambridge, n.d.), with about 400 [additional](#) affordable homes currently in the development pipeline (Cardosi et al., 2021). Many of these larger multi-unit affordable housing projects undoubtedly find further support from Cambridge's [Affordable Housing Trust](#), which provides loans for the preservation and development of affordable housing, including projects taking advantage of the higher densities permitted through the overlay (City of Cambridge, n.d.a).

2.2 Austin, Texas

Austin's [Affordability Unlocked](#) bonusing program, in effect since May 2019, applies city-wide and offers extensive waivers and modifications of development regulations in exchange for setting aside at least 50% of a development's total units as affordable for a minimum of 40 years (for rental units) or 99 years (for ownership units). For developments of one or two units, all the units are required to be affordable, and for developments of 3 or more units, 50% of the total units must be affordable. In single family zones, the program permits as-of-right, up to 8 dwelling units per lot in exchange for 50-75% of the units being affordable rental or affordable homeownership (City of Austin, 2019).

The program offers two different density-for-affordability options.

The first allows up to 6 dwelling units in single family zones, plus waivers of height restrictions, FAR, design requirements, occupancy limits, parking requirements, a 25% increase in allowable height, and a reduction in minimum lot sizes and yard setbacks. In exchange, at least 50% of a development's total units must be affordable for a minimum of 40 years for rental and 99 years for ownership. Rent levels for 80% of the affordable units must remain affordable to households whose incomes are at 60% or below the median family income (MFI), and 20% of the affordable units must remain affordable to households at or below 50% of the MFI. Affordable ownership units must be sold to households with incomes averaging up to 80% MFI and remain affordable for 99 years. In addition, 25% of affordable units must include two or more bedrooms, or be used to provide supportive or elderly housing.

The second allows up to 8 dwelling units in single family zones and a 50% increase in allowable height, plus the waivers and incentives offered in the first option, in exchange for meeting all of the other incentives plus one of the following: 75% of the units are affordable; b) 10% of the affordable units serve households at 30% MFI or below; c) 50% of the affordable units have 2 or more bedrooms; or d) the property is located within ¼ mile of a transit corridor.

For developments with affordable ownership units, the City of Austin will have a right of first refusal to purchase any affordable ownership unit upon sale. A restrictive covenant on title, executed by the landowner, will ensure the right of first refusal and affordability requirements. The responsibility for selling and/or tenanting affordable units is left to the landowner, with the City of Austin performing or reviewing income qualifications before units are sold, and reviewing initial tenant and rent information when units are first rented (City of Austin, 2019). The bonusing program is intended to be used in combination with the City's other funding [programs](#), which all offer loans (City of Austin, n.d.).

On May 14, 2022, Austin's [open data](#) indicated that 64 projects with a total 5,989 units (4,381 of them affordable) have been completed or are in the pipeline since Affordability Unlocked was implemented. Twenty-five of those projects are in single family zones and will add a total of 60 units, 55 of which will be affordable (City of Austin, n.d.a.), indicating that this program (in combination with the other affordable housing funding programs available) may be better at facilitating the development of affordable housing rather than encouraging intensification in single family home zones.

2.3 Portland, Oregon

Portland, Oregon already allowed up to two dwelling units per lot—one house and one accessory dwelling unit (or in some cases, a duplex on a corner)—in single-dwelling zones, when it changed its single-dwelling zoning rules and [design overlay](#) to encourage missing middle housing—changes, which went into effect in August 2021 (City of Portland, n.d.; City of Portland, n.d.a.). Portland's [Residential Infill Project](#) allows up to 4 market rate units on most residential lots and waives parking requirements on approximately 75% of those lots. To disincentivize the redevelopment of single family homes into larger single family homes, the zoning limits new single family homes to 2,500 square feet (down from 6,500 square feet—a cut of over 60%), while scaling up the allowable building size/floor-area-ratio (FAR) as the number of units increases on the site. To incentivize affordable housing, the zoning changes include bonus FAR for meeting affordability requirements: when one unit is priced for those making up to 80% of the median income, then an additional 0.1 FAR above the base FAR is permitted; when half of the units in 4-6 unit buildings are kept affordable to those earning up to 60% of the median income, then additional FAR of .3-.6 is permitted, allowable height is increased, and an additional 2 units in density (for a maximum of 6 units) is permitted. Rental units must remain affordable for 99 years and ownership units must remain affordable for 10 years.

In developing these new requirements, Portland started with a proposal similar to Minneapolis,' but changed it when [analysis](#) (commissioned by the City) indicated that it would produce only a very small increase in housing supply and would put areas with a higher proportion of low-income residents at even greater risk of displacement (low-income households already faced displacement pressure from property owners and investors looking to redevelop less expensive single family homes into larger, more expensive single family homes.) The analysis also found that the size of the building allowed, not the number of units allowed, was the primary driver of whether a lot would be redeveloped, indicating that allowing additional units could potentially create more housing without increasing displacement risk (Anderson, 2018, May 21).

As a result of these findings, staff were directed to revise the proposal to allow additional housing types (duplexes, triplexes, fourplexes, and additional accessory dwelling units) in most areas of the city, including areas identified as having a high risk of displacement. An [economic analysis](#) of the new proposal, which capped the size of new buildings, set a slightly lower maximum size for a one-home building than for a duplex, and set a slightly lower size for a duplex than for a triplex or fourplex, found it would result in 14 times more housing than the earlier proposal, while only increasing demolition by 8% (Anderson, 2018, Dec.7; Johnson Economics, 2018). An [analysis](#) of the impact this new proposal would have on low-income renters and homeowners in single-dwelling zones estimated that while some low-income neighbourhoods would experience increased displacement risk compared to the status quo, overall, the new proposal would reduce low-income renters' risk of displacement because it would increase the number of units built without requiring as many units to be redeveloped. The analysis concluded that (as compared with maintaining the status quo) the proposed changes would reduce displacement citywide, increase housing supply, create less-expensive housing options, and provide choices for types of housing that were historically allowed, but have since been disallowed in Portland's single-dwelling zones (City of Portland Bureau of Planning and Sustainability, 2019).

To address the displacement pressures that low-income people were expected to experience, the [report](#) identified several mitigation measures that the City could pursue: a) providing anti-displacement and prevention services to vulnerable tenants and homeowners (tenant rights education, legal supports, relocation assistance); b) providing financial assistance to displaced tenants; c) incentivizing property owners to rent existing and new units to low-income tenants; d) affordable homeownership programs (limited equity cooperative homeownership, other forms of cooperative or co-housing models of ownership, facilitated by community land trusts); and e) programs to protect vulnerable homeowners (education and public awareness campaigns to prevent predation; loans and foreclosure prevention assistance; and programs to assist low-income homeowners in building affordable ADUs including facilitating access to low cost loans (City of Portland Bureau of Planning and Sustainability, 2019).

It's unclear whether the City is moving forward with any of these displacement mitigation measures, however, in response to community [advocacy and research](#) making the case for a “deeper affordability option,” the City added affordability measures to the zoning update: scaling up the allowable density and building size in exchange for increased affordability (Anderson, 2020, Jan. 10).

To meet the requirements of the State of Oregon's House Bill 2001 and Senate Bill 458, Portland is currently [finalizing Part Two](#) of its Residential Infill Project, which will expand missing middle housing allowances to the city's remaining low density areas, add “cottage clusters” and higher density townhouses to the missing middle housing options permitted city-wide, and create a new missing middle land division procedure to enable missing middle housing to be divided into separate fee-simple lots to enable increased homeownership opportunities (City of Portland, n.d.b.).

2.4 Vancouver, British Columbia

The City of Vancouver has recognized the need to prevent land price inflation in its latest upzoning initiative, Making Home (currently in development). Staff are currently working on a policy framework to enable the initiative, which will allow up to six units per lot to be built on a maximum of 2,000 lots currently zoned for single-detached homes or duplexes, subject to appropriate rezonings (Stewart, 2022). In the development of the framework, staff have been [directed](#) to consider:

- modest height increases to ensure compatibility with neighbouring buildings;
- lower floor units to be located appropriately below grade;
- development cost expectations where appropriate to limit potential speculative land purchases;
- development cost levies where appropriate to contribute to neighbourhood infrastructure such as water, sewers, active transportation, roads, sidewalks, parks, child care, and housing affordable for households with annual incomes less than \$80,000 either on location or elsewhere in the city;
- development contributions where appropriate for public amenities;
- how its Tenant Relocation and Protection Policy can be applied to tenancies in properties considered for redevelopment under this policy; and
- (for consideration at a later date) reductions in floor space ratio for single-detached homes as a densification incentive (Stewart, 2022).

While not explicit in the directions to staff, during the Council meeting where this initiative was approved, it [was proposed](#) that for a proponent to be authorized for six units, they would have to agree to pay a fee set at a rate intended to capture most of the new land value created by upzoning; the fee would be low enough to induce development of the six units, but not so low as to inflate land values (Condon, 2022, Feb. 1). Lee (2022) recommends that to encourage affordability within new market developments, instead of paying the fee, proponents could agree to designate between one-third to one-half of the incremental density added as permanently affordable (as in, strata units where the resale value is capped by a covenant, a unit purchased as part of a community land trust, or designated rental units managed by the owner, a co-op or a non-profit).

Considerations for Brampton

The experiences of Minneapolis, Cambridge, Austin, Portland, and Vancouver demonstrate that to ensure and preserve affordability when upzoning low-density residential zones to allow missing middle housing, measures can and should be included to limit land price escalation and speculation and to encourage additional affordable housing. Additionally, the potential for

zoning changes to increase housing precarity for tenants should be considered and measures to mitigate these effects and prevent tenant displacement should be developed.

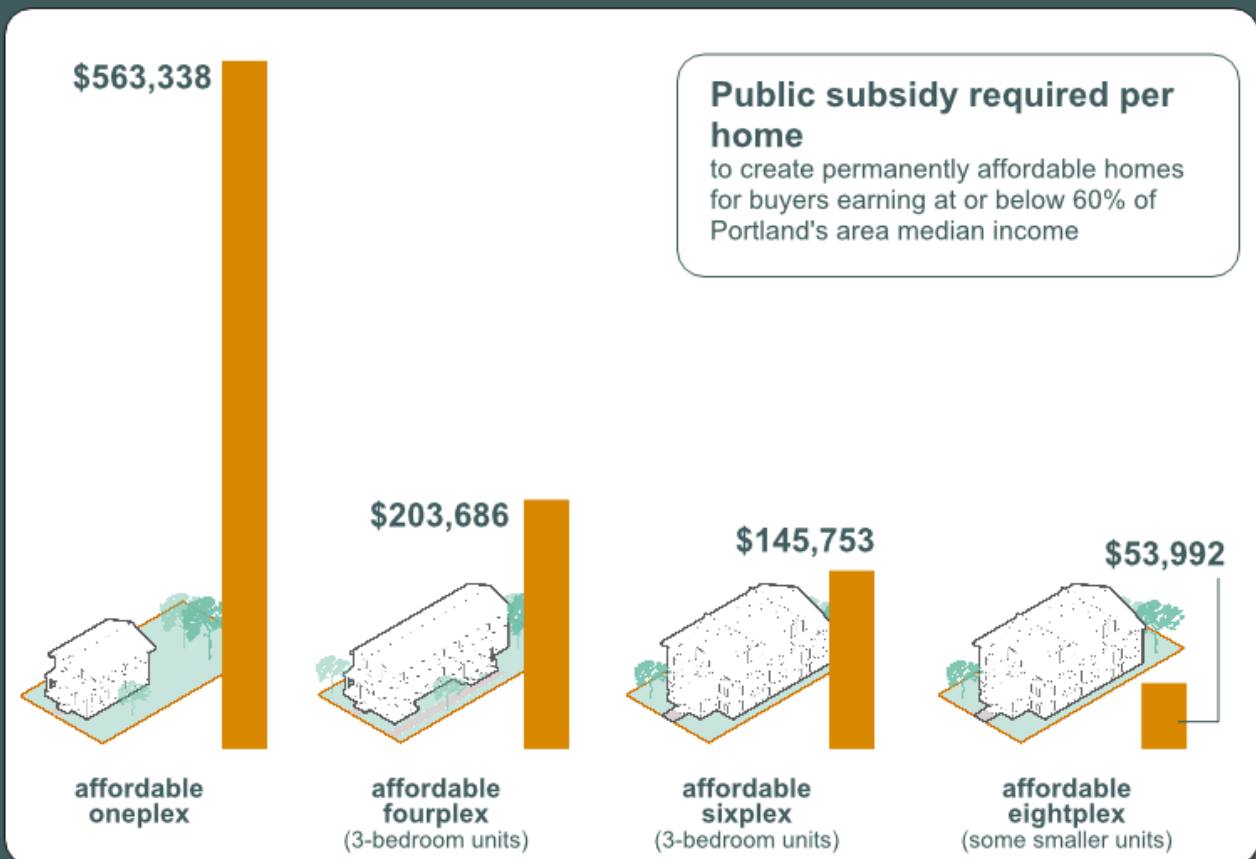
Ideally, to ensure and preserve housing affordability, an initiative to upzone low-density residential built up areas (whether city-wide or in specific areas) would:

- Make it easier for permanently affordable housing to be built and be financially viable by allowing non-market affordable housing projects to build more units, build bigger buildings, and be subject to less restrictive zoning requirements (including parking requirements) than market and for-profit projects;
- Only allow additional density with additional affordability; allow a cash-in-lieu of affordability option, so long as the rate captures most of the new land value created and the cash is invested in affordable housing projects in the same neighbourhood (not just the same municipal ward) and includes the provision of compensation and/or rent subsidies to displaced tenants;
- Set minimum unit size requirements for affordable units to ensure good quality affordable housing is created, incentivize units with more bedrooms to ensure larger households are accommodated, and set affordability periods for 99 years to ensure non-market housing is produced;
- Discourage new single family homes from being built by reducing the maximum size allowed for single family homes and increasing the maximum size allowed for multi-unit buildings;
- Ensure existing (unsubsidized) affordable units are replaced in redeveloped sites and existing tenants have the right to return to the replaced unit at the same rental rate;
- Ensure the City of Brampton has a legal right to the stewardship of affordable units and the enforcement of affordability and tenant/resale requirements through a covenant on title, and ensure that compliance is monitored and enforced;
- Be complemented by the coordination of regional, provincial and federal government funding and incentives to maximize the potential of upzoning to increase the affordable housing supply;
- Be accompanied by tenant supports to prevent displacement and improve housing security; and
- Be supported by analysis showing that the policy change being pursued would have a positive impact on: housing affordability, the supply of affordable housing, land values, rental rates, and housing precarity for low and middle income tenants.

The City of Brampton operates within a regulatory environment that is very different from the jurisdictions reviewed here, however; the City's planning and legal staff will have to explore what options the City realistically has to implement any of these possibilities.

The City of Brampton is already experiencing the effects of city-wide upzoning in low-density zones as a result of the provincial requirement that municipalities add to their Official Plans policies to permit second units in all detached homes, semi-detached homes, and rowhouses. Monitoring and evaluating the effect of this policy change—implemented without any affordability measures—on property values, rental rates, housing affordability, rental housing supply, redevelopment applications, home sales, new unit construction, and municipal administration (adjusting for the impact of federal changes to interest rates) could provide valuable information to inform further upzoning efforts.

Letting nonprofit developers build bigger is the same as cutting a big check for affordable housing — except it's free.

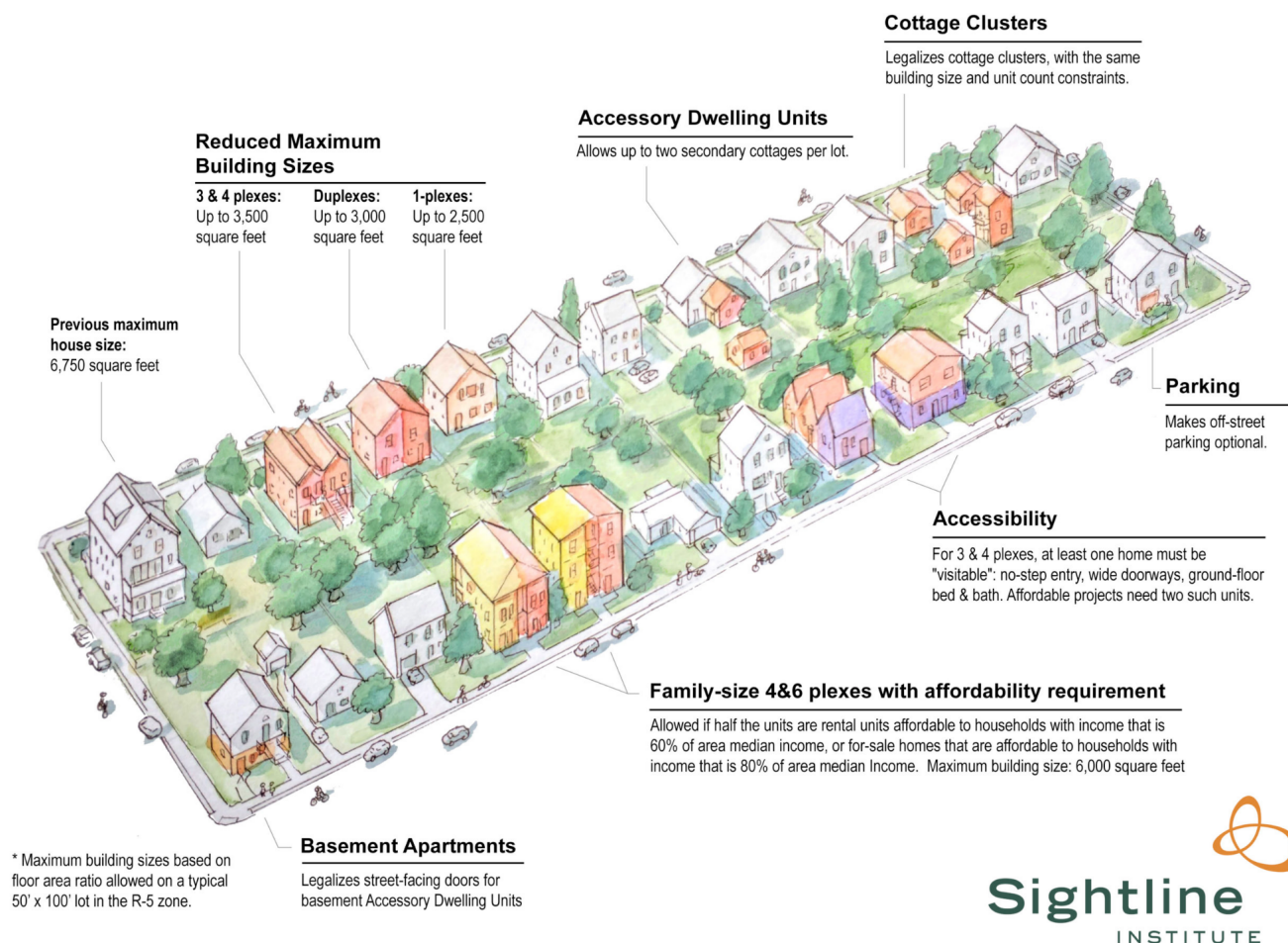


Source: Habitat for Humanity Portland/Metro East, Portland Community Reinvestment Initiatives, Proud Ground. Compiled by Neil Heller.

