



# **Submission to the City of Toronto's Planning and Housing Committee on Proposed Inclusionary Zoning By-law Amendments**

**Prepared by Maytree**

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## Decision sought

- While the proposed inclusionary zoning by-law amendments are “too low and too slow” across market areas in Toronto, they represent a start to this policy.
- It is important that the proposed zoning by-law pass, but with some amendments. These amendments include:
  - Ensuring that higher set-asides are required, and at a faster pace, for purpose-built rental housing as soon as the by-law goes into effect. The pace and scale of set-aside rates should be similar to that in condominium buildings and consistent with the approach proposed in the July 2021 draft by-law (see Table 2). Given the serious affordability challenges that renters face, it is important that we build this housing stock as quickly as we can. We should not be discouraged by ideas that the introduction of an inclusionary zoning requirement will discourage development—given the heated nature of the housing market, now is the time to ensure that affordable rentals are developed. Building housing supply, without being deliberate about what type of housing supply, will continue to exacerbate the challenges that renters face.
  - Reviewing this policy on a periodic basis to ensure that Toronto has the most robust inclusionary zoning policy possible. This review should be grounded in a rights-based approach consistent with the right to safe, secure, and adequate housing recognized in the *HousingTO 2020-30 Action Plan* and the *Toronto Housing Charter – Opportunity for All*.

## The Toronto context

### **The problem: Lack of affordable rental supply, and low renter household incomes**

- According to City Planning’s *Inclusionary Zoning Assessment Report: Housing Need and Demand Analysis*<sup>1</sup> (henceforth, the Report), renters comprised 47% of the Toronto’s households in 2016. The Report also indicates that the number of renters in the city has increased at a greater rate compared to homeowners.
- The current supply of rental stock in Toronto has not kept up with population growth the city has witnessed and falls far short of the demand.
  - Approximately half of the rental housing stock in the city are primary rental units; the other half are secondary rental units. Of the secondary rental units, approximately one-third are condominium rental units; the rest are social housing units and non-condo secondary rentals (e.g., basement apartments).
  - The completion of purpose-built rentals in Toronto increased starting in 2018, after an extremely slow rate of construction over the previous five-year period. Of the about 2,700 completions in 2020, only 4% were assisted/affordable housing.
  - In contrast, in 2020, over 4,400 condos were completed in Toronto, which constituted three-quarters of all completions in the city.<sup>2</sup> Although there has been a recent rise in rental housing

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<sup>1</sup> City of Toronto. August 2021. *Inclusionary Zoning Assessment Report: Housing Need and Demand Analysis*. Accessed at <https://www.toronto.ca/wp-content/uploads/2021/10/95b5-CityPlanning-IZ-Assessment-Report-Need-and-Demand-2021.pdf>

<sup>2</sup> Ibid. pg 20.

construction, declining vacancy rates and rising rents indicate that demand continues to outpace supply.

- The Report notes that “the majority of rents for sitting tenants in purpose-built rental units are below the City’s affordable rent thresholds.”<sup>3</sup>
  - From 2016 to 2020, the proportion of units with rents either between 81% and 100% of Average Market Rent (AMR) decreased by 33%, and the number of units with above mid-range rents decreased by 20%. At the same time, units with mid-range rents (between 100% and 150% of AMR) increased by 17%. So while moderately affordable rental stock in purpose-built units may have increased in share, the proportion of deeply affordable rental stock has declined.
    - The Report concludes “These numbers indicate that the City's stock of affordable purpose-built rental housing is shrinking, and little new purpose-built rental housing, which typically have higher market rents, is coming online. The number of larger mid-range purpose-built rental units are likely increasing because of a lack of supply and increased demand is starting to drive up rents.”<sup>4</sup>
- The estimated median income for renter households in Toronto was about \$50,000 whereas that for owner households was over \$102,000.
  - Renter households with median income could only afford the CMHC average market rent (\$1,211) for a purpose-built rental bachelor unit.
  - The Report observes: “This income level could not afford the average market rents for larger unit types, not the average asking rents or average ownership prices.”<sup>5</sup> Simply put, low- and moderate-income household in Toronto are experiencing significant housing affordability challenges, particularly with rental affordability.<sup>6</sup>

### **Promises to date include commitments from Mayor Tory and the *HousingTO 2020-2030 Action Plan***

- During the 2018 City of Toronto municipal election, Mayor John Tory, who was seeking a second term, promised to build 40,000 affordable rental units over 12 years.<sup>7</sup>
- The *HousingTO 2020-2030 Action Plan* established a vision for approving 40,000 new affordable rental homes.<sup>8</sup> It also envisioned that Toronto be “a place where families and individuals live in safe, well maintained and affordable housing with respect and dignity and where people have equal opportunities to success.”<sup>9</sup>
- Given that housing affordability worsened during the pandemic, we need to use all tools available to the City (inclusionary zoning being an important one) to respond to the ongoing affordability crisis sooner, rather than later. According to the City of Toronto’s Affordable Housing Office Quarter 1

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<sup>3</sup> Ibid. pg. 20.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid. 26.

