

Updates to Inclusionary Zoning in the City of Toronto

October 26, 2021

The City of Toronto is moving forward with proposed inclusionary zoning policies which have been released in draft form for public consultation. The stated purpose of inclusionary zoning is to increase the supply of affordable housing for low to moderate income households by establishing policies and by-laws to require a certain percentage of new development to contain affordable housing. The City's proposed policies would be implemented within Inclusionary Zoning (IZ) Market Areas. The City has prepared draft Official Plan, Zoning By-law Amendments (Amendments) and draft Implementation Guidelines which will be considered at the October 28, 2021 Planning and Housing Committee Meeting, in advance of the completion of the City's Major Transit Station Area review in 2022. See [link here](#) to our prior article on the City's Municipal Comprehensive Review and Major Transit Station Areas.

The proposed Amendments include substantive changes to the definitions of "affordable rental housing" and "affordable rents," "mid-range rents" and "affordable ownership housing," which will have an impact on what is considered 'affordable,' for rents and home prices. The Amendments also include delineating IZ Market Areas where these provisions can be implemented: IZ Market Area 1 includes Downtown and Old Toronto; IZ Market Area 2 includes East York, York, and parts of North York; IZ Market Area 3 includes parts of North York, Scarborough and Etobicoke. See [link here](#) to the proposed mapping.

The Amendments indicate what percentage of a development is to be dedicated as affordable housing. Developers should anticipate that many desirable areas in the City of Toronto will be subject to inclusionary zoning by 2022. Projects that are subject to a complete zoning by-law amendment, site plan approval, minor variance or building permit application by September 18, 2022, are proposed to be exempt from the inclusionary zoning provisions, in addition to the transition provisions set out by the Province in O.Reg 232/18.

Key takeaways include:

- The Amendments include proposed mapping delineating three distinct IZ Market Areas. The City has characterized these areas of Toronto as areas that have experienced the greatest amount of new housing supply, significant price escalation and growth in rental prices and generally areas with the highest number of households paying 50% or more of their incomes towards rent;
- IZ Market Area 1 requires a minimum of 10% of new condominium residential Gross Floor Area to be secured as affordable ownership housing or a minimum of 7% to be secured as affordable rental housing;
- IZ Market Area 2 requires a minimum of 8% of new condominium residential Gross Floor Area to be secured as affordable ownership housing or a minimum of 6% to be secured as affordable rental

housing;

- IZ Market Area 3 requires a minimum of 7% of new condominium residential Gross Floor Area to be secured as affordable ownership housing or a minimum of 5% to be secured as affordable rental housing;
- No minimum requirement for purpose built rental housing will apply until January 1, 2026, at which time the minimum requirement for affordable rental housing in purpose built rental housing will be 5% for IZ Market Area 1 and 3% for IZ Market Area 2. There will continue to be no minimum requirement for purpose built rental housing in IZ Market Area 3;
- Affordable rents or affordable ownership prices must be secured for a period of 99 years from the date of first occupancy;
- The requirements for affordable housing outlined in the Amendments will not be applied until the later of September 18, 2022, or the approval of a Protected Major Transit Station Area by the Minister;
- The requirements for affordable rental housing in IZ Market Area 1 will increase by 1.5% per year, beginning January 1, 2025 until January 1, 2030. IZ Market Area 2 will increase by 1% per year, and IZ Market Area 3 will increase by 0.5% per year;
- The requirements for affordable ownership housing in IZ Market Area 1 will increase by 2% per year, beginning January 1, 2025 until January 1, 2030. IZ Market Area 2 will increase by 1-2% per year, and IZ Market Area 3 will increase by 0-1% per year;
- Inclusionary zoning will not apply to development that contains less than 100 residential units and 8,000 square metres of residential Gross Floor Area within an IZ Market Area;
- Inclusionary Zoning will not apply to the portions of a development or redevelopment containing residential care homes, retirement homes, nursing homes or student residences;
- Alternate offsite options are available at the discretion of the City provided that the affordable units provide for an improved housing outcome, are ready and available for occupancy on a timely basis commensurate with completion of the residential units in the proposed development, and are located in the same IZ Market Area as the proposed development; and
- Financial incentives will not be provided by the City to meet Inclusionary Zoning requirements.

The City proposes to amend the definition of “affordable rental housing” and “affordable rents”, which was previously based on the average market rent in the City of Toronto. The new definition will establish rents and corresponding household income ranges on an annual basis where the total monthly shelter cost is the lesser of one times the average City of Toronto rent (as determined by CMHC) by dwelling unit type. The definition would establish affordability based on a set income percentile to ensure that housing does not cost more than 30% of income towards total monthly shelter costs. These income percentiles will be based on unit types for 1-3 person households. The proposed change is intended to establish affordable rents based on actual income data in the City of Toronto. The definition of “affordable ownership housing” has also been defined based on income percentiles for ownership housing. The definitions of “affordable rental housing” and “affordable rents,” and “affordable ownership housing” and “affordable ownership prices” can be found [here](#).

Although the proposed transition clauses would allow complete applications filed before September 18, 2022 to be exempt from the inclusionary zoning requirements, landowners and developers should be aware of the implications for future projects to ensure that they have taken into account and planned for the minimum affordable housing requirements. Interested persons should ensure that they make their views known prior to Council adoption, as the proposed Amendments do not require Ministerial approval and can be only appealed to the Ontario Land Tribunal by the Minister of Municipal Affairs and Housing.

The proposed Official Plan, Zoning By-law Amendments, and draft Implementation Guidelines can be found [here](#). The draft Amendments and draft Implementation Guidelines will be considered at the Planning and Housing Committee on October 28, 2021.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.