A visualization of Portland advocates' compelling case for scaling up allowable density with increased affordability. (Anderson, 2020, Jan. 10).

Portland's Residential Infill Project

Re-legalizing “middle housing” citywide



A rendering, by Alfred Twu, of the housing options Portland's residential infill project would legalize. (Anderson, 2020, August 11).

3. Housing ownership models that ensure and preserve affordability

Non-market housing is an alternative to the private sector-produced, government-incentivized, market affordable housing that has come to dominate government approaches to affordable housing provision in Canada today. The importance and value of non-market housing as a solution to the country's housing affordability issues becomes clear in the context of American and Canadian affordable housing policy, beginning in the 1970s.

Following in the United States' footsteps, Canada implemented a meaningful federally funded, municipally administered, public housing program and built an impressive 200,000 public (government-owned) housing units between 1964 and the mid-1970s. As a result of numerous factors, the development of large-scale public housing projects was discontinued in the 1970s in both Canada and the U.S., however, the housing policy responses in each country were very different (Drier & Hulchanski, 1993).

In 1973, the Canadian federal government amended the National Housing Act and established an assisted homeownership program, a neighbourhood improvement program, a housing rehabilitation program, a municipal land assembly program, a native housing program, and a new non-profit and co-op housing program, which involved transferring funds directly to municipalities, non-profits, co-ops, and homeowners. The new mixed-income non-market housing program provided both long-term financial subsidies to community-based and municipal non-profit organizations to build housing, and assistance to help community groups, church organizations, labor unions, and municipal governments (the "third sector") become sophisticated housing developers. This shift was echoed by big city municipalities, whose residents in the 1970s were clamouring for affordable housing. With the election of reform-minded municipal politicians who supported more direct government involvement in the supply of housing, several cities provided land for social housing at below-market value, and others offered zoning bonuses to make social housing financing formulas work on expensive land. Many municipalities established housing corporations to develop social housing. For the next 20 years, new federal expenditures on low-cost rental housing were directed almost exclusively to the third sector. (Drier & Hulchanski, 1993; Hulchanski, 2004; Shapcott, 2004).

Writing from their vantage point in 1993, Drier and Hulchanski observed, "housing conditions are considerably better for Canada's poor and working-class residents than for their counterparts in the United States" (p.44) and noted that "the important lesson provided by Canada's third sector, social housing approach to subsidizing housing is that local and community-based organizations can create good-quality housing and that this housing can remain a permanent community asset, never to be sold to speculators or converted to upscale units" (p.57). They noted that Canada's approach to social housing provides a full range of options to suit local needs and special-needs groups within the population, including (in the case of cooperatives) the desire for self-managed housing, and that in two decades spent building a permanent stock of good-quality, non-profit social housing and investing in growing an increasingly competent community-based housing development sector with increasingly experienced and sophisticated non-profit developers and managers, "Canada has created the foundation for solving the housing problems of low- and moderate-income groups on a permanent basis" (Drier & Hulchanski, 1993, p.57).

In contrast, the United States in the early 1970s (under the Nixon administration) responded to persistent pressure from the private sector housing industry by replacing existing government housing programs with the Section 8 project-based program. Section 8 involved the U.S. Department of Housing and Urban Development (HUD) incentivizing private developers to build affordable housing in exchange for a commitment to keep the units affordable for low-income households. The

incentives included mortgage insurance for 40-year loans, interest payment subsidies, below-market interest rates, rent supplements, and the option to prepay subsidized mortgages after 20 years and escape the requirement to rent to low-income households. HUD paid private sector landlords the difference between the tenants' affordable rent payment and the fair market rent for the unit, thereby shifting most of the United States' new subsidized housing supply expenditures to the private sector (Drier & Hulchanski, 1993). This initiative produced hundreds of thousands of affordable rental units across the United States, however, most (if not all) of the units produced were not permanently affordable. In the 1980s the 20-year mortgage lock-in periods began expiring and rental housing subsidy contracts from the 1970s began to expire, and governments and the public have been fighting desperately, and at great expense, to preserve the affordability of these units and keep them from being converted to market rate rental housing and to condos ever since. Each year, the affordability requirements expire on tens of thousands of affordable units, resulting in half the federal government's budget for affordable housing being spent on preserving its existing affordable housing stock; building new affordable units instead would cost the government 40% more (Goldstein, 2020).

When Drier and Hulchanski were writing in 1993, it was to share Canada's 20-year affordable housing success story with the U.S. in hopes that it would help the U.S. find a path out of its housing and homelessness crisis. Sadly, shortly after their article was published, the success story ended: Canada abruptly stopped its investment in nonmarket affordable housing and turned to embrace the United States' demonstratively problematic approach of incentivizing the private sector and the private housing market to address the long-term housing needs of low and moderate income Canadians. (This policy change is widely viewed as the chief cause of Canada's current affordable housing and homelessness problems.) As David Peters (2004) said of this approach in 2001, "we don't feel this is a best buy for taxpayers, who for all intents and purposes (and \$50,000 upfront), are temporarily "leasing" units from the private sector to provide affordable housing" (p.367). A current example of this problematic shift is CMHC's Rental Construction Financing Initiative (RCF), the largest funding program of Canada's National Housing Strategy, which incentivizes private developers with low cost government loans to build luxury rental housing, plus a small quantity of "affordable housing" (largely unaffordable to low-income people) that is only required to be "affordable" for 10 years (Blueprint ADE, 2022). Affordability periods of between 10 and 40 years are quite common requirements for government-assisted affordable housing built by the private sector in Canada. And when those affordability agreements expire, Canada will be in the same situation the United States found itself in decades ago: in the middle of a housing crisis and forced to spend huge amounts of public money just to keep its existing supply of affordable housing from disappearing.

The key takeaway from this history lesson is that "the only way to produce low-rent housing for people in serious need, and to keep the rents on those units low, is to subsidize construction and to protect this public investment by keeping the housing off the market (that is, in non-profit and non-equity co-op forms of ownership)" (Hulchanski, 2004, p.188). When it comes to ensuring **and** preserving affordability, only non-market models—models which protect housing from market forces—both ensure and preserve affordability through the very nature of their ownership structures and mandates.

3.1 Community Land Trusts (CLTs)

Community Land Trusts (CLTs) are a non-market form of property ownership. CLTs are non-profit organizations that remove land (and other assets like buildings) from the speculative real estate market and place them in common ownership, held in trust to benefit the community.

Canada's newer urban CLTs are mission-driven organizations that focus on securing community ownership and/or community control of the land, whether through donation, purchase, or a long-term land lease from government; they offer access to land at affordable and secure rates that

are not tied to market values, and ensure the housing on the land is operated at cost and will be permanently affordable. CLTs aren't typically the end user of homes/buildings on their land: they are the vehicle by which homes can be built, financed, and the land and assets managed long-term to ensure on-going affordability in a viable manner.

In the "classic model," a community land trust (CLT) is a dual ownership model: one party holds the deed to a parcel of land; another party holds the deed to a residential building (or any other "improvement") located upon that land. The owner of the land is the CLT—a non-profit, community-based corporation, committed to acquiring multiple parcels of land throughout a targeted geographic area with the intention of retaining ownership of these parcels forever. The owner of the building can be an individual homeowner, holding title to a single home, or a non-profit organization (a non-profit rental housing provider, housing cooperative, etc.), holding title to a multi-unit building located on the CLT's land (Davis, 2006). The CLT leases the land to a homeowner or non-profit via a long-term (e.g., 99-year), renewable ground lease that sets the terms of affordability, occupancy, capital improvements, maintenance, mortgaging and resale; the lease is transferable to the homeowner's heirs. The CLT is responsible for monitoring compliance with and enforcing the lease terms. Homeowners acquire traditional mortgage loans to finance their purchase, often from banks partnered with the CLT program (this requirement for households to qualify for conventional loans can exclude segments of the low-income population from accessing units).

Embedded in the ground lease is a preemptive option, which establishes a formula for determining the resale price of the CLT home and granting the CLT the first right to repurchase the home at the formula-determined price; when a homeowner wants to sell, the CLT either repurchases the property itself and sells it to an income-eligible homebuyer at the same below-market price paid to the homeowner, or it oversees the sale (with the same terms) to a new eligible homeowner. The objective is to provide affordable access to the security and freedoms of homeownership along with the opportunity to build equity, while preserving the affordability of the unit for subsequent purchasers. To that end, the resale formula is designed to give departing homeowners a fair return on their investment and give future homebuyers fair access to housing at an affordable price (Davis, 2006).

CLTs function as a land value capture mechanism, where land value is intended to remain at the same value as when it was first obtained by the CLT and is separated from the cost of CLT housing, therefore making housing more affordable for homeowners and renters in the long term. The separation of land from buildings also creates an opportunity for CLTs to leverage the value of their land to redevelop and/or build new housing by borrowing against the equity created from increasing land values.

While Community Land Trust models are quite varied in terms of their structure, governance, priorities, functions and how they deal with land and assets. Governance sets CLTs apart from other affordable housing non-profits; the two most common governance models are tripartite (one-third leaseholders, one third community members, and one third organization representatives) and closely held (singular ownership and representation). This tripartite structure is intended to balance the short-term interests of those who occupy CLT housing –residents who may someday have the greatest economic interest in removing the restrictions on use and resale –with the long-term interests of the larger community (Davis, 2006). What is common between the two models is that people who live in or operate the homes are represented on the CLT Board, providing a direct link between the governance and the end user.

Examples:

3.1.1 Parkdale Neighbourhood Land Trust (PNLT), Toronto

Parkdale Neighbourhood Land Trust (PNLT) is a CLT in the Toronto neighbourhood of Parkdale, created and led by a group of local residents and organizations as a way to protect the social, cultural and economic diversity of the community in the face of neighbourhood gentrification. PNLT owns land and ensures it is used to meet the needs of the community by leasing it to non-profit partners who provide affordable housing, space for social enterprises and non-profit organizations, and urban agriculture. For strategic reasons, the structure of the CLT has evolved into a unique dual organizational model, consisting of a charity (Neighbourhood Land Trust) and a non-profit (PNLT) that work together, but have different purposes. Legally, Neighbourhood Land Trust (NLT) can benefit from charitable donations of land and money, but may only hold land that is used for charitable purposes, may only lease land to other charities, and has strict limits on political activity; this means it can't own cooperative housing, which is not considered a charitable purpose. PNLT has limited ability to fundraise, but it can own and lease land more freely and has no limits on its political activity. PNLT has a broad-based membership and a community-elected board and retains control over the charity. PNLT has embraced the governance model of the "classic" CLT. PNLT's 15-person Board of Directors is elected from its resident membership and its tripartite Board structure ensures equal representation from: "core members" who live or work on the Trust's land; "organizational members" who are drawn from organizations that serve or embody the diversity of Parkdale; and "community members," who live or work within the geographic boundaries of Parkdale (Bunce & Barndt, 2020).

In 2017, NLT acquired a [15-unit bachelorette building](#) with \$1.5 million in capital funding provided by the City of Toronto through [a pilot project](#) to protect rooming houses (City of Toronto, 2020). NLT owns the property and leases it to PARC, a local supportive housing organization; Habitat Services provides support to the building's tenants. A further \$601,426 from the Ontario Renovates program provided funding for building rehabilitation (Parkdale Neighbourhood Land Trust, n.d.). The funding for the acquisition was provided via a 99-year forgivable loan (1% of the loan is forgiven each year) that requires NLT to maintain rents at or below 80% of Average Market Rent (AMR) for 99 years. While this forgivable loan structure functions as a strong oversight and enforcement mechanism for the City, the downside is that it prevents NLT from being able to leverage the equity from the property for further acquisition and growth (J. Barndt, personal communication, May 21, 2022).

In 2021, a [36-unit building was acquired](#) via Vancity Community Investment Bank's 'Preserve and Protect Guarantee Program,' in which VanCity accepts and holds funds from values-aligned investing organizations in an Impact GIC, which are then used to guarantee loans to the land trust; for this building, VCIB was able to provide an \$8.5 million acquisition facility to the land trust, supported by over \$2.6M in guarantees put forward by investors, including local foundations. The land trust has contracted PARC to provide property management services (Parkdale Neighbourhood Land Trust, n.d.a).

In 2021, public housing provider Toronto Community Housing [transferred 81 properties](#) comprising 153 units from its scattered homes portfolio to NLT. VanCity provided a standard loan for the acquisition, and CMHC's Co-Investment Fund is funding rehabilitation. YWCA Toronto will be operating the units as rent-geared-to-income housing (J. Barndt, personal communication, May 21, 2022). *Transfer terms and affordability requirements are the same as for Circle Land Community Land Trust.*

3.1.2 Circle Community Land Trust, Toronto

[Circle Community Land Trust](#) was formed by affordable housing experts and advocates to preserve and invest in Toronto Community Housing's (TCHC) portfolio of scattered single family homes. A decade ago, a highly controversial plan was advanced by the City of Toronto to sell-off TCHC's portfolio of scattered homes to generate revenue to address some of TCHC's multi-billion dollar repair backlog. Despite considerable public push back, 158 vacant homes from the portfolio were sold, while the future of the remaining 700+ scattered homes remained undecided. One solution, recommended by two different task forces, was to transfer the homes to a non-profit, co-op, or land trust. It became clear, however, that while some existing non-profit or co-op housing providers were interested in 10 or 20 houses, many of the houses would be left behind and would be vulnerable to being sold off. To ensure no houses were left behind, Circle Community Land Trust was formed to assume ownership of any homes not transferred to other non-profit groups, bring the homes to a state of good repair, and keep the homes affordable in perpetuity.

After years of planning, consultations, and negotiations, Toronto Community Housing is transferring 561 houses with 607 units in total to Circle, which will both own and operate the housing. Circle's purchase price for the homes is the amount needed to cover the properties' outstanding mortgages, plus TCHC's transaction costs, and was financed with a conventional credit union loan, while CMHC's Co-Investment Fund is providing grants and loans to bring the entire portfolio to a state of good repair. A social housing agreement between Circle and the City of Toronto requires the City to provide Circle with RGI subsidies for the next 25 years and requires Circle to maintain the homes as rent-geared-to-income housing and comply with all RGI administrative and oversight requirements (including an access plan where ⅓ of vacancies will be filled by coordinated access system applicants, ⅓ through referrals from Wigwamen (Indigenous applicants), and ⅓ through referrals from Sojourn House (refugees).

Circle's governance model is a conventional non-profit Board of six non-profit housing leaders and experts; the intent is to expand the Board to nine members and add three tenants to the Board once the transfer of homes is complete. Circle intends to leverage the equity of its portfolio to acquire and develop more affordable housing in the future (J. Connelly, personal communication, May 20, 2022).

3.1.3 The Toronto Islands Residential Community Trust Corporation

Following a lengthy fight by Toronto Island residents to keep their homes and prevent them from being levelled, the provincial Toronto Islands Residential Community Stewardship Act, 1993 was passed, establishing that residents of Ward's Island and Algonquin Island may hold title to their homes and lease the lots on which their houses are located. The Toronto Islands Residential Community Trust Corporation (TIRCTC) was established in December 1993 to manage the leasing process, the lands specified in the Act, and six related community buildings, on behalf of the Island residents and the public. The TIRCTC's mandate is set out in the Act and is complemented by a Memorandum of Understanding between the Trust and the Minister of Municipal Affairs and Housing (Toronto Islands Residential Community Trust Corporation, 2021). TIRCTC has a 99-year leasehold with the City of Toronto for residential land on two Toronto Islands. Similar to the US "classic" CLT model, residents own title to their homes and [lease](#) the lots on which their houses stand from the CLT. The land lease comes with a number of conditions related to the use of the home and the land, including: a minimum occupancy period per year, terms and conditions for subleasing, and a requirement that the owner occupy the house as their primary residence. The CLT and the price and resale

restricted, limited equity, homeownership model ensure that the sale of Island homes and leases, which sit on public land, do not result in windfall profits for the owners (Toronto Islands Residential Community Trust Corporation, 2020). [Provincial legislation](#) establishes the formula for setting the prices of Island homes and leases, the equity homeowners are permitted upon resale, and requires homes and leases to be bought and sold through the Toronto Islands Residential Community Trust (Toronto Islands Residential Community Stewardship Act, 1993).

3.2 Limited/Shared Equity Homeownership

Limited, or shared, equity homeownership (LEH) is an approach to improving access to homeownership that takes a wide variety of forms and is therefore difficult to define. In all cases, a prospective homeowner accesses homeownership through a form of financial assistance from a developer or program sponsor (usually a government or non-profit organization), in exchange for a portion of the home's equity being shared with the developer/sponsor. The forms of LEH differ based on the type of assistance provided; how equity is shared; the terms of mortgage repayment; the terms of use of the property; the terms of resale; the legal mechanism used to restrict resale and property use; the method used to determine resale price¹; whether the initial subsidy stays with the property, is recaptured by the developer/sponsor, or is removed/kept by the homebuyer; and the type of project sponsor.²

Central to shared equity models is the effort to achieve a 'balance' between the individual and community benefits (Streich, 2015). For example, questions of how equity is split between the homebuyer and the program sponsor, how the equity appreciates, and how the value is split, are dependent on the goals of the ownership program; programs that aim to support individual wealth building will allow the homeowner a greater share of the equity, while a program that aims to grow the stock of permanently affordable housing will allow the homeowner a smaller share.

LEH models can be non-market or market models.

In non-market models, developer/sponsors are usually community land trusts, co-operative housing organizations, non-profit organizations, or governments. In non-market models, instead of subsidizing a buyer, developer/sponsors effectively subsidize the unit; resale restrictions on the property limit the amount of equity the homeowner receives upon resale, thereby ensuring the developer/sponsor's initial subsidy is retained in the property and can be passed onto the home's next buyer. This model is also termed a "subsidy retention" model. Resale restrictions on the property will include the formula by which the owner's return on their investment is calculated when they choose to sell and move on; this formula is usually based on a stable index (often the Consumer Price Index or Annual Median Income) that is independent of the real estate market, with the aim of striking a balance between preserving the original affordability of the home and allowing the owner's equity to increase moderately over time (Ballantyne, 2020). Resale restrictions in non-market models will also set buyer eligibility terms and ensure the home remains under control of the developer/sponsor. Together, these restrictions ensure the home is preserved as affordable for the long-term.

The objective of shared equity homeownership in non-market models is two-fold: to provide affordable access to the security and freedoms of homeownership tenure along with the opportunity to build equity; and to preserve the affordability of the unit for subsequent purchasers through restrictions on the resale price (Ballantyne, 2020). Jacobus & Lubell ([2007, p.19](#)) add, "subsidy retention programs aim to build a portfolio of homes that sell for affordable prices even if the prices of other

¹ For a review of some of the types of resale formulas used in the United States, see Hickey ([2014](#)), pp. 28-30.

² Davis ([2006, pp. 53-74](#)) provides a fulsome discussion about the role of each of these essential programmatic components in non-market shared equity homeownership program design and about design considerations.

homes in the same community rise substantially. Among other benefits, this can help ensure the preservation of mixed-income communities in the face of gentrification pressures.” In the U.S., most inclusionary housing programs that produce affordable homeownership units pursue non-market models to ensure that owner-occupied homes remain affordable to low- and moderate-income households, resale after resale in perpetuity; the most common models are resale-restricted homeownership programs that apply deed restrictions to sell and resell homes at below market rate to income-eligible buyers (Hickey et al., 2014).

In Canada, most “affordable homeownership” initiatives are market models of shared equity homeownership (Ballantyne, 2022; Streich & Harvey, 2018). Market models involve the homebuyer and the developer/sponsor sharing the market value appreciation of the property and the developer/sponsor recapturing the initial subsidy for use in future projects. These models are also called “subsidy recapture” models. The objective of market models of SEH are to enable people to access homeownership, enter the real estate market, and acquire equity; while also generating funds for sponsors/developers to build more shared equity housing to provide access to homeownership to more people. With market models, the home’s value rises with the real estate market and when a property is sold, it is usually sold at current market rates. These projects provide access to homeownership for a homebuyer by providing more affordable and accessible mortgages, but they don’t contribute to the supply of affordable housing or to the preservation of housing affordability. Some market models implement resale restrictions at the time of purchase, but don’t pre-determine the future sale price. Setting buyer eligibility requirements (like restricting buyers to artists, or members of specific groups) can function to control the resale price, making them similar to non-market models, but housing prices remain tied to the market (Streich & Harvey, 2018).

Davis (2006) notes that, despite claims that subsidy recapture initiatives are self-sustaining, the funds recaptured from the first homeowner and used by the developer/sponsor to provide an affordable homeownership unit for another homeowner will rarely be enough to make homeownership affordable to another lower income homeowner, especially in markets where housing prices are increasing faster than incomes; fresh infusions of public capital will be required to prevent the funds available for subsidies from running out. Jacobus & Lubell (2007) also note that rising real estate prices can result in developer/sponsors having to reinvest recaptured funds in the least desirable neighbourhoods because more desirable neighbourhoods have since grown unaffordable. Kelly (2010, p.22) outlines a key benefit of non-market, subsidy retention models over market models: “with respect to preserving the economic diversity of certain blocks or neighborhoods, specific parcels of land can be unique, even irreplaceable, goods. Even if a silent second mortgage effectively recaptures the subsidy for those dedicated to preserving affordability, there may be no opportunity to reinvest that money in the target area. By recycling the financial assistance in place, programs using the subsidy retention approach preserve footholds that earlier investments have gained in communities that are otherwise becoming increasingly exclusive.” In efforts to preserve or improve the economic diversity of certain blocks or neighbourhoods, only subsidy retention models of SEH will have the desired long-term effect.

Examples:

3.2.1 City of Cambridge, Massachusetts: *non-market model*

Through its [HomeBridge](#) program, the City of Cambridge offers price and resale-restricted affordable homeownership units to first-time homebuyers with incomes of up to 100% of Area Median Income (AMI). The program pre-approves successful applicants with incomes between 60% and 120% AMI for financial assistance via a second mortgage with the City that will cover 50% of the purchase price of a three-bedroom unit; 45% of a two-bedroom unit; and 40% of a

one-bedroom unit. Maximum purchase prices are set for each applicant based on their down payment and income to ensure their total housing costs are no more than 25% to 33% of their gross monthly income. HomeBridge participants enter into the City's Affordable Housing Covenant, which includes resale, limited equity and residency restrictions. When an owner chooses to sell their unit, a new buyer is chosen from Cambridge's Homeownership Resale Pool and signs a new Affordable Housing Covenant, which includes limited equity provisions, residency requirements, and resale restrictions for the affordable unit, ensuring the unit remains affordable in perpetuity (City of Cambridge, n.d.a).

3.2.2 Whistler, BC: *non-market model*

The Resort Community of Whistler's price controlled, resident restricted, shared equity [homeownership program](#) is designed to provide housing to Whistler's workforce. It therefore restricts buyers to workers in Whistler who don't already own adequate housing. In 2020, the appreciation formula was changed from a market-based Housing Price Index (HPI) formula to a Core Consumer Price Index (CCPI) formula because units had reached unaffordable levels for many local employees under the HPI index formula. It was acknowledged by the community that the provision of a home and the retention of future affordability of the resident restricted inventory were paramount to the success of the program. CCPI was chosen so that the new formula would be simple to comprehend and would result in a modest, but consistent, appreciation year to year, reflecting annual inflation (Whistler Housing Authority, 2019). The Whistler Housing Authority retains a first right of refusal and an option to purchase on title. When homeowners wish to sell their property, they are required to use the Whistler Housing Authority Purchase Waitlist to secure a new buyer (Whistler Housing Authority, n.d).

3.2.3 Artscape: *market model, buyer-restricted*

In its Triangle Lofts development, Artscape offers eligible purchasers a no-interest and no-payment shared appreciation 2nd mortgage for 25% of the unit's market value. The second mortgage requires purchasers to share market appreciation on the first mortgage with Artscape—up to 5% per annum for the number of years the purchaser has owned the unit. If the unit's market value appreciates more than 5%, the additional appreciation on the owner's portion of the resale price (market value, less 25%) is shared with Artscape 50/50. Eligible purchasers are those who are full-time artists, or employees of an arts-based non-profit organization, with incomes below a set threshold. Purchasers must provide at least a 5% down payment and secure normal mortgage financing for the balance (70%) of the unit's purchase price. Restrictions on resale require owners to sell through Artscape to similarly eligible purchasers at a price set by the homeowner; Artscape charges a 3% brokerage fee for managing the resale process. The new owner assumes the 2nd mortgage and its shared appreciation terms. Artscape was able to purchase the Triangle Loft units (part of a larger condominium development) at cost from a private developer as a result of a Section 37 density bonus/affordable housing community benefit agreement the developer had negotiated with the City of Toronto (Canadian Urban Institute, 2017).

Removal, Recapture, or Retention: Three Policies for the Subsidization of Owner-Occupied Housing

	SUBSIDY REMOVAL	SUBSIDY RECAPTURE	SUBSIDY RETENTION
Recipient of the subsidy	Individual homeowner	Individual homeowner	Corporate sponsor, usually a community development corporation, CLT, or LEC
Form of the subsidy	Grant or non-amortizing loan to the homeowner	Loan to the homeowner	Grant or loan to the corporate sponsor
Price paid by homeowner at initial purchase	Total development cost or appraised value of the home	Total development cost or appraised value of the home	Total development cost, minus the amount of the subsidy
Price paid to homeowner when home is resold	Market value of the property	Market value of the property	Price determined by a resale formula contained in a deed covenant, ground lease, or an LEC's bylaws and shares
Disposition of subsidy at resale	Subsidy pocketed by the seller	Subsidy recaptured by the lender (in whole or in part) and then re-loaned to next low-income homebuyer	Subsidy retained in the property, lowering its purchase price for the next low-income homebuyer
Price paid by next homebuyer	Market value of the property	Market value of the property	Formula-determined price paid by the corporate sponsor in repurchasing the home from the first owner
Need for additional investment of public funds (in a rising market) to assist the next low-income homebuyer	More public investment is always needed, since none of the original subsidy is available to close the gap between the buyer's income and the property's increased market value	More public investment is usually needed, since recaptured funds are seldom sufficient to close the gap between the buyer's income and the property's increased market value	More public investment is not needed, if the resale formula has performed as expected in maintaining an affordable price for the next low-income homebuyer

Source: (Davis, 2006, p.82)

3.3 Housing Cooperatives

The concept of a cooperative is that it is a distinct form of organization: a membership-based club or association of people working together (cooperatively) for mutual benefit. Housing cooperatives are non-profit organizations owned and run by their members; they can be an organization of people working together to finance and build housing and help people access housing (these are building societies, financial co-ops and housing development/building cooperatives), an organization of people living together and maintaining their housing cooperatively (continuing housing co-ops), or an organization of people working together to help members of housing co-ops manage and maintain their housing (like cooperative housing associations and resource groups). The term "housing co-op" is generally used, however, to refer to the housing that co-op members live in and collectively own and manage. Housing co-ops are guided by international cooperative principles, adapted for housing co-ops (T. Laing, personal communication, May 7, 2022).

Cooperative housing is operated and governed by a non-profit cooperative housing corporation whose shareholders are the occupants of the housing. The corporation is the owner of the residential real estate; it owns the deed, holds the mortgage, and pays all municipal taxes and fees on the real estate. While co-op members/shareholders are technically homeowners, they do not hold title to their

individual homes, but own shares in—and are voting members of—the corporation that owns their home. Collectively, co-op members/shareholders have ultimate control over the corporation's assets, its operations, and its enforcement of any restrictions on the use of individual apartments and the resale of shares. The co-op corporation can borrow against the real estate it owns to finance property improvements.

The member-owner's share secures exclusive rights to a dwelling unit that is secured by a proprietary lease between the cooperative housing corporation and the homeowner. Buildings are operated on a non-profit basis and shareholders pay monthly fees—similar to a mortgage or rent payment—to cover costs that include: building debt service (if applicable); operations and maintenance expenses (whether self-managed or contracted to a third party); and maintenance of a building reserve fund dedicated to major repairs and emergencies. The occupant of cooperative housing, therefore, is simultaneously and inseparably a shareholder, a member, and a leaseholder (Davis, 2006).

There are three basic types of housing co-ops, each identified by the method in which members accumulate equity:

- Market rate or full equity is a private market model where all of the shareholders together own the building and there is no restriction on resale price and affordability is not preserved.
- Limited or shared equity (a form of limited/shared equity homeownership), where members own a share in the co-op corporation, not in the building, and members can sell their share and claim a limited profit. This model is designed to maintain long-term co-op housing affordability, while enabling households to claim limited appreciation on the value of their share in the corporation when they sell their share. Buildings and/or land can be owned by the co-op corporation or leased from another organization.
- Group equity, or zero equity, where members have a share in the co-op corporation that entitles them to a rental unit and a vote in co-op decision-making; the co-op controls who has access to shares/membership and sets the rental rates; all the equity stays with the co-op corporation of which the residents are members. Buildings and/or land can be owned by the co-op corporation or leased from another organization.

In Canada, housing cooperatives are overwhelmingly group equity cooperatives for historical reasons. Housing co-operatives began in North America in the 1840s as student co-operatives, controlled by universities or non-profits, which provided inexpensive room and board in exchange for residents' labour in helping with household chores (upkeep, preparing meals, etc); independent member-controlled student co-operatives arose during the Great Depression in the 1930s, taking a form where each house was an independent co-op. In the late '60s, when Baby Boomers needed somewhere to live while attending university, student group equity co-operatives expanded with the financial support of CMHC. This CMHC funding program to create group equity housing co-ops for students (who are generally short-term, transitional residents/members, and who aren't looking for secure affordable housing for the long-term) was later redirected to funding mixed-income, group equity, family housing cooperatives. This mixed-income community-owned housing was viewed at the time as a better alternative to government-owned public housing that housed the poor exclusively. Even though the residents of family cooperatives had quite different needs than the students the funding program was initially designed for, the funding program continued to fund group equity co-ops exclusively (T. Laing, personal communication, May 7, 2022). Today, many of these co-ops (the student co-ops in particular) function more like member-run non-profit rental housing rather than a "club" or community of members working in cooperation for their mutual benefit (T. Laing, personal communication, May 7, 2022). Most co-ops in Canada provide a mix of market rent and subsidized units. Rents are set to cover the cost of operating the co-op and subsidized units are funded by government in exchange for the co-op operating under certain basic rules (such as including a minimum number of units that must be subsidized, a maximum income cap for new

members, or having to hold a certain number of general meetings per year). These rules and affordability requirements can be reinforced through deed covenants that are designed to outlive the rules contained in the cooperative's regulatory agreement, which lapse when the mortgage is paid off. As co-op residents are all part owners, there are no "landlords" or "tenants" and so Ontario's Residential Tenancies Act does not apply.

In the U.S., the government took a different approach in the late '60s and saw co-ops as an opportunity for affordable housing and created limited equity co-ops (LECs), where the government contributed to financing the building, retained a portion of the equity, and regulated who units were sold to and the price of the units, while co-op members owned the remaining equity. Rather than a serious asset building tool, an LEC share serves as a very modest investment account. Today, LECs have a collective ownership structure—a co-op corporation owns both the land and building(s) in their entirety, while individual households/member-owners own a share in the corporation. The co-operative corporation adopts bylaw provisions that limit the maximum resale prices of co-op units (thereby limiting each unit's equity appreciation) to maintain long-term co-op housing affordability. When a member-owner sells a unit in a limited equity co-op, any return on the sale is limited by a formula pre-determined by the co-op that is included in the co-op bylaws. Rather than qualifying for individual financing, LEC residents can pool resources and secure a blanket mortgage for the co-op corporation, making housing more accessible to lower income people than via a shared equity CLT.

Members having a personal financial stake in their housing can result in better stewardship of the asset: members making management decisions that ensure the long-term sustainability of the asset/building. In group equity co-operatives, where members are responsible for both setting rent levels and making financial decisions about long-term maintenance, the structure can result in members choosing lower rents over maintaining sufficient reserves for maintenance (T. Laing, personal communication, May 7, 2022). The flip side is that when the task of preserving the long-term affordability of a building's units is assigned to residents with a personal stake in the long-term profitability of those units, there is an economic incentive for the members to amend the corporation's bylaws and relax or remove previous restrictions on the transfer value of the co-op's shares. Some co-ops are structured so that the underlying land is held by a CLT and the lease terms of that arrangement function to preserve the long-term affordability of the co-op units; this can both preserve the co-op's shareholder terms and prevent co-op members from being tempted to sell the corporation's buildings on the private market (Davis, 2006).

Co-ops are often members of other associations that provide outside assistance in the form of management help and oversight. In the case of co-operatives, where the land and/or building is leased from another organization (often a community land trust), this outside assistance with property stewardship and oversight sometimes comes from the owner of the land/and or building.

Laing argues that cooperation and cooperative decision-making are essential to a successful, sustainable housing co-op; for people who don't want to be involved in the stewardship of their housing and work cooperatively with their neighbours to manage it, another form of shared equity homeownership or renting a unit from a non-profit housing provider that assumes all the responsibility for property management and operations, are likely more appropriate forms of housing that also preserve housing affordability (T. Laing, personal communication, May 7, 2022).

Examples:

3.3.1 Housing Development Fund Corporation Cooperatives, New York City ***Limited equity cooperative***

During the 1970s and 1980s, the City of New York foreclosed on and acquired many rundown residential rental buildings, but didn't have the capacity to rehabilitate them. Through the City's Tenant Interim Lease Program (TIL) and Community Management Program (CMP), tenants received training in the organization and management of cooperative housing, funding for repairs and rehabilitation, and, eventually, received clear title to their buildings (Davis, 2006). These properties were organized as [Housing Development Fund Corporation Cooperatives](#) (HDFC co-ops), limited-equity affordable housing cooperatives. Today, there are over 1,100 HDFC co-ops in NYC, housing over 25,000 low-income households, the majority of whom are people of colour. HDFC buyers must meet income eligibility requirements. To ensure the continued affordability of units to future low-income purchasers, shareholders' equity is limited. The terms are not the same for all HDFC co-ops. Upon resale, homeowners typically get back their initial purchase price and may also get a small additional profit. Many re-sales are subject to a "flip tax," or a profit split between the owner and the co-op; the HDFC co-op re-invests the flip taxes it collects into capital repairs and other building needs. HDFC co-ops benefit from reduced real estate taxes in exchange for following income and resale restrictions, among other governance restrictions (New York City Housing Preservation and Development, n.d.).