<sup>6</sup> Ibid.

<sup>7</sup> David Shum. “Toronto Election 2018: Key campaign promises from John Tory and Jennifer Keesmaat.” *Global News*. October 4, 2018. Accessed at <https://globalnews.ca/news/4515720/john-tory-jennifer-keesmaat-campaign-promises/>

<sup>8</sup> City of Toronto. *HousingTO 2020-2030 Action Plan*. Accessed at <https://www.toronto.ca/community-people/community-partners/affordable-housing-partners/housingto-2020-2030-action-plan/>

<sup>9</sup> Ibid.

Report, between 2011 and 2019, nearly 8,000 affordable rental units were approved to be built but only about 4,000 units were constructed.<sup>10</sup>

- This is 7.5 times less than the 30,000 affordable rental units that could have been created through inclusionary zonings over the ten-year period, if it were not for provincial delays that prevented municipalities from implementing such a policy when relevant legislation was first introduced at Queen’s Park.<sup>11</sup>

## Analysis and considerations

### The proposed plan is too low and too slow

- The inclusionary zoning by-law amendments currently before the Planning and Housing Committee are significantly lower in set-aside rates and slower in the phase-in period than earlier proposals (see Tables 2-5).
  - These amendments are weaker and less ambitious than what was considered by City Planning in July of this year, and what is supported by the initial NBLC 2019 feasibility study commissioned by City Planning.
  - The proposed by-law amendments, if approved, will result in a lower number of affordable units (especially lower affordable rental units) than what the evidence suggests is possible, and fail to address the scale of the housing crisis facing Toronto.

### Need to increase the set-aside rates for purpose-built rentals to respond to renter housing challenges

- The set-aside rates and phase-in period for the purpose-built rentals are particularly low and slow, which is concerning given the lack of supply of purpose-built rentals in City’s own analysis.
  - This lower set-aside and slower phase-in, especially when compared to previous proposals, is a result of Test 2 introduced in the latest NBLC study, which recommends applying a less aggressive inclusionary zoning policy if the impact to land value is 15% or more.
  - Such an assumption, while framed as a “methodological choice,” prioritizes concerns about developers potentially stalling projects in the face of higher inclusionary zoning requirements.
  - While we arguably need to build as much supply as possible to respond to the housing crisis, we must be deliberate about the type of housing that we are building. Increasing housing supply by building housing that is out of the reach of the average household in Toronto will not abate the housing crisis. Instead, it will only fuel further speculation and purchases of units as investments.
  - Given the multitude of factors that are contributing to Toronto’s heated housing market, it is premature to assume that a robust inclusionary zoning policy would hamper development in the City. In fact, some evidence suggests that the most below-market rate units can be

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<sup>10</sup> Affordable Housing Office, City of Toronto. 2019. *2019 Quarter 1 Report: New Affordable Homes Approved, Completed and Repaired*. Accessed at [https://www.toronto.ca/wp-content/uploads/2019/04/8dfa-access\\_AHO-Summary-for-HOT-TargetsCompletions-Q1-2019-Final.pdf](https://www.toronto.ca/wp-content/uploads/2019/04/8dfa-access_AHO-Summary-for-HOT-TargetsCompletions-Q1-2019-Final.pdf)

<sup>11</sup> Beth Wilson, Jeremy Withers, and Sean Meagher. October 2021. *Opportunity Knocks: Toronto City Council’s Change to Create Tens of Thousands of Affordable Homes*. Social Planning Toronto, the change lab and the Affordable Housing Challenge Project. Accessed at: [https://d3n8a8pro7vhm.cloudfront.net/socialplanningtoronto/pages/2611/attachments/original/1635346486/Inclusionary\\_Zoning\\_report-OCT\\_27\\_2021-Exec\\_Summary-FINAL.pdf?1635346486](https://d3n8a8pro7vhm.cloudfront.net/socialplