

## City of Toronto Adopts Inclusionary Zoning Policies

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On November 9, 2021, the City of Toronto adopted Official Plan Amendment No. 557 (OPA 557) and a comprehensive zoning by-law amendment respecting Inclusionary Zoning policies (the Amendments). 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. See our previous article on the City's Municipal Comprehensive Review and Major Transit Station Areas.

### What is Considered to be Affordable Under the Amendments?

The amendments include substantive changes to the definitions of "affordable rental housing unit" and "affordable ownership housing unit" which are intended to establish affordable rents based on actual income data in the City of Toronto. These definitions 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 vary based on unit types.

The Amendments 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 of "affordable ownership housing" has also been defined based on income percentiles for ownership housing.

### What Developments are Affected?

Developments, which are broadly defined, that fall within delineated IZ Market Areas and also within a Protected Major Transit Station Area (PMTSA) approved by the Minister of Municipal Affairs and Housing will be subject to Inclusionary Zoning. IZ Market areas are defined within mapping adopted as part of OPA 577 and include IZ Market Area 1 (Downtown and Old Toronto); IZ Market Area 2 (East York, York and parts of North York); IZ Market Area 3 (North York, Scarborough and Etobicoke).

The Amendments will presumptively apply to developments within this geographic area unless an exception applies. Exemptions include:

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- Inclusionary Zoning does not apply to developments that contains less than 100 residential units and 8,000 square metres of residential Gross Floor Area.
- Inclusionary Zoning does not apply to portions of a development or redevelopment containing residential care homes, retirement homes, nursing homes or student residences.

## When Does Inclusionary Zoning Take Affect?

The City has approved transition provisions to grandfather complete applications for a zoning by-law amendment and site plan approval, minor variance or building permit that were filed on or prior to the later of September 18, 2022 or notice of approval of a “Protected Major Transit Station Area” by the Minister of Municipal Affairs and Housing. The City’s transition is in addition to the transition provisions set out by the Province in O.Reg 232/18.

## What Percentage of a Development Must be Affordable Housing?

Upon Inclusionary Zoning coming into force, the minimum rates of Affordable Housing for required developments, other than purpose-built rental, will be set at the following:

- **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; and
- **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.

As of January 1, 2025, the minimum rates of Affordable Housing to be provided will then increase annually until January 1, 2030. The requirements for affordable rental housing in IZ Market Area 1 will increase by 1.5% per year. 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. IZ Market Area 2 will increase by 1-2% per year, and IZ Market Area 3 will increase by 0-1% per year.

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Affordable rents or affordable ownership prices must be secured for a period of 99 years from the date of first occupancy.

## Other Key Takeaways

- The Amendments do not require Ministerial approval and can be only appealed to the Ontario Land Tribunal by the Minister of Municipal Affairs and Housing.
- 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.
- Financial incentives will not be provided by the City to meet Inclusionary Zoning requirements.
- Owners will be required to enter into agreements registered on title which will include requirements for ongoing administration, reporting, and monitoring of the affordable units. Council will also be directed to adopt procedures for administration, reporting and monitoring of the affordable rental and ownership units.
- The City will receive 50% of the net proceeds of a sale of an affordable ownership unit, with the proceeds to be reinvested in affordable housing.

## Next Steps

Council will continue to consider further matters related to Inclusionary Zoning, including:

- Adopting a procedure for administration and monitoring during the affordability period, including terms and conditions of a third-party administrator;
- Reviewing the possible inclusion of additional IZ Market areas; and
- Conducting annual reviews of the market impacts of Inclusionary Zoning following the Amendments taking effect and determining whether any additional Official Plan or Zoning By-law Amendments are required.

Developers should continue to be mindful that Inclusionary Zoning may continue to expand and be subject to refinements for some time in the City of Toronto. Cassels will be monitoring and addressing any major changes in future Cassels Comments.

The adopted Official Plan, Zoning By-law Amendments, and draft Implementation Guidelines can be found at the above links.

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