3.3.2 Dufferin Grove Housing Co-op, Toronto ***Group equity cooperative***

Dufferin Grove Housing Co-op is a group equity scattered co-op of 10 buildings, the majority of which are converted single family homes with between 2 and 6 units each, and includes one 24-unit low-rise apartment building. The co-op was formed in 1973 by a group of residents to provide housing at a reasonable cost that would be owned and controlled by the residents. The group was incorporated in March of 1974 and purchased its first building in September of 1974. The co-op now has 7 buildings funded under the Canada Mortgage and Housing Corporation's (CMHC) Section 61 program (50 year mortgages, with no renewal dates) and 3 buildings funded under CMHC's Section 95 program (35 year mortgages, where its terms are renewed periodically, similar to a conventional mortgage) (Dufferin Grove Housing Co-operative, n.d.).

3.4 Non-profit rental housing

There are three types of non-profit rental housing in Ontario: private non-profit housing—rental housing that is owned and operated by a mission-driven independent community-based non-profit group or community agency; municipal non-profit housing, which is owned and operated by a municipality; and local housing corporations, which are owned and managed by Service Managers—the local government body in Ontario that is responsible for housing, social assistance, child care and ambulance services (Ontario Non-Profit Housing Association, n.d.)

Non-profit rental housing is a well-established form of non-market housing in Canada. In Canada, under the 1973 amendments to the National Housing Act, the federal government switched its funding from federally owned and operated public housing projects to non-profit housing: small-scale projects, developed and managed by local groups, including the residents themselves, which were

seen as a better alternative to public housing for tenants, for the neighborhoods being asked to accept them, and for the taxpayer paying the subsidy bill. Private non-profit housing providers were often established by church groups, unions, and community organizations (Hulchanski, 2004).

Non-profit rental housing providers rent units at cost, and often specifically for people not well-served by or who face discrimination in the private rental market, such as families with children, seniors, people living with disabilities, survivors of violence, Indigenous people, people exiting homelessness, and people who need support to enjoy a successful tenancy. Non-profit supported or supportive housing providers access provincial health funding to pay for additional staff to provide their tenants with specialized health, mental health and housing supports so that tenants are able to successfully maintain their tenancies. Non-profit housing providers have expertise in tenant qualification and selection as well as ongoing occupancy management. Further, they can help integrate wraparound services like education, addictions recovery, and immigration services into housing projects.

Many, but not all, tenants living in non-profit housing have low or moderate incomes. Up to 80% of tenants in non-profit housing in Ontario live in rent-geared-to-income housing where they only pay 30% of their monthly household income on rent, with the gap between the rent the tenant pays and the market rent for the unit is paid for by a subsidy paid directly to the non-profit housing provider from municipal, federal or provincial government programs (Ontario Non-Profit Housing Association, n.d.). Non-profit housing providers are governed by a non-profit Board of Directors; some organizations ensure that tenants have representation on these Boards. In Ontario, non-profit housing providers usually have their own housing waitlists, and are responsible for managing tenancies.

Considerations for Brampton

Ensuring and preserving affordability in low-density intensification requires creating housing where the ownership model of the housing itself ensures its perpetual affordability. Making increases in allowable density conditional on the inclusion of units that are required to be permanently affordable—whether through conditional upzoning, density bonusing, or inclusionary zoning—can encourage private property owners/developers to create permanently affordable units with 99-year affordability periods and also generate funds via cash-in-lieu payments, which can then be used for non-market housing. When combined with enabling zoning conditions, public investment (like acquisition programs, funding, development charge waivers, fee waivers, and property tax relief) can also enable non-profit organizations to acquire properties and redevelop them into higher density permanently affordable housing.

To increase the City's supply of affordable housing and ensure that existing mixed income communities are preserved and efforts made to today to make neighbourhoods more inclusive and accommodating of a diversity of residents and income levels has an enduring impact, the creation of non-market housing (non-profit rental housing, group and limited equity co-ops, and resale and price restricted limited equity homeownership units) should be prioritized.

The question of which of these forms of non-market housing the City of Brampton should pursue and what role the City should take largely depends on the goals, interests, resources and capacity of the community. The non-market models previously outlined and their multitude of variations demonstrate their malleability. As Davis (2006, p.11) notes, "they are easily tailored to fit a community's changing conditions, priorities, or needs."

A supply of low cost rental housing is important for people including newcomers, young people, students, and people with insecure or shorter term employment who need geographic flexibility to access labour opportunities. A challenge in the private rental market is maintaining affordable rents in areas where rental rates are increasing, there is high tenant turnover, and unlimited rent increases are permitted upon vacancy. Non-market student housing that necessarily preserves affordability upon vacancy is ideal for providing affordable student housing in the long term.

In the specific situation of increasing density in low-density neighbourhoods while employing measures to ensure that some or all of the units produced are affordable, the experiences of other jurisdictions indicate that—if a similar policy is introduced—what is likely to be produced is a relatively small number of additional units, with anywhere from an additional 1 to 7 units per lot, with a mix of affordability levels/deed restrictions, scattered across a neighbourhood along with larger non-profit owned and operated buildings.

There are many possibilities for how scattered units could be operated as non-market housing. As Davis (2006, p.13) says with regards to shared equity housing specifically, “there are many ways to allocate the rights, responsibilities, and benefits of resale-restricted, owner-occupied housing. There are many ways to tailor the durable controls that regulate the use and resale of such housing. There are many ways to structure the administrative entity charged with monitoring and enforcing these controls over time. Developers of shared equity housing dip into this pool of possibilities on a regular basis to craft combinations that are capable of meeting the shifting demands of the public officials who subsidize such housing, the private lenders who finance it, the households who buy it, and the organizations and communities who sponsor it.”

Some of the many possibilities include:

- A lot upon which affordable units are produced could be owned by a community land trust, and the units operated as non-profit rental housing by the land trust (as in the Circle Community Land Trust example), leased to a non-profit rental housing provider or co-op and operated as a scattered co-op or rental units, or sold to individuals through a price and resale restricted limited equity homeownership initiative.
- Both a lot and the units on it could be owned and operated by a housing co-op or non-profit rental housing provider.
- A homeowner could redevelop their property into a four-plex that includes a unit to live in themselves, a market rate income property, and two price and purchaser restricted affordable homeownership units priced at below market rates; the City could retain preemptive rights to the affordable properties and facilitate their sale and resale by maintaining a pool of income eligible prospective homeowners ready to purchase units as they become available.
- The City could form a land trust and acquire many lots of land and lease them to a single housing co-op or non-profit housing provider to redevelop and operate as a scattered housing co-op or scattered non-profit rental housing, or the lots could be leased to several organizations.
- Organizations leasing lots from a land trust could redevelop properties to support the needs of a specific group or community (students, international students, newcomers, seniors, people with mental health issues, people fleeing violence, an ethno-cultural group, etc.)

- A group of tenants who wanted access to homeownership could pool their money and work with a non-profit to purchase a property and convert into several affordable price and buyer restricted homeownership units that they would then own.
- A multi-household family that is living together in a house may want to redevelop the property so each household can have their own appropriately sized unit, and is willing to put price and resale restrictions on the units in exchange for a construction subsidy.

4. Legal mechanisms for ensuring and maintaining affordability

Several legal mechanisms are used to control resales of subsidized homes so as to preserve affordability while still providing all aspects of ownership to the subsidized homeowner, including a fair return on the homeowner's own monetary investment. There are a wide variety of ways to implement these mechanisms; in their review of U.S. inclusionary zoning programs, Hickey et al. (2014) found that it is the content and implementation of the legal contracts that matters most to the programs' success in ensuring and preserving housing affordability. [Marshall & Kautz](#) (2006) focus on the content and implementation of legal contracts in their comprehensive and very technical 'guide' to constructing and implementing effective legal documents and enforcement frameworks that will ensure the affordability of homeownership units is preserved over time. The following simply provides a brief overview of common legal mechanisms used to ensure and preserve the affordability of both affordable rental and ownership units.

4.1 Ground leases

Ground leases are the legal mechanisms used by CLTs to control the present use and future affordability of the land and the structures on it. These controls last as long as the lease, which can be a very long time. Fundamental to ground leasing is the separation of land ownership from the use of the land. The ground lease defines the separation and establishes the parameters for the use of the land. Owners of homes on CLT land purchase only the improvements (i.e. the built structure or home) and lease the land where the home is located at a nominal monthly fee from the CLT. By selling only the home, CLTs can offer purchase prices significantly below those available elsewhere in the market. In return for the lower purchase price, the owner agrees to restrictions on how much and to whom the home may be sold in the future so that homes are kept affordable for subsequent lower income households. During the term of the lease, a leaseholder homeowner must commit to maintaining the property as his or her primary residence. When the homeowner decides to move, the preemptive option on the improvements is triggered. Nothing in the lease prevents leaseholder homeowners from staying in their homes as long as they wish (Kelly, 2010). Ground leases endure even if the structural improvements are destroyed or the CLT is dissolved (Davis, 2006). Ground leases are considered more legally durable and easier to monitor, and therefore enforce, than deed covenants and shared appreciation loans, however the separation of land from buildings can make them appear challenging for mortgage lenders (Hickey et al., 2014). Grounded Solutions Network (which supports CLT development in the U.S.) created a [Model Ground Lease](#)—a template document for agreements between community land trusts and homeowners. A complementary document also gives commentary on the decisions behind lease types (Grounded Solutions Network, n.d.).

4.2 Deed restrictions or covenants

Deed restrictions or restricted covenants limit how a piece of real estate can be used, and what can be built on it; as the restrictions are registered on the title of the property, the limitations apply to the original buyer and to any subsequent buyer. For rental units, these limitations will usually impose both the maximum rents allowed and tenant eligibility criteria; for homeownership units, these limitations can include restrictions on the price for which the home may be sold and eligibility criteria for potential buyers. The terms set in the covenant are entirely at the discretion of the private parties that establish it.

Deed restrictions can be used to put restrictions on things such as affordability (duration, affordability level, sale price, equity, rental rate, rent control), tenure, demolition and conversion, occupancy

requirements, tenancy requirements/terms, tenant selection, terms of sale (including right of first refusal and pre-emptive right to cure a foreclosure). Deed restrictions and covenants, which impose price and resale restrictions on a property, are the most popular mechanism used to preserve affordability in units produced through inclusionary zoning in the U.S. Deed restrictions will reduce the market value of a property; care must be taken in setting restrictions, as they can have a counterproductive effect and limit a non-profit owner's flexibility in using its assets or making decisions to achieve the greatest benefit for the community. Deed covenants are frequently perceived as more "straight-forward" by mortgage lenders and public funders than ground leases because the title from land and improvements is not separated, however they can be harder to monitor and therefore enforce (Hickey et al., 2014).

Sometimes use and resale restrictions normally appended to a property's deed are attached to a homeowner's second mortgage instead, which covers the amount of a low-interest or no-interest loan provided by a public agency. The loan is forgiven if the home is resold to another low-income household at a formula-determined "affordable" price, otherwise, the loan must be repaid in full at resale. Any use or resale restrictions that are inserted into a mortgage are binding upon the current owner only, as paying off the mortgage will release the homeowner from any continuing obligation to use the property in a particular way or to resell the property to an income-eligible buyer for a particular price—unless the mortgage is assumed by the subsequent owner. Covenants and options can be appended to a mortgage to ensure that use and resale restrictions carry on past the end of the mortgage (Davis, 2006). Shared equity homeownership programs will often give the developer/sponsor/second mortgage holder the preemptive option to purchase the property back from the homeowner to ensure the home is resold to another lower income buyer at an affordable price (Hickey et al., 2014).

Permanent affordability is sometimes pursued in U.S. cities by establishing shorter-term restrictions (30+ years) and including provisions that require a new 30-year restriction to be recorded on title each time a deed-restricted home is refinanced or resold (Davis, 2006; Hickey et al., 2014). According to the [Report of the Ontario Housing Affordability Task Force](#) (Ontario Housing Affordability Task Force, 2022, p.21), the Planning Act limits land leases to a maximum of 21 years and the Perpetuities Act has a similar 21-year limit on any options placed on land, limiting "innovative non-profit models from using equity formulas for re-sale and repurchase of homes." The strategies employed in the United States may provide insight into a possible work-around in Ontario.

In Ontario, deed covenants are regulated through the [Conveyancing and Law of Property Act, RSO 1990, c C.34](#) and [Land Titles Act](#). Spiro (2019) [notes](#) that subsection 119(9) of the Land Titles Act states that when a restricted covenant has been registered without a period or date set for the expiry of the condition, restriction, or covenant, it is deemed to have expired forty years after the condition, restriction or covenant was registered. The court has ruled that unless a fixed period is included in the covenant, it will expire after 40 years, rendering terms like "permanent," "in perpetuity," and "forever" unenforceable if used in place of a fixed period.

Example:

4.2.1 Grounded Solutions' Model Declaration of Affordability Covenants with Refinance and Resale Restriction and Purchase Option

To increase shared equity borrowers' access to lenders and mortgage financing, promote best practices, and standardize the field, Fannie Mae and Freddie Mac and Grounded Solutions Network partnered to develop a standardized legal template—[a Model Declaration of](#)

[Affordability Covenants with Refinance and Resale Restriction and Purchase Option](#). The Declaration is meant for use by shared equity projects in the United States that are managed by a government or a non-profit using deed covenants or deed restrictions that intend to keep properties permanently affordable by restricting the prices for which properties may be sold to subsequent homeowners. The hope is that inclusionary housing programs, below market-rate homeownership programs, and other shared equity homeownership programs will adopt the Declaration when they use deed covenants or deed restrictions.

The Declaration includes all of the mechanisms mentioned in this section, and illustrates how they can be used together to ensure and preserve affordability: “the Declaration is designed to be a standalone document that runs with the land to enforce affordability restrictions as well as notify the Homeowner that the Program Manager has a right to approve mortgages placed on the Home and approve the sale of the Home. To bolster each successive Homeowner’s awareness of Program requirements, the Declaration includes provisions anticipating that a new Declaration will be signed by the new Homeowner at each successive conveyance. The Declaration also provides for simultaneous execution of a mortgage or deed of trust by the first Homeowner and any subsequent Homeowner at each successive conveyance to enhance the Declaration’s visibility and significance in the chain of title for title companies and to bolster remedies available to Program Managers in a default scenario, most notably to give the Program Manager the ability to foreclose on the Home, to cure defaults, or keep the Home affordable” (Grounded Solutions Network, 2021, pp. 2-3).

4.3 Deed of trust

A deed of trust is used in combination with a deed covenant to give a municipality better oversight over compliance. With a deed of trust, the legal title to the property is transferred to the municipality, which holds it as security for the “debt” that is owed by the homebuyer for receiving financial assistance or the property at below-market-rate. This mechanism allows the City improved notification of potential illegal resales and improper refinancing or second loans, and gives municipalities better legal recourse to recapture the subsidy provided to the homeowner if an illegal sale is made (Hickey et al., 2014).

Example:

4.3.1 San Mateo, California

San Mateo added a promissory note and deed of trust at the point of initial sale to inclusionary for-sale homes with resale restrictions after discovering that title companies were overlooking resale restrictions contained in the deed covenant; when inclusionary homebuyers refinanced, financial institutions often underwrote loans as if the properties were market-rate, without taking into account the restrictions. The deed of trust is recorded for the value of the subsidy given to the homeowner—the difference between the fair market value of the home and its affordable price. City staff have found that this “security interest” in the property improves their notification of attempts to improperly refinance or sell homes (Hickey et al., 2014).

4.4 Right of First Refusal and Preemptive Option to Purchase

To gain greater control and oversight over the resale process, municipalities (or other stewardship entities) can insert themselves in the chain of sale by including a right of first refusal or preemptive option to purchase in a deed covenant or land lease, giving them the legal right to have the first

opportunity to buy the property when the homeowner sells. This right or option can be assignable to another entity, like a non-profit organization, or a low-income eligible buyer. A right of first refusal gives the stewardship entity the right to obtain the property when the owner is ready to sell; a preemptive option also sets the sale price using a formula agreed to by the stewardship entity and the homeowner. A preemptive option is the mechanism that allows entities to retain homeownership subsidies in place over the long-term and ensure permanent affordability (Kelly, 2010). For example, a deed restriction can require a homeowner to notify the entity with the right of first refusal before attempting to market their home; that entity then has the right to purchase the home at a price determined by a formula spelled out in the deed restriction.

Examples:

4.4.1 Cambridge, Massachusetts

Cambridge uses its right of first refusal to ensure that homeowners are chosen properly from the City's resale pool of income-eligible households. The program also performs any necessary maintenance to ensure the home is in good condition before it's resold (Hickey et al., 2014).

4.4.2 San Francisco, California

San Francisco assigns their preemptive option to purchase to an income-qualified homebuyer, who then purchases the home from the previous homeowner at the designated affordable price (Hickey et al., 2014).

4.5 Preemptive Right to Cure a Foreclosure or to Purchase a Home That Has Entered Foreclosure

A preemptive right to cure a foreclosure or to purchase a home that has entered foreclosure can give a stewardship entity the right to cure first mortgage delinquencies on behalf of homeowners and give them the right to purchase homes from the lending institution in the event of foreclosure or assignment in-lieu of foreclosure. These rights can be included in deed covenants and ground leases to preserve affordable housing in the event that a homeowner is facing foreclosure due to mortgage delinquencies.

Considerations for Brampton

While there are many things to consider when crafting legal agreements that will ensure and preserve affordability, ideally legal agreements would be designed to produce permanent affordability, whether through 99-year affordability periods, or through shorter affordability periods and the inclusion of a provision that requires a new 20-year restriction to be recorded on title each time a deed-restricted home is refinanced or resold. A preemptive option to purchase and a preemptive right to cure a foreclosure should be included in legal agreements to ensure the City of Brampton (or a designated entity) maintains control of affordable units and affordability is preserved.

5. Funding and incentives to encourage affordable housing and maintain affordability

Municipalities employ a range of incentives to encourage affordable housing and maintain the housing's affordability. The tools used include:

- Capital subsidies, loans (forgivable and non-forgivable)
- Insured loans with subsidized interest rates
- Waivers of building permits and planning fees
- Development charge grants or deferrals
- Property tax exemptions, deferrals, and reductions
- Conditional upzoning and density bonusing
- Waivers and easements of restrictions on zoning requirements (parking, height, yard size)
- Access to streamlined approvals/fast-tracking development applications
- Support and capacity building programs
- Administrative support
- Public land

Incentive program examples:

5.1 Incentivizing non-profit ownership and preservation of affordable housing

5.1.1 Non-profit Acquisition Programs

- **Incentives:** Ready capital funding to acquire and renovate property; land or property.

Acquisition programs are generally funding programs that provide non-profit organizations the means to purchase privately-owned property and remove it from the speculative market so that it can be preserved as permanently affordable housing. Most often used to purchase existing private market buildings that are providing “naturally occurring” affordable housing and are at risk of being lost, acquisition programs can function to enable the acquisition of any property from the private market. Acquisition programs are designed to give potential purchasers of property access to liquid funds, or ready capital, at the moment it is needed so that potential purchasers are able to act quickly and opportunistically to purchase property as it becomes available—which is essential in a highly competitive real estate market. A U.S. organization called Local Housing Solutions, explains: in some models, affordable housing developers acquire properties directly using up-front financing provided through the fund; in others, the steward of the loan fund purchases the property for eventual transfer to a project sponsor. Loans are typically issued on a short-term basis at below-market interest rates and replaced by permanent financing once it is arranged. Related predevelopment costs are also generally an allowable expense, including costs associated with conducting appraisals and environmental assessments, securing title and zoning approvals, and hiring development consultants (Local Housing Solutions, n.d.).

5.1.1.1 Toronto, ON

In 2019, the City of Toronto's Rooming House Acquisition Pilot Project (City of Toronto, 2018) demonstrated how an acquisition program focused on rooming house preservation might be implemented in Toronto and its benefits. The City funded the Neighbourhood Land Trust, the charitable arm of the Parkdale Neighbourhood Land Trust, to acquire and renovate a 15-unit tenanted bachelorette building, securing the units as permanently affordable housing through a 99-year covenant on title. The capital costs of acquisition and renovation amounted to \$198,000 per unit, much less than the cost of new construction to build something similar in downtown Toronto. To make the project possible, the City provided \$100,000 per unit towards the acquisition of the property and \$40,000 per unit for renovations. The remaining costs were financed through a traditional mortgage with VanCity Community Investment Bank. The pilot demonstrated that pre-qualifying non-profit organizations for acquisition funds reduced delays in accessing funds and enabled non-profits to act quickly in the highly competitive open real estate market and successfully beat predatory landlords in acquiring properties. The City followed the successful pilot with the creation of the [Multi-Unit Residential Acquisition program \(MURA\)](#), a permanent acquisition program for non-profit and Indigenous housing providers to acquire small apartment buildings (up to 60 units) and multi-tenant houses (also known as rooming houses) that are either vacant or occupied and at-risk of being lost due to conversion. Proponents are selected from an open annual call process and given pre-approval of available funding, which provides the certainty necessary to move quickly to secure properties available for purchase on the open market. Proponents have up to one calendar year from the date of approval to submit properties for consideration on a rolling basis. Apartment building acquisitions and renovations are eligible for up to \$200,000 in funding per dwelling unit and multi-tenant houses are eligible for up to \$150,000 per dwelling room (City of Toronto, Housing Secretariat, 2021).

5.1.1.2 San Francisco, CA

The City of San Francisco's Small Sites Program was created in 2014 to help finance non-profits' efforts to purchase 4 - 25 unit buildings that house tenants vulnerable to eviction. Program funding has used primarily by small Community Development Corporations (CDCs) and CLTs to acquire and preserve the affordability of small rental buildings that were at risk of being sold and upscaled. Through the program, the City acts as a gap lender, offering a second mortgage at a very low interest rate so that borrowers can cover the cost of a first, competitive-rate mortgage, with below-market rents. The program also ensures that buildings are renovated into quality housing and deferred maintenance issues are addressed. Funding for the program comes from a number of sources, including the City's Inclusionary Housing program, a \$310 million affordable housing bond, and cash-in-lieu payments from small developers in neighbourhoods where high-end developments are built. A public-private program also provides non-profits with short-term capital to bridge long-term funding, with funds coming from corporate donations, foundation funding, and fees.

The program aims for an income/rent mix of an average of 80% of Area Median Income (AMI), to ensure that low-income residents can stay in place without paying more than 30% of their incomes on rent and buildings will still be financially feasible. The program has ensured that the amount of public investment per unit is market feasible and makes public policy sense, developing (in collaboration with non-profit purchasers) a tiered structure for the total level of investment the program will contribute to the initial purchase of the property and to funds to cover the building for at least 20 years.

As of May 2022, the program has facilitated the acquisition of 40 buildings and 350 units, and 27 commercial spaces have been preserved. (San Francisco Mayor's Office of Housing and Community Development, n.d.).

5.1.2 Non-profit sector capacity building

- **Incentives:** Funding for down payment and/or pre-development and/or pre-acquisition work; or access to technical guidance and support.

Many local non-profit housing developers and providers have limited experience and capacity for the acquisition, renovation, and operation of small sites purchased from the private rental market. Organizations can be supported to do this work either with funding to build capacity within their organizations, or with access to entities that will provide the organization with the needed expertise.

Examples:

5.1.2.1 New York City, NY

New York City's Neighborhood Pillars Program provides early technical support and down payment assistance for potential buyers looking to acquire rent-stabilized and unregulated apartment buildings if they agree to set aside at least 30% of units for permanent affordability, with none of the units being rented above 120% of AMI for the 30-year term of the loan. The program assists buyers with sourcing properties as well as negotiating and creating acquisition contracts, addressing a gap in the New York City Acquisition Fund that was preventing non-profit and mission-driven for-profit buyers from being able to compete at the very earliest stages of the acquisition process. Potential "preservation buyers" respond to a Request for Qualifications released by Housing Preservation and Development and selected respondents are pre-qualified for loans and assistance (Brey 2019).

5.2 Incentivizing non-profit affordable housing development

- **Incentives:** Combinations of capital funding, waivers of fees and charges, streamlined and expedited approvals, relief from property taxes, and/or increased allowable density and relaxed zoning restrictions.

While non-market housing organizations can benefit from many of the government incentives developed to support the creation of private market affordable housing, there are several methods that governments have found to facilitate non-market affordable housing specifically.

Examples:

5.2.1 Halifax

Halifax's [Affordable Housing Grant Program](#) funds the development or renovation of affordable housing using the cash-in-lieu of affordable housing collected through its density bonus program. All registered non-profit or charitable organizations are eligible.

Halifax also [waives](#) most municipal residential construction-related fees for registered non-profits and charitable housing organizations and offers property tax [reductions and exemptions](#) to non-profits and charities (Halifax Regional Municipality, n.d.).

5.2.2 Calgary

The City of Calgary only incentivizes non-profit affordable housing development: it does not provide incentives for affordable housing development by for-profit entities.

Calgary's [Housing Incentive Program](#) provides two kinds of financial assistance to non-profit organizations for affordable housing development:

1. A grant of up to \$50,000 (out of \$1.312m in annual funding) to non-profit organizations towards pre-development activities per non-market affordable rental or affordable ownership housing project.
2. A rebate on eligible City development fees for an affordable housing project. Eligible fees include: pre-application, land use redesignation, site servicing plan, building permit, off-site levies, acreage assessments, re-development, and demolition permit. Pro-rated rebates are available for projects where only a portion of the units or beds qualify as affordable. The value of the average incentive is \$3,585/unit.

Incentives require that rents for rental housing must be no higher than 90% CMHC AMR and have a minimum 20 year affordability period; and charges for long-term care or “designated supportive living” facilities may be no more than the maximum set by the Government of Alberta (City of Calgary, n.d.).

5.2.3 Vancouver

Vancouver's [Community Housing Incentive Program](#) (CHIP) provides grants towards the construction of non-profit and co-op housing projects and is meant to help projects secure additional project funding. The Program's \$25 million budget for 2019-2022 comes from Empty Homes Tax revenue and the City's capital budget. CHIP increases grant amounts for housing projects that deliver greater affordability and allows the City to provide “in principle” funding commitments to projects based on the proposed number of homes, types, affordability, and estimated net capital funding requirement, determined using baseline assumptions. A grant calculation tool allows applicants to test different unit mixes and affordability levels and see estimates of the grant amounts they may be eligible for (City of Vancouver, n.d.).

5.3 Incentivizing for-profit and non-profit affordable housing development

- **Incentives:** Combinations of capital funding, waivers of fees and charges, streamlined and expedited approvals, relief from property taxes, and/or increased allowable density and relaxed zoning restrictions.

5.3.1 Toronto

Through an annual call for applications, Toronto's [Open Door Affordable Rental Housing Program](#) provides for-profit and/or non-profit organizations with financial contributions including forgivable capital grants; relief from planning application, building permit, and parkland dedication fees; relief from development charges and residential property taxes for the term of affordability; and a streamlined approvals process (City of Toronto, 2021). A dedicated Development Charges Reserve Fund with approximately \$10 million in capital funding, \$65 million in incentives, and \$840,000/yr in property tax relief is being distributed through the Open Door Program in [2021](#) to support the development of 919 affordable rental units in 17 housing projects. Projects eligible for incentives are: new construction, acquisition/rehab, additions, conversions from non-residential, and social housing redevelopment projects in which 50% (minimum) of the gross floor area will be affordable

rental housing, with a 40-year minimum affordability period and 5-year phase-out. 20% of affordable units must be available to housing benefits recipients. The City has been working to encourage non-profit projects and secure longer affordability periods (50+ years) for approved projects. In 2021, 13 of the 17 projects approved were non-profit projects.

In addition, in 2021 six non-profit applications, representing a total of 483 homes, are recommended for pre-development funding of \$50,000 each, to advance projects that are in the early stages of development to create a pipeline of future affordable homes. All homes to be created through this program will remain affordable for a minimum of 40 years, and in many cases, in perpetuity (City of Toronto, Housing Secretariat, 2022).

Toronto's [Concept 2 Keys](#) (C2K) program expedites the development review process for priority affordable housing projects (City of Toronto, n.d.). To facilitate this process, a tool was developed to prioritize affordable housing applications based on the number of affordable units, the depth and length of affordability, the number of units allocated to priority populations, and level of government land or financial investment (capital or operating). The City's Housing Secretariat, C2K staff, and a dedicated development application review team (comprised of staff members from all districts across City Planning; Engineering and Construction Services; Transportation Services; and Parks, Forestry and Recreation), work together to coordinate scheduling, jointly resolve interdivisional issues, and minimize file load to improve application wait times for review (City of Toronto, Development & Housing Secretariat, 2021).

5.3.2 Vancouver

The City of Vancouver offers projects creating new rental supply [Development Cost Levy \(DCL\) waivers](#), so long as 100% of the residential development is rental in tenure, and either rents meet or fall below prescribed maximum rent levels, or at least 20% of the residential floor area consists of units with rents that do not exceed prescribed below-market rent levels (City of Vancouver, 2022).

Vancouver's Moderate Income Rental Housing Pilot Program (MIRHPP) offered additional height and density, waiver of Development Cost Levies, reduced parking requirements, relaxations of minimum unit sizes and configuration requirements, and priority processing at the rezoning enquiry review stage to up to 20 secured rental housing projects where at least 20% of the residential floor area is affordable to moderate income households with incomes in the range of \$30,000 to \$80,000/year. All applications proceed through a full rezoning process, including a public hearing. Property owners/landlords are responsible for administering the moderate income rental units, including implementing tenant eligibility requirements and administering a wait list (City of Vancouver, n.d.d.).

Vancouver's [Social Housing or Rental Tenure \(SHORT\) Program](#) is a pilot program that aims to reduce planning approval times by nearly 50% for high impact multi-family housing projects, using a dedicated team and a streamlined development process. The program selects priority projects for this program based on their level of rental affordability, number of units, location on public or non-profit land with secured funding, emissions standard, inclusion of Indigenous partners or residents, and their contribution to increasing the social housing supply (City of Vancouver, n.d.e.).

5.4 Incentivizing conversion & redevelopment to affordable higher density

- **Incentives:** Combinations of increased allowable density, relaxed zoning requirements, access to financing, forgivable loans, and/or partnerships with non-profits that provide property management services and support, development and construction services.

5.4.1 Increasing allowable Density

As discussed earlier in this report, Cambridge's affordable housing overlay, Austin's Affordability Unlocked bonusing program, and Portland's Residential Infill Project zoning changes all use increased density and relaxed zoning requirements to incentivize higher density affordable housing development. Cambridge's [Affordable Housing Trust](#) provides loans for affordable housing development and preservation that further incentivizes conversion and redevelopment to affordable higher densities; similarly, Austin has a variety of stackable loan [programs](#) available to complement its bonusing program.

Vancouver: Transition zone density bonus for affordable housing

Vancouver's [Affordable Housing Choices Interim Rezoning Policy](#) offers height and density incentives for ground-oriented and mid-rise affordable housing types and tenures for projects that demonstrate the "transition zone" concept, where ground-oriented affordable housing types provide a transition between higher density arterial streets and single-family areas. Additional density is offered for projects that can meet one of the following affordability criteria: a) 100% of residential floor space is rental housing, b) units sold for at least 20% below market value and include a secure mechanism for maintaining that level of affordability over time (e.g. resale covenant, 2nd mortgage, etc.), c) innovative housing models and forms of tenure (e.g. co-housing) that can demonstrate enhanced affordability, or d) Community Land Trust model is employed to secure increasing affordability over time (City of Vancouver, 2012).

5.4.2 California: Affordable ADU programs

The State of California has been working to promote Accessory Dwelling Unit (ADU) and Junior ADU (JADU or lock-off unit) development in the state. [Research](#) on the progress to date has found that lack of financing is the primary barrier to more widespread ADU construction (almost twice as influential as physical site limitations and a lack of desire or awareness among homeowners); homeowners often find it difficult to obtain financing due to a lack of appropriate bank loan options. Researchers note that jurisdictions across California have developed creative financing options, however the programs rely on small amounts of public and private funding relative to what is needed to create large-scale ADU feasibility; the result has been short-term initiatives that are only able to support a small number of ADUs and end once the funding runs out (Chappel et al., 2020). (See Chappel et al. (2020) for a discussion of specific financing issues and potential solutions.) Examples of these ADU initiatives include:

- [Backyard Homes Project](#): provided construction loans, free project management, affordable design, permitting and construction services, and landlord training and tenant support services for 5 homeowners that rent ADUs to low-income Housing Choice Voucher recipients for at least five years after completion (LA-Más, n.d.). The program was led by LA Más, a non-profit design group, in partnership with government and non-profit partners; it included support from local community development financial institutions and larger corporate lenders, which created a [unique financial product](#) specifically for the Backyard Homes Project: a cash-out refinance loan that factors in the future value of the ADU and expected rental income generated through

renting to Section 8 participants when determining a borrower's eligibility (LA-Más, n.d.a.). After move in, participating housing providers offer tenants ongoing employment support, training in financial topics, and mental health services, as needed (King, 2022).

- With a one-time [program budget](#) of \$500,000, and an additional \$50,000 for administrative costs, LA County's [Second Dwelling Unit \(Accessory Dwelling Unit\) Pilot Program](#) aimed to support a total of 4-6 ADUs that would provide housing for homeless people through a soft second loan of \$75,000 per unit for new ADUs, tied to a commitment to rent the ADU to homeless people/families, and grants of up to \$50,000 per unit to preserve 2-3 existing unpermitted ADUs as affordable housing (Los Angeles County Department of Regional Planning, 2017; Los Angeles County Department of Regional Planning, n.d.).
- Santa Cruz County offered an [ADU Forgivable Loan Program](#) that provided loans of up to \$40,000 to homeowners who would sign a deed restriction that required them to rent the ADU or main house to a low-income household at an affordable rent for up to 20 years. The loan is forgiven after 20 years if the ADU has been rented to a low-income household at an affordable rent for the entire 20-year term. Homeowners may opt out of the deed restriction agreement at any time by paying back the loan in full (principal plus accrued 3% interest) (County of Santa Cruz, 2019).
- The City of Napa's [Junior Unit Initiative Program](#)—which hadn't yet reached its [program targets](#) in 2020 and is still operating—provides homeowners with technical assistance and a loan of up to \$50,000 (forgiven 5% every year the owner provides an affordable rental unit and fully forgiven after 20 years) for converting or creating a deed-restricted JADU and renting it to a low-income tenant at an affordable rate. Three deed-restricted ADUs were completed in 2020 (City of Napa, n.d.; City of Napa, 2020.)
- The Community Land Trust Association of Marin (CLAM)'s [Real Community Rentals](#) program (still active) works with local homeowners to help create rental units on their property, working with the County of Marin and the Marin Housing Authority to access incentives for homeowners willing to create rentals on their property and set rents below market rate. The [Real Community Rental program](#) facilitates shared accommodations and co-ownership and creates secondary units, accessory dwelling units, and junior accessory dwelling units (Real Community Rentals, n.d.).

5.4.3 Toronto: Affordable Laneway Suites Program

In 2018, the City of Toronto approved updating the zoning in Toronto and East York District to allow laneway suites and launched its [Affordable Laneway Suites Pilot Program](#). The program uses \$1,000,000 available from the Federal/Provincial Investment in Affordable Housing Program to offer forgivable loans of up to \$50,000 for owners developing a laneway suite. Loans will be forgiven in 15 years provided rents do not exceed CMHC AMR during the 15 year period (City of Toronto, n.d.a.). [As of November 2021](#), 9 applications had been received for the program, all of which were approved for funding, as compared with 238 applications for market rent laneway suites (City of Toronto, City Planning, 2021). Toronto [is now](#) expanding this program to include garden suites (to complement further zoning changes) (City of Toronto, 2022), funded by the [Ontario Priorities Housing Initiative](#), which provides funding to projects that create housing for Indigenous people.

5.5 Incentivizing landlords to provide good housing conditions and affordable rents

- **Incentives:** Operating subsidy, tenancy support, landlord support, construction financing and development services.

5.5.1 California and Toronto: ADU conversions

As previously discussed, California's affordable ADU incentive programs incentivize renting newly created ADUs to Section 8 Housing Choice voucher recipients (a federal portable housing benefit for low-income people) and people exiting homelessness for periods of 5 to 20 years in exchange for construction financing and other supports; Toronto's laneway and garden suites programs similarly offer construction financing in exchange for renting units at an affordable rate to Indigenous people.

5.5.2 Toronto: Habitat Services

[Habitat Services](#) is a government-funded non-profit organization established in 1987 to improve the poor living conditions of consumer/survivors of the mental health system who live in privately operated boarding homes. It currently supports over 900 tenants in Toronto.

Boarding home owner/operators sign up voluntarily to participate. They enter into a commercial contract with Habitat Services, which sets building standards, meal/nutritional standards, and residential service standards that owners and operators are contractually obligated to meet. Owner/operators are incentivized to participate with a large government subsidy: the Habitat Subsidy + Tenant Rent provides owners/operators a combined income of \$1666 monthly per tenant to cover the cost of room and board. The subsidy flows from the City of Toronto and is cost shared by the provincial Ministry of Health, which funds 80% through its rent supplement program; the City of Toronto funds 20%. In addition to the subsidy, Habitat Services provides tenant support, landlord support, tenant mediation, and monitoring services. Habitat Services coordinates tenant intakes; tenants are referred from Toronto's centralized supportive housing wait list. Owner/operators and the applicant will each decide whether the referral is the right match. Tenants sign a tenancy agreement and pay monthly room and board charges, with rates tied to income. ODSP recipients pay \$543.30/mo., OW recipients pay \$356.72/mo. Tenants who are ineligible for a subsidy will pay an individual rent negotiated with the homeowner.

Each contracted home is assigned a Residential Services Inspector who works with the boarding home owner and operator to ensure that they are meeting the requirements of the contract and that tenants are receiving the services they are entitled to; the Inspector makes scheduled and unscheduled building inspections, ensures that the home's owners/operators address identified deficiencies, and monitors owners' adherence to the RTA when dealing with tenancy issues. Tenants can raise complaints and questions about their rights and entitlements with the Inspector, who will work with tenants and landlords to resolve issues. Habitat homes can also opt into accessing community development and case management mental health supports. Housing support staff provide: mental health supports, supports with addictions and drug use, crisis intervention, harm reduction supports, assistance in scheduling and attendance of medical appointments, housing supports, liaising and advocacy with staff of the homes, conflict resolution skills coaching, informal counselling, income tax filing, and assistance with benefits and income supports (Habitat Services, n.d.).

Considerations for Brampton

The City of Brampton and the Region of Peel have already employed many, if not most, of the strategies that other jurisdictions have employed to ensure and preserve housing affordability. Adapting these programs could be effective in ensuring and preserving housing affordability in low density intensification.

- The [Brampton Housing Catalyst Capital Project](#) could be expanded to support initiatives in low-density zones and could be used to provide startup funding for the creation of a local community land trust, where Brampton and non-profit housing partners would work to identify options for securing land, housing, and government funding.
- Brampton's [Concierge Program](#) appears to be a well-designed initiative to address non-profit housing developers' need for streamlined and expedited approvals. As Chau and Atkey (2022) note, the longer the municipal approvals process takes, the greater the costs and uncertainty for a non-profit project; in non-profit projects, higher costs directly impact a project's ability to increase the level of affordability, affect the number of affordable homes that can be created, and affect the financial viability of the project.
- Ideally, the Concierge Program would be used to support projects in receipt of municipal contributions such as grants, permit and fee waivers, and property tax exemptions or deferrals, which are critical to offsetting capital and long-term operating costs, increasing affordability, and enabling projects to leverage necessary contributions from other funders and senior orders of government. CMHC's Co-Investment Fund considers waivers of municipal development charges a minimum requirement for governments to be considered a "co-investor" on a project, thus making the project eligible for federal funding (Chau and Atkey, 2022).

Such a program would be well-positioned to accommodate and distribute any federal funding that is made available to municipalities for affordable housing.

The Region of Peel's now-concluded [Affordable Housing Incentives Pilot Program](#) provides a good starting point. Funding of \$7.5 million in capital grants funded \$40,000 to \$100,000 per unit to create 130 affordable units with rents at or below 135% of median market rent (\$1,760 for a 1-bedroom in Brampton) with affordability periods from 25 to 40 years across 3 development projects. Applicants in Brampton were also eligible for the City's Concierge Program. The Program, however, [did not offer](#) to waive any development charges or planning fees, offer property tax exemptions, or offer to waive requirements for cash-in-lieu of parkland fees, all of which represent a significant expense for affordable housing developers, and limit non-profits' access to federal funds.

A new affordable housing incentive program that aims to both ensure and preserve affordability would ideally include:

1. A permanent program that pre-approves non-profit organizations for funding to secure private market properties to be developed, redeveloped, converted, and/or operated as permanently affordable housing.
2. A funding and incentive program for affordable housing development, conversion and repair that offers bundles of incentives for the development of non-profit housing. The program should offer quick approval times and clear and

straightforward funding calculations that do not require significant resources from non-profit staff submitting applications or from City staff reviewing them.

- Waiving development cost charges for all non-profit projects (development and conversion) would facilitate access to federal funding
 - Property tax exemptions significantly benefit affordable housing projects in municipalities with high land prices by reducing long-term operating costs without ongoing government subsidies.
 - Incentives could be offered as of right and/or as discretionary incentives. Development charges and fees could be waived as of right for charitable and non-profit proponents of non-profit development and conversion projects to provide certainty.
 - Capital grants (funded through cash-in-lieu generated from Community Development Charges and/or other sources) could be offered. (If forgivable loans are used, agreements should be structured to allow non-profit organizations to access the equity from the property as early as possible so that it can be leveraged to finance expansion. To address this problem, a different method of funding might be more appropriate.)
3. A non-profit capacity building fund that offers grants for housing organizations to pay for technical assistance, complete pre-development and pre-acquisition work, and build their development capacity that will improve their access to the City's acquisition and incentive program.
4. A density bonusing program that offers density bonuses to non-market housing projects specifically, either applied city-wide or focused on target low-density zones, could facilitate the development of non-market housing (if permitted under provincial regulations).
- To incentivize safe and affordable lodging rooms, a similar program to the Region of Peel's [My Home Second Unit Renovation Program](#) could incentivize lodging house code compliance and affordable rents, however for it to be effective, it would have to take into account the economics of rooming houses and the costs of building and fire code compliance (*for more on this, see the section on Lodging House Regulation*). The Region of Peel could consider making access to a portable housing benefit an additional incentive (beyond extra funding and access to support services from Housing Services). Landlords could be given the option to review and approve potential tenants before accepting them. To encourage participation, program eligibility should be reviewed and adjusted: if the program does include income eligibility restrictions, eligibility should be based on net household income, rather than gross household income, to account for the costs of operating a lodging house; and eligibility shouldn't be restricted to sites where an owner lives on the property. Available funding could be scaled to be proportionate to the number of lodging rooms and the cost of construction/renovation. Receipt of incentives for code compliance and building improvements should prohibit landlords from being able to apply to the province for an Above Guideline Increase and should require lodging houses to be subject to provincial rent control if they are currently or will be exempt.

Lodging House support program: The City of Brampton could partner with the Region of Peel and the Ministry of Health to explore creating a program that provides tenant

subsidies, operating funding, and tenant and landlord supports to operators of for-profit lodging homes, in exchange for operators meeting set standards and providing housing to people in need of supportive housing. Supportive housing providers may be able to provide lodging house tenants with support using Ministry of Health-funded rent supplements and operating funds.

In addition to these initiatives, the City of Brampton could create a new program to incentivize homeowners to create affordable missing middle housing on their properties by partnering with a non-profit developer to offer a full package of discounted services and supports that includes:

- Forgivable construction loans or a free ADU in exchange for permanent affordability on title; funding available could be scaled to the number of bedrooms being created and the depth of affordability secured; access to portable housing benefits could be an added incentive and deepen the level of affordability.
- Project management, design, permitting, construction and development services.
- Landlord training and tenant support (including support with finding tenants).

Resources and best practice guides for developing this type of program are available online through California's [Casita Coalition](#) (Casita Coalition, n.d.). As seen in other jurisdictions, however, this approach is resource intensive, produces few units, and while the partnership structure allows access to other sources of funding (philanthropic corporate donations, private donations, government funding, etc.), funds are generally limited and the program ends when the money runs out. (The [Ontario Priorities Housing Initiative](#) may be a potential funding source.) Most importantly, all of the government initiated programs reviewed for this report created units with affordability periods of 5 to 20 years: none ensured permanent affordability.

6. Third party programs to encourage affordable housing and maintain affordability

6.1 UTILE: *Non-profit affordable student housing in Quebec*

UTILE is a student-created non-profit organization focused on developing and operating non-profit affordable student housing in Quebec. To finance student housing, UTILE created the PUSH Fund (Fonds CLÉ - FR), a non-profit revolving fund, which pools associative investments in social economy housing projects carried out by and for the student population of Quebec. It has a capitalization of more than \$3 million, which currently comes from donations from student associations. The PUSH Fund should reach a capitalization of \$8 million within 5 years and contribute to the completion of \$120 million in real estate projects every 10 years. The Woodnote is UTILE's first student housing building, built for Concordia University students, with 90 units and 144 rooms in total. Opened in 2020, UTILE manages the property management and building maintenance, while membership in the [Woodnote Solidarity Co-op](#) offers residents the opportunity for co-operative community decision-making (UTILE, n.d.; Government of Canada, 2020; Woodnote Solidarity Cooperative, n.d.). UTILE offers [consulting services](#) related to collective real estate financing and student housing needs and feasibility assessments.

Lack of government funding and inflexible funding constraints have made organizations seek out and develop innovative financing methods to build and maintain affordable housing. The projects supported by these funding initiatives are often later supplemented with government funding.

6.2 VanCity Community Investment Bank: *Financing for affordable housing*

VanCity provided [\\$183 million in financing](#) for 1,100+ units of affordable homes across the country in 2020/21 in a collaboration with CMHC. In a complementary effort, VanCity launched the Preserve and Protect Guarantee Program, which accepts and holds funds from values-aligned investing organizations in an Impact GIC, which are then used to guarantee loans to the Parkdale Neighbourhood Land Trust for the purpose of rapidly acquiring at-risk affordable rental properties in Parkdale. In 2021, PNLT [was able to purchase](#) a 36-unit building through the program using an \$8.5 million acquisition facility from VanCity, which was supported by over \$2.6M in guarantees put forward by investors, including local foundations. Other projects included: Trillium Housing's shared appreciation second mortgage affordable townhouse project in Pickering and \$30 million in credit to support Habitat For Humanity Canada projects across the country (VanCity Community Investment Bank, 2021).

7. Policies and programs to preserve affordability

7.1 Demolition and conversion control policies

Demolition and conversion control policies are important policy tools for preserving the supply and affordability of rental housing and preventing tenant displacement. To prevent the loss of both “naturally occurring” affordable rental units and subsidized housing units through the demolition and conversion of properties into single family homes, more expensive housing, condominiums, and other uses, many municipalities in the U.S., and more recently in Canada, have adopted policies that put restrictions on the demolition and conversion of rental housing. Common requirements include:

- replace the rental housing being demolished or pay a fee in lieu of replacing the units;
- maintain replacement rental housing as affordable housing;
- compensate tenants for being forced to move;
- provide tenants with the right to return to replacement rental units in the new building;
- pay for tenants’ moving expenses; and
- pay tenants compensation and support tenants’ rehousing.

Examples:

7.1.1 City of Toronto

Toronto’s [Official Plan Policy 3.2.1.8](#) prohibits the conversion of rental housing containing six or more rental housing units into condominiums, so long as the state of the supply and availability of rental housing is deemed unhealthy and unable to meet the housing requirements of current and future residents. Toronto’s Official Plan [Policy 3.2.1.6](#) establishes that in new developments that would have the effect of removing all or a part of a private building or a related group of buildings resulting in the loss of six or more rental housing units, the development won’t be approved unless a) the lost units are replaced with the same number and size of rental units, b) the replacement units are rented for at least 10 years at a similar rate as the rents in place at the time of the application and c) for those 10 years, rents won’t be increased by more than the Provincial Rent Increase Guideline. The policy also requires property owners to develop tenant relocation and assistance plans, establishes existing tenants’ right to return to units in the new development at similar rents as what they had been paying, and requires property owners to provide alternative accommodation to displaced tenants at similar rents, and other assistance to lessen hardship. The policy only applies when all the units that will be lost are at or below mid-range rents at the time of application (City of Toronto, 2021a).

In June 2019, The City of Toronto approved [Official Plan Amendment 453](#), which aims to preserve and protect the affordability of rooming houses and protect rooming house tenants. The policy applies until the supply and availability of low-end of market rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. The policy offers stronger protections than the older policy for rental units, reflecting the importance of dwelling rooms to the City’s affordable housing supply, the vulnerability of dwelling rooms to redevelopment, and the vulnerability of dwelling room tenants.

The policy prohibits any new development that would have the effect of removing all or part of a private building or related group of buildings that would result in the loss of six or more dwelling rooms (individually rented rooms which can contain a kitchen or bathroom, but not both) unless all of the dwelling rooms have rents that exceed dwelling room tier 2 mid-range rents at the time of application, or:

- at least the same amount of residential gross floor area is replaced and maintained as dwelling rooms or rental bachelor units and is rented at rates similar the rents in effect at the time of the application for a period of at least 15 years or, if there is no returning tenant, at Dwelling room tier 1 or tier 2 affordable rents or dwelling room tier 1 or tier 2 mid-range rents as applicable, based on the dwelling room rents in effect at the time the development application is made. Rents at first occupancy can't be increased by more than the Provincial Rent Increase Guideline;
- any available replacement housing not occupied by returning tenants is offered to eligible households; and
- an acceptable tenant relocation and assistance plan addressing the right to return to occupy the replacement housing at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship is provided.

In cases where at least one or more rental units are lost to redevelopment, tenant assistance is required to be provided. The policy also states that the City will seek opportunities to secure the provision of additional replacement rental dwelling rooms or replacement rental units to achieve at least the same number of existing dwelling rooms lost and to secure rents for replacement housing for a period of at least 49 years (City of Toronto, 2021a; City of Toronto, n.d.b.).

City of Toronto Municipal Code [Chapter 667](#), Residential Rental Property Demolition and Conversion Control, sets out the City's requirements under Section 111 of the City of Toronto Act, 2006, and implements the City's Official Plan policies.

Together the policies are designed to ensure:

1. demolished rental units and dwelling rooms are replaced with the same number, size, and type of rental units.
2. existing tenants have the right to return to a replacement unit of the same size and type should they choose to do so.
3. replacement unit rents are charged at similar rates as in the previous building.
4. tenant assistance is provided where at least one or more rental units are lost to new development (City of Toronto, 2021b).

In 2020, a [public scandal](#) involving the CEO of the City's real estate agency, who was found to be helping his employees and family members secure affordable replacement units, prompted an [audit](#) of Toronto's rental replacement program (Pagliaro, 2020; City of Toronto, Auditor General, 2021). The audit identified gaps in the relevant policies and their implementation that had effectively enabled developers to offer the below market replacement units to anyone they liked; a [second audit](#) provided a more thorough audit of the effectiveness of the program and sought improvements. The audits found that: agreements with property owners left the task of filling affordable replacement units to the property owner, did not set any eligibility requirements for the replacement units, and only required replacement units be filled through a "fair and open basis consistent with general provisions in the rental market" without any definition of what that meant and without establishing requirements that would enable the enforcement of compliance. The audit found that the City did not have a strong or effective protocol for monitoring and enforcing compliance with rental replacement agreements in general (City of Toronto, Auditor General, 2022).

The City's implementation of the tenant relocation and assistance aspects of its policies are similarly weak. The City outsources the responsibility for negotiating and implementing tenant relocation and assistance plans with developers to an outside, non-profit agency. The agency collects data on the tenants, the relocation process and outcomes, and the resources necessary to fulfil their contractual obligations with developers to relocate tenants, but these data are not collected by the City or used to inform policy-making or evaluate how well the policy is serving tenants. Importantly, the agency has no enforcement capacity. In the event that a developer does not follow through with their contractual obligations (something that often happens), the agency has no recourse except to take the developer to court, which it doesn't have the capacity (time, staff resources, or funds) to do (Goldstein, 2020).

7.1.2 City of Mississauga

Mississauga's [Official Plan](#) prohibits the conversion of residential rental properties (defined as a building or related buildings containing one or more self-contained rental units) to a purpose other than a residential rental property and prohibits the demolition of residential rental properties exceeding six self-contained rental units if it adversely affects the supply of affordable rental housing as determined by affordable housing targets and rental vacancy rates (City of Mississauga, 2015).

The City's [Rental Housing Protection By-law 0121-2018](#) regulates the demolition and conversion of residential rental buildings containing 6 or more self-contained rental units. The by-law states that unless all the rental units in the building have rents equal to or more than 1.75 times AMR by unit type and the City's vacancy rate is 3% or higher, demolition or conversion won't be permitted unless:

- Existing rental units are replaced or retained as rental units on-site or in a comparable off-site location, with similar rents "for a defined term," or a cash-in-lieu payment for the replacement value of the units is received, or a combination of replacement and cash-in-lieu is received.
- Tenants are given the right to return to replacement units at similar rents.
- Tenants are notified of the relevant provisions in the [Residential Tenancies Act, 2006](#) (which requires landlords to give the tenant an amount equal to three months' rent or offer the tenant another rental unit that is acceptable to the tenant.)
- Information is provided from time to time sufficient to verify that the terms of an agreement are being met (City of Mississauga, 2018).

The City's [Guidelines for Application Review – Rental Housing Demolition or Conversion](#) support the administration of By-law 121-2018. The guidelines clarify that the City and the applicant will be required to enter into legal agreement(s) registered on title to secure the replacement units and that affordable rental units must be replaced with a unit with the same number of bedrooms for a period up to 20 years and rented at similar rents for a period of 10 years; and that cash-in-lieu of replacement includes the cost to acquire land and construct the unit without parking and specifies how those costs are determined (City of Mississauga, City Planning Strategies Division, 2019).

7.1.3 City of Vancouver

Vancouver's [Rental Housing Policy](#) (City of Vancouver, 2021) will not approve development on any site consisting of three or more dwelling units (including secondary rental stock) that requires the demolition or change of use or occupancy of a rental housing unit on that site, unless a housing agreement is entered into that secures:

1. one for one replacement of existing rental housing units (which includes both self-contained units and individually rented rooms, or “sleeping units”) with dwelling units or another type of affordable housing on or off site,
2. a Tenant Relocation Plan in keeping with the city’s Tenant Relocation and Protection Policy, if applicable, and
3. at least 35% of the total number of dwelling units include two or more bedrooms (does not apply to development that involves a change in use but does not result in changes to unit mix).

Under Vancouver’s detailed [Tenant Relocation and Protection Policy](#) (City of Vancouver, 2021a). Tenant Relocation Plans must provide tenants with:

1. financial compensation (set amounts are based on length of tenancy),
2. financial compensation towards moving expenses,
3. assistance (if requested) with identifying alternative accommodations. For low-income tenants, this includes additional assistance in securing a permanent affordable housing unit (the City will not issue an Occupancy Permit until a permanent housing option has been secured); for all other tenants, applicants are required to demonstrate that all reasonable effort has been made to provide 3 options that best meet the tenant’s identified priorities, and
4. depending on the type of new development, a Right of First Refusal to move back into the new building with a 20% discount off starting market rents, or at the new non-market rents in circumstances when the replacement unit is social housing.

The policy is supported by professional and experienced staff (a tenant relocation specialist) who can support residents through a relocation as well as a comprehensive set of [resources and tools and information](#) (City of Vancouver, n.d.a.).

The City of [Vancouver’s Single-Room Accommodation \(SRA\) by-law](#), enacted in 2003, addresses the demolition and conversion of both SROs and rooming houses in the downtown core. The by-law makes it illegal to demolish or convert an SRO or rooming house unless

- lost dwelling rooms are replaced;
- a \$230,000 fee is paid for each dwelling room not replaced;
- comparable or better accommodations with the same or cheaper rent are found for displaced tenants; and tenants’ relocation is both arranged for them and paid for them;
- displaced tenants are given the first right of refusal to rent replacement or renovated units (at new rent levels);
- Tenants are given financial compensation based on the length of their tenancy (4 months rent for a tenancy of up to 5 years is the minimum, and 24 months rent for 40 years tenancy is the maximum).

The by-law also sets out the records property owners must keep to allow for the effective enforcement of the by-law and sets fines for by-law violations. While addressing the loss of the supply of SROs and rooming houses, the by-law does not address the loss of affordability of this housing. While the by-law is credited with preserving existing rooming houses and residential hotels located in prime real estate areas that would otherwise have been lost to demolition or converted to commercial hotels or condos, its inability to control private rents has meant that some rents have escalated beyond levels affordable to low-income tenants (City of Vancouver, 2020).

Considerations for Brampton

The City of Brampton is experiencing a significant expansion of its second unit and lodging house rental housing stock, which is already proving to be a critical component of the City's rental housing supply. If the experiences of other cities are any indication, demolition and conversion policies will be required to preserve this important rental stock, preserve rental housing affordability, and prevent tenants from displacement and homelessness. A set of policies should be designed to address all forms of rental housing in Brampton (purpose-built multi-unit rental properties, second unit rental units, and lodging houses/rooms), including that which is created through Brampton's missing middle housing efforts. Ideally, the policy would apply to all rental units and lodging houses, regardless of whether they are registered or licensed, as that would prevent demolition and conversion restrictions from functioning to disincentivize property owners from registering and licensing their units.

A policy that would be effective in preserving the City's rental housing stock, preserving rental housing affordability, and preventing tenants from displacement and homelessness would:

- Prohibit the demolition and conversion of rental properties, so long as the City has an inadequate supply of rental units.
- In the case where demolition and conversion is permitted:
 - Give all tenants affected by demolition and conversion (regardless of the number of units affected) a basic level of relocation assistance and compensation, beyond what the Residential Tenancies Act affords; compensation levels would increase in step with duration of tenancy, unless a similarly affordable unit is provided.
 - Create separate thresholds for policy applicability for each rental housing type to ensure that small rental properties are subject to the provisions along with larger rental properties. For all properties subject to the policy:
 - Require units to be replaced with the same number and size and at similar rental rates; require replacement units to be subject to provincial rent control requirements, and require 99-year affordability periods;
 - Require an acceptable tenant relocation and assistance plan that ensures that tenants: have the right to return to occupy the replacement housing at similar rents, are supported by the applicant in accessing alternative accommodation at similar rents, and are provided relocation assistance and compensation, as either a rent top-up or a lump sum cash payment;
 - Ensure any available replacement housing not occupied by returning tenants is offered to eligible households through an accessible, fair, and transparent process administered by the municipality;
 - In the case of lodging houses, set the threshold for policy applicability at 5 or more rooms, (consistent with licensing), require at least the same amount of residential gross floor area to be replaced and maintained as dwelling rooms and rented at rates similar to the rents in effect at the time of the application for a period of at least 15 years; offer a cash-in-lieu option and ensure payments are used to build non-market affordable housing or preserve existing housing as permanently affordable;
 - Establish clear and transparent tenant assistance and relocation standards (including data collection, retention and reporting requirements) and a process for implementation that ensures effective administration,

- oversight and enforcement of tenant relocation and assistance agreements; and
- Regularly review the effectiveness of the policy to preserve the supply of rental units and lodging rooms, preserve the affordability of rental units and lodging rooms, and prevent the permanent displacement of tenants from their homes and communities; and update the policy as needed to ensure its effectiveness.

The City of Brampton should also consider reviewing the deficiencies detailed in the two audits of Toronto's rental replacement policy to ensure that Brampton learns from Toronto's missteps and develops a policy that better supports the housing needs of Bramptonians and ensures stronger and more effective stewardship of the affordable rental units preserved through its rental replacement policy.

7.2 Short-term rental regulation

Short-term rentals (STRs) [have been found](#) to have much higher revenue potential than long-term rentals, so there is a significant financial incentive for property owners with vacant units to rent them out as short-term rentals to tourists instead of to local residents in need of long-term housing (City of Vancouver, Buildings and Licensing, 2017). Regulating STRs has the potential to ensure that any new rental supply created through upzoning and/or initiatives to encourage the creation of missing middle housing becomes part of long-term rental housing supply.

Brampton's [short-term rental by-law](#) was approved in 2021 and will go into effect in September 2022. Brampton's by-law shares similar characteristics to Toronto and Vancouver's short-term rental bylaws, specifically, Brampton restricts short-term rentals to the operator's primary residence, defines short-term rentals as rentals that are 28 days or less, and limits the rental duration of a short-term rental to 180 days per year. Insights from the implementation of short-term rental bylaws in Toronto and Vancouver provide insight into how Brampton's by-law and its implementation could be strengthened.

Examples:

7.2.1 City of Vancouver

Enacted in 2018, Vancouver's [short-term rental](#) rules apply to rentals less than 30 consecutive days in duration (City of Vancouver, n.d.b.). STR operators and property managers are required to be licensed; and STR rentals are restricted to an operator's principal residence (entire home or rooms within the home). The City signed a Memorandum of Understanding with Airbnb (the platform accounted for 82% of the city's active short-term-rental listings), stipulating that Airbnb will require STR operators on their platform to display a business licence number, will remove non-compliant operators, and will share data on a predetermined basis with the City to determine compliance with STR regulations. Vancouver contracted with third-party provider Host Compliance to provide screen-scrape data for STR data monitoring and enforcement and City staff have adopted a new data-driven enforcement model that is geared towards proactive and digital-based enforcement (see pages [7-8](#)). To aid in enforcement, Vancouver has a Prohibited Buildings List that identifies buildings that are not eligible for STR activity; prospective STR operators in these buildings are blocked in the online licence application

system from applying for and obtaining a STR business licence. Included on the list: purpose-built rentals that were constructed under the City's rental incentives programs, which effectively restricts both owners and tenants of these properties from renting them out as short-term rentals (City of Vancouver, Chief Licence Inspector, 2019).

7.2.2 City of Toronto

Toronto's [short-term rental](#) by-law went into effect in November 2019 and operators were given until January 1, 2021 to comply. The by-law restricts STRs to an operator's primary residence; limits the renting of an STR unit to a total of 180 nights each year and no more than 28 consecutive days at a time; requires operators to be licensed with the City and pay a registration fee; and requires short-term rental companies to obtain a licence with a one-time licence application fee of \$5,000 and pay \$1.00 for every short-term rental night booked through the company. Toronto is in the process of hiring a third-party provider to support data monitoring and enforcement activities and is moving away from a complaints-based enforcement approach to a more proactive one (City of Toronto, n.d.c.).

Considerations for Brampton

[Research](#) found that Airbnb's approach to complying with Toronto's by-law was to remove 2,600 inactive non-compliant listings from its platform and convert the remaining 8,400 non-compliant listings to a minimum stay of 28 days, so that those listings would no longer meet Toronto's definition of "short term rental" and would no longer be subject to the City's by-law (Wachsmuth et al., 2021). Instead of forcing non-owner-occupied units into the long-term rental market, Airbnb ensured that many non-owner-occupied Airbnb units would simply be rented as longer short-term rentals.

If the goal of Brampton's short-term rental by-law is to prevent newly created missing middle housing from being used for expensive short-term rentals, Brampton will need to address this loophole. [Vancouver](#) avoided this situation because property owners renting a residential property for 30 days or more at a time require a rental property business licence, meaning that every operator of a Vancouver listing on the Airbnb platform, whether a short-term rental or a long-term rental, is subject to licensing requirements and regulation (City of Vancouver, n.d.c.). Further investigation of how cities that don't licence long-term rental operators address this issue is needed.

7.3 Rooming/lodging house regulation

To increase affordability and housing choice in low-density neighbourhoods, it is important to preserve and expand the supply of affordable housing available to single persons (including students, seniors, newcomers, etc.). It is also important that this housing is safe. Rooming house fires continue to be a serious threat to the safety of tenants. Developing effective regulatory regimes for rooming houses that ensure safety conditions are improved and affordable housing is preserved has proven a common challenge in Canada and the United States.³ As has been seen in Toronto, licensing regimes and strict enforcement can easily contribute to the loss of affordable housing if landlords find

³ In 2018, the City of Brampton [reviewed](#) (p. 391) the approaches of Ontario municipalities to residential licensing of second units and lodging houses. In 2016 City of Toronto undertook a similar [review](#).

requirements too onerous, expensive or difficult to comply with, and opt instead to get out of the rooming house business altogether (Campsie, 1994).

In various cities, zoning rules often make rooming houses illegal/an unpermitted use in residential neighbourhoods, usually as result of discrimination against the people who have been reliant on rooming houses for accommodations in recent decades: people living in poverty, people deinstitutionalized from psychiatric institutions, newcomers, and people exiting homelessness. This discrimination persists and has functioned to keep these exclusionary zoning rules in place (Goldstein, 2020). However, in Ontario, even if zoning rules were changed to allow rooming houses in all residential areas as a way to improve housing choice and ensure that a range of housing options exists that make low-density areas accessible to people of all incomes, the provincial [Fire Code](#) and [Building Code](#) would likely function as a significant barrier to legalizing rooming houses.

As Connelly and Connelly (2021, p.2) note, “under the Ontario Building Code, each bedroom in a rooming house is considered a suite, and hallways that serve more than one bedroom are considered public corridors. Thus each bedroom and each corridor requires fire-rated separation, and any corridor leading to an exit cannot contain a living room, dining room, or kitchen. Larger rooming houses may require additional exits and fire alarm systems.” These requirements are considerably more difficult to implement than Building Code requirements for a similar unit where the bedrooms aren’t rented individually.

Connelly and Connelly (2021) examined how much it costs both non-profit and for-profit operators to operate a rooming house in Toronto and how much it would cost to convert single family homes into Building and Fire Code-compliant rooming houses. What they found is that the costs relative to the rents being charged meant that non-profit operators could barely cover their costs. It cost non-profit operators an average of \$427/mo per bedroom for heat, electricity, water, waste management, insurance, administration; costs which did not include mortgage payments, property taxes and capital reserve contributions. For-profit operators made very little profit, even renting at marginally higher rates than non-profit operators. When Connelly and Connelly investigated the costs of bringing a small sample of rooming houses of various ages and sizes into compliance with Fire and Building Codes, they found that costs were between \$75,000 and \$250,000; an amount that would make many rooming houses no longer financially viable. In their research they noted that “many of the costs of operating a rooming house – mortgage payments, property taxes, insurance, and most building maintenance expenses – are fixed costs. The greater the number of renters who share those costs, the lower the rent” (Connelly, J. & Connelly, P., 2021, p. 29).

Connelly and Connelly’s research informed the City of Toronto’s proposed (and not-adopted) [new regulatory framework for multi-tenant housing](#) (City of Toronto, 2021c). Specifically, the City proposed:

Phased implementation:

The first year would include expansion of a dedicated MLS enforcement team; establishment of an inter-divisional Project Management Team; the launch of a new multi-tenant house licensing system; and preparation for a new Multi-Tenant House Licensing Tribunal. In addition, staff will launch a focused education and outreach strategy; engage with community partners to mitigate tenant displacement; and seek partnerships with post-secondary institutions to identify sites on or near campuses to develop affordable housing.

Toronto Building will also hire a Building Code consultant to identify alternative options for operators to achieve compliance with the Ontario Building Code and Ontario Fire Code as applicable; and the Housing Secretariat will develop a new Multi-tenant Housing Renovation and Retrofit program to provide financial incentives to operators.

City staff will focus on transitioning existing licensed operators to the new requirements, as well as existing unlicensed multi-tenant houses that have been issued Notices of Violations or Charges. City staff will also identify and enforce against high-risk operators that pose a risk to health and safety of tenants or are the subject of a significant number of community complaints. Concurrently, the Housing-at-Risk sub-group will work with identified operators to mitigate tenant displacement.

The third phase of implementation will focus on outreach to new operators to apply for licences.

Together these components would have been likely to ensure that rooming houses would be brought into Code-compliance while preserving affordable housing and preventing tenant displacement.

Key to this approach is finding a way to make Code-compliance affordable for rooming house operators, both through identifying alternative options for achieving compliance and by providing the financial support to enable rooming house operators to become Code compliant.

Toronto's proposed policy focused on legalization and safety of rooming houses; it did not address affordability. In contrast, the City of Vancouver recently approved a [policy](#) that uses rooming house licensing and the City's authority to regulate businesses to impose vacancy control on SROs and rooming houses in an attempt to preserve the affordability of these accommodations, slow speculative investment, and prevent tenant displacement. Under this new policy, landlords are permitted to increase rents between tenancies, but the allowable increases are capped depending on the current rent level of the room. This policy change was initiated as a result of an observed increase in SRO rents and a drastic loss of accommodation affordable to people on social assistance. This observation was possible because the annual SRO licence renewal process requires landlords to submit rent rolls each year (City of Vancouver, Arts, Culture and Community Services & Development, Buildings and Licensing, 2021). Toronto's current rooming house licensing requirements do not include a requirement that landlords submit rent rolls. As a result, the City of Toronto has no data on rooming house rental rates and is unable to monitor how rates are changing, even in licensed properties.

Considerations for Brampton

In the wake of zoning changes that allowed second units in all single detached houses, semi-detached houses, and rowhouses, the City of Brampton is struggling to address an overwhelming number of unregistered second units and unlicensed lodging houses that may not comply with Building and Fire Codes; may be overcrowded; and are producing complaints from neighbours about property standards issues. An [unofficial estimate](#) pegs the number of unregistered second units and unlicensed lodging houses at anywhere between 50,000 and

100,000 units (Thakur, 2022). If there is any truth to this estimate, it would mean that the population of Brampton residents living in illegal units amounts to more (likely significantly more) than 10% of Brampton's total population of 656,480. While no data is available about the affordability of these units, in every city where they exist, lodging house rooms are generally the only “naturally occurring” (without a public subsidy) deeply affordable housing available in the private market.

The City of Brampton [reports](#) that it is able to mitigate the majority of issues surrounding second unit and lodging house rental units by enforcing existing by-laws that regulate parking; refuse and dumping; minimum maintenance and occupancy; grass and long weeds; and noise and “public nuisances” (City of Brampton, Planning Development Services, 2019, p.389). This indicates that a new licensing regime is not needed as a way to address these issues; the City should therefore consider enforcing existing by-laws and focus its lodging-house-specific efforts on working with homeowners and landlords to make this housing safe and Code-compliant. The fact that this important supply of affordable housing is being created city-wide, means that zoning should be updated as soon as possible so that all lodging house operators are able to operate legally and safely; prohibiting lodging houses doesn't make the housing go away, it simply prevents safety and living conditions from being improved. Further, given that the City of Brampton's goal is to create more affordable housing options in low-density areas, the fact that homeowners are taking the initiative to do this without encouragement or incentives from the City should be seen as a positive step. The opportunity here is for the City to work with homeowners to ensure this new supply of housing meets basic safety standards.

To ensure that lodging houses are preserved and expanded, lodging house regulatory frameworks must be designed with consideration of the financial impact on landlords of complying with proposed by-laws, licensing requirements, and Building Codes. Seeking alternate and less expensive ways to bring lodging houses to Code can facilitate Code-compliance.

Brampton's Second Unit registration efforts appear to be successful; while a total of 1,254 new second units were registered with the City from 2015 and 2019 (City of Brampton, Planning Development Services, 2019), there were [12,467](#) second units registered as of June 10, 2022 (City of Brampton, 2022). The one-time registration process ensures that second units meet all requirements under the Ontario Building Code, Fire Code, Electrical Safety Authority and local Zoning By-Law. “The increase in second unit registration is attributed to Enforcement Officers enforcing illegal basement apartment/second and multi-unit dwellings and advising the landowner of the option to legalize their second unit when a ticket is issued. There is also joint effort between Zoning Services and Enforcement to conduct educational sessions to the realty industry that is assisting with the increase in registration numbers for second Units” (City of Brampton, Planning Development Services, 2019, p.391).

In fact, there are so many homeowners trying to register their second units so that they will comply with the rules that the City [can't keep up](#) (Thakur, 2022). Further compliance will require staffing increases to manage the workload. A contributing factor for the success of this program is likely the fact that the City has a clear registration program for Second Units in place, and financial support is available from the Region of Peel for someone to bring their unit into compliance.

When it comes to lodging houses, however, the rules on the City's website are unclear and hard to find, as is information about the licensing process itself. There is also no support available to landlords to bring units into compliance, even though the Building and Fire Code requirements are different and more expensive to implement. Importantly, it is not clear from information provided by the City that different Building and Fire Codes exist for second units and lodging houses. A person investing money into bringing their second unit into compliance who intends to rent the rooms individually to more than 4 people, will not be pleased to learn that there's an entirely different set of building standards that they should have pursued.

There is much the City can do to support lodging house Code compliance:

1. Update zoning rules to allow lodging houses in all residential zones.
2. For consistency and clarity, consider adopting the Building Code's definition of "lodging house."
3. Focus lodging house licensing on Building and Fire Code compliance.
4. Consider eliminating the lodging house standards in the City's property standards by-law and instead update the occupancy and bathroom standards so they apply to lodging houses. Review the occupancy standard to see if minimum room sizes can be reduced.
5. Consider switching from licensing to one-time registration, similar to second unit registration, to ensure compliance with the Building and Fire Codes; enforce Code and property standards compliance with spot checks.
6. Work to develop less expensive alternative methods of meeting Building and Fire Code requirements before enforcing Code compliance.
7. Provide financial incentives to enable landlords to bring their lodging houses up to Code. Work with landlords to identify the costs of Code-compliance and then develop the incentive program. Rather than a fixed incentive rate, make the incentive proportionate to the landlord's renovation costs and the number of rooms they are operating. Make funding conditional on not applying for Above Guideline Increases to cover costs of compliance.*
8. Create a roster of pre-approved contractors to do the necessary renovations (but don't restrict landlords to using these contractors).
9. Incentivize housing affordability by: offering property tax reductions or waivers in exchange for affordable rents; offer incentives like housing allowances or rent supplements to incentivize housing tenants referred by the Region of Peel and maintaining long-term affordability; if maintaining lodging house licensing, once the majority of unlicensed operators have become licensed, implement additional affordability controls and tenant protections such as rent control that includes vacancy control and collect rent rolls annually.
10. Take a "no-displacement" approach to enforcement. Work to help tenants maintain their housing and provide relocation assistance when that is impossible.
11. Create plain language, multi-language information about lodging houses, compliance requirements, and the application process; make the information easily accessible on the City's website; distribute the information across the city to both homeowners and potential tenants. (The City reports that it has engaged in considerable public education of both landlords and tenants in multiple languages, however none of this material is available on its website.) Specifically, the information should include:
 - a. Clear explanation of what a lodging house is and what a lodger is;
 - b. Clear information about where lodging houses are and are not permitted;

- c. Clear information about what the rules for lodging houses are, what is required to comply with the rules, and the implications of non-compliance for both tenants and landlords.
 - d. Clear information about the safety issues related to lodging houses that don't meet Building and Fire Codes;
 - e. Plain language information about what changes are needed for Building and Fire Code compliance;
 - f. Information about the licensing process;
 - g. Information about the supports and resources available (for both landlords and tenants) at the City and in the community;
 - h. Information about landlord and tenant rights and responsibilities under the Residential Tenancies Act.
12. Where landlords would rather sell than bring lodging houses into compliance, work to acquire the properties and develop them into non-market housing.
 13. Offer a grant towards conversion cost assessment & time limited enforcement amnesty from the time the assessment is booked as long as basic fire prevention is in place
 14. Offer to pay for the conversion and to operate the lodging house as affordable housing for a set period of time, keeping the net rental revenue; at the end of the period, the landlord can assume lodging house operations and keep the rent revenue.

*A similar program to the Region of Peel's [My Home Second Unit Renovation Program](#) could incentivize lodging house Code compliance, however for it to be effective, it would have to consider the economics of rooming houses and the costs of Building and Fire Code compliance. The Region of Peel could consider combining a requirement to house a referred tenant with access to portable housing benefits to allow homeowners to earn more revenue. Homeowners who rent to a referred tenant should also be able to access support services offered by Housing Services which would include landlord-tenant mediation supports, unit inspection assistance, and damage and rent arrears funds.

7.4 Enforcement of legal agreements and ongoing stewardship of affordable units

Key to ensuring that affordability is preserved in newly created missing middle housing is ensuring compliance with contractually/legally required restrictions and affordability requirements, ensuring control of affordable units is retained, and ensuring affordable units are maintained in a good state of repair.

In their review of inclusionary zoning programs in 20 U.S. municipalities, Hickey et al. (2014) identify four important features that are effective in ensuring that the affordable units created retain their affordability: (1) long affordability periods; (2) carefully designed legal instruments; (3) well planned resale formulas; and (4) deliberate and ongoing stewardship of affordable units. The authors observed that municipalities with strong monitoring procedures in place experienced fewer losses of both affordable rental and affordable ownership inclusionary units, but they found that many localities didn't plan for sufficient oversight and stewardship and did not build ongoing monitoring and enforcement of program rules into their inclusionary housing programs.

Davis (2006) notes that it is common for public funders or private sponsors of privately owned housing encumbered with affordability covenants on title to deem the encumbrances “self-enforcing,” mistakenly believing that lasting affordability can be ensured without any need for administrative oversight. When the need for oversight is recognized, it is often only at the moment of sale, which enables violations of occupancy and use restrictions prior to resale (like owners of an affordable home moving out and becoming absentee landlords or short-term rental operators) to go entirely unnoticed. Davis (2006) argues strongly that occupancy, eligibility, and affordability restrictions that will endure for many years require someone to monitor these durable controls if they are to have much effect. He notes that the party that imposes these contractual controls does not need to be the same one that monitors and enforces them; nor does the party need to bear unilaterally all the costs of monitoring and enforcement—the responsibilities can be shared, so they do not fall on government alone.

U.S. jurisdictions have a much longer experience of producing affordable housing through inclusionary zoning than Canadian cities, and their experiences are instructive. Hickey et al. (2014) identify a number of areas that require municipal oversight and stewardship to ensure and preserve the affordability of inclusionary properties over time and review the various methods municipalities have implemented to provide the necessary oversight and stewardship.

For affordable homeownership programs, municipal oversight and stewardship is required to:

- Prevent homeowners from experiencing defaults and foreclosures
- Ensure that homeowners undertake the necessary maintenance to keep properties in a good state of repair (particularly important for subsidy retention programs where the goal is to create a portfolio of permanently affordable housing, and something that is challenging for homeowners of limited means)
- Ensure that units are being used for their intended purpose (housing income-eligible households) and aren't being rented out illegally
- Ensure homeowners can afford the high and rising costs of condo fees in inclusionary units created in condominium buildings
- Keep track of units and their agreements over time

For affordable rental housing units, the focus of effective stewardship activities is on providing effective oversight and enforcement of the tenant selection and income verification processes for a large and increasing number of rental units managed by a variety of property managers in locations scattered throughout the jurisdiction. They found that some jurisdictions use a centralized, in-house approach to fill units with income-eligible tenants, limiting property managers' responsibility to annual tenant income verification; some leave property managers with the responsibility for all aspects of filling units with income-eligible tenants, and provide training and conduct audits and surprise inspections of leasing records to ensure that requirements are being met; some delegate responsibility to third party stewards, including separate community land trusts and non-profit agencies, which can often generate funds for administration and stewardship by implementing stewardship fees; and some require for-profit developers to produce their inclusionary housing rental set-aside requirement in partnership with the local housing or authority or a non-profit agency that is then responsible for tenant selection and income verification.

Learning from past failures, governmental sponsors of deed-restricted homes have increasingly entrusted the task of enforcing restrictions over the use and resale of such owner-occupied housing to either a non-profit organization or a public agency. This administrative entity monitors the occupancy and use of these homes and oversees all subsequent sales, ensuring that the homes are resold for the formula-determined price to another income-eligible buyer. This administrative entity either directly purchases and resells the property itself or closely monitors and approves the transfer

of homes from seller to buyer. Under either arrangement, an interested third party is part of the deal, ensuring that the property is actually conveyed to the “right” buyer at the “right” price.

These third party arrangements aren’t without their problems, however. A recent audit of The City of Toronto’s affordable homeownership program illuminates some of the issues that can arise as a result of inadequate monitoring and stewardship (City of Toronto, Auditor General, 2020). Through delivery agreements, Toronto has delegated the administration of its affordable homeownership program to private and non-profit developers. The agreements specify the developers’ responsibilities and eligibility requirements for funding recipients; developer responsibilities include ensuring purchasers meet eligibility criteria, entering into loan agreements with eligible purchasers, and verifying ongoing occupancy. The audit noted that the City has not regularly evaluated the broader effectiveness and impact of the program beyond the number of affordable home ownership opportunities created for eligible households. The audit found that:

- The City has no data about the effectiveness of the program in achieving its intended outcomes and the extent to which funding is having an impact on those in need;
- For nearly 20% of affordable home ownership files reviewed, the estimated affordability ratio exceeded 40% of the applicants’ reported incomes at the time of their application, indicating that the program was either enabling households to purchase homes outside of their means, or some households weren’t fully disclosing all income and asset sources available to support their shelter costs;
- Of the program loans provided where title had been transferred to the purchaser, over 40% had been reported as discharged (either the units had been resold or the loans had been repaid but the purchasers continued to own the units) and in over 35% of those cases, purchasers discharged the loans within three years of the unit closing date, and almost 65% were discharged within five years of the closing date, raising the question of whether the loans were going to homeowners who actually needed them.
- There were instances of developers not complying with some delivery and funding agreement terms and applying inconsistent practices to verify applicant eligibility.

Another example that highlights issues that can result from inadequate monitoring and stewardship of legal agreements, is the City of Toronto’s implementation and enforcement of its demolition and conversion control bylaw. As previously mentioned (see 7.1.1 of this report), poorly designed and enforced legal contracts created the opportunity for a high ranking public servant to offer affordable rental replacement units to his staff and relatives, causing a public scandal. Subsequent audits of Toronto’s rental replacement policies illuminated deficiencies in oversight and stewardship. The City [maintains that](#) “City Planning maintains oversight of compliance of the secured rental replacement units and new affordable units by ensuring that the housing terms are included in the site-specific zoning by-law and legal agreement(s) registered against the land. Their terms include requirements that building permits for rental replacement units and affordable units be issued prior to or at the same time as market housing units, as well as reporting requirements on rent levels and annual increases” (City of Toronto, Housing Secretariat et. al., 2021, p.9).

However, the audits illustrated City Planning’s assumption that the legal agreements are “self enforcing.” The audit found that: agreements left the task of filling the replacement units to the property owner, did not set any eligibility requirements for the units, and required units to be filled through a “fair and open basis consistent with general provisions in the rental market” without any definition of what that meant and without establishing requirements that would enable the enforcement of compliance. The audit found that City Planning didn’t “monitor specific clauses within the rental replacement agreements” and didn’t have formal policies, procedures or processes in place for monitoring compliance with affordable rental replacement unit requirements. Not only wasn’t the City verifying that the affordable replacement units were being rented at the affordable rates

required, but for half the units the City hadn't collected the initial rent rolls or anniversary rent rolls necessary to monitor compliance. More than a year after it was first requested, City Council is still awaiting a completed compliance review of the City's previous rental replacement agreements (City of Toronto, Auditor General, 2022).

Keeping track of inclusionary units over time was a common challenge identified by Hickey et al. (2014) for many municipal inclusionary zoning programs. The implications for not adequately keeping track are many. Without adequate data, municipalities can't monitor the effect of their program, evaluate the program's effectiveness in meeting municipal objectives, or provide effective oversight of legal agreements and stewardship of the housing stock. The City of Austin maintains [an open data database](#) of this information that facilitates monitoring and enforcement while also creating public transparency and accountability and allows for public engagement in the monitoring and stewardship of affordable units.

Considerations for Brampton

The City of Toronto [notes](#) in reference to its Affordable Laneway Suites Pilot that “it is administratively cumbersome and costly for an individual owner with one rental unit and the City to draft, enter into, and monitor long-term agreements requiring on-going affordability” (City of Toronto, Community Planning, Toronto and East York District, 2018, p.38).

Yet, however administratively cumbersome and costly it is, the competent drafting, entering into, and monitoring of long-term agreements requiring on-going affordability is *essential* to ensuring and preserving affordability in low-density intensification. While it may be tempting to assume that legal requirements are self-enforcing or that delegating all monitoring, enforcement and stewardship responsibilities to non-profit housing organizations will ensure adequate oversight, the experiences of other jurisdictions indicate that best practices involve municipalities continuing to maintain a strong oversight function.

The City of Brampton should consider:

- A. ensuring the careful design of legal agreements,
- B. developing protocols and procedures and providing adequate resourcing to support proactive and effective monitoring and enforcement to ensure compliance with affordability requirements and occupancy and use restrictions, even when these responsibilities are entrusted to a non-profit entity,
- C. for programs which aim to produce a portfolio of permanently affordable housing, ensuring that these programs are designed to ensure property owners can and do keep up their financial obligations (mortgage payments, condo fees, etc.) and keep the properties in a good state of repair, and
- D. developing and maintaining an open data system for tracking affordable rental and homeownership units that allows for the effective monitoring, enforcement, and stewardship of the units.

8. Conclusion

History is full of (often well-intentioned) urban planning efforts to improve communities that have since been recognized to have resulted in benefits being bestowed upon the wealthy and privileged at the expense of the marginalized and poor.⁴ The push to upzone low-density areas has the potential to be yet another one of these schemes, unless explicit measures are put in place to steer things in a different direction.

As a result of provincial Bill 108, the City of Brampton is already undertaking an increase in allowable density in low-density zones from allowing a one-unit dwelling per lot to allowing a maximum of 3 units, without any requirements to ensure the new units created will be affordable or existing housing affordability will be preserved. If the goal was simply to increase the supply of housing available in already built up areas and increase “housing choice,” clearly the province’s upzoning effort is working: in the middle of an intense housing crisis that is seeing homelessness balloon across the province, the fact that Brampton is likely accommodating tens of thousands of people in lodging houses and second suites (legal or not) without any encouragement or incentives, and in such a short period of time, should be regarded as a housing success rather than an enforcement failure.⁵

Understanding the results of this upzoning on housing affordability, and rental housing affordability in particular, is important for assessing the value and risks of future upzoning efforts and for determining how to proceed. The City of Brampton should approach further upzoning efforts with caution; as has been observed by many, once affordable housing is lost, it doesn’t come back.

To ensure and preserve affordability in low-density intensification, ideally the City of Brampton would consider a combination of initiatives and actions that would include:

- Focusing on making the lodging house and second unit housing currently being created safe and affordable by legalizing lodging houses in all residential zones and supporting property owners in meeting Code requirements and renting units and rooms at affordable rates.
- Working to balance the profit-driven housing currently being produced through the private market with the creation of permanently affordable, non-market housing (non-profit rental housing, group and limited equity co-op housing, price and resale restricted limited equity ownership housing, and community land trusts) by pursuing densification and intensification methods that will either produce this type of housing exclusively, or will ensure that all development and redevelopment will produce a higher ratio of affordable housing to market rate housing than previously existed.
- Complementing upzoning efforts that encourage non-market housing with funding and incentive programs (in partnership with the Region of Peel) for non-market development and acquisition including:
 - a non-profit acquisition program,
 - a non-profit capacity-building program,
 - an incentive program that offers non-profit proponents capital grants and financing, public land (as available), and a combination of as-of-right and discretionary incentives

⁴ See, for example, “urban renewal.”

⁵ One issue of concern for public service provision, adequate funding, and administration, is that the residents of illegal units are often not counted in Census data, which means that Brampton’s population could be more than 10% higher than Statistics Canada’s 2021 population estimate. Efforts to ensure this population is enumerated in the next Census should be incorporated into compliance efforts.

such as waivers of development charges and fees, property tax exemptions, and relaxed zoning restrictions.

- Encouraging purpose-built non-profit student housing and non-profit settlement agency supported housing for international students to ensure students have access to a range of affordable and appropriate housing options.
- Ensuring affordable housing produced with government incentives has 99-year affordability periods, imposes rent controls on units exempt from provincial rent control regulations, and restricts landlords from applying for Above Guideline Increases.
- Developing demolition and conversion control policies that will be effective in ensuring that existing and new affordable housing and housing affordability is preserved and the displacement of tenants is prevented or the negative effects are mitigated.
- Reviewing its short-term rental by-law and addressing the policy loophole that will allow short-term rental platforms and operators to avoid being subject to the by-law by renting units for longer than 28 days.
- Ensuring tenants and landlords understand their rights and responsibilities under the Residential Tenancies Act and municipal by-laws; ensuring that tenants have access to information, resources, and legal supports to ensure they are able to access and maintain affordable, safe, and stable housing; ensuring both emergency and relocation supports are in place to support tenants facing and experiencing displacement.
- Ensuring that legal agreements used to impose use, price, affordability, tenant eligibility and/or resale restrictions on units are legally durable and ensuring the City is able to have good oversight and enforce compliance; ensuring an adequately resourced system is in place to monitor the units, to identify problems at an early date, and to take legal action when needed.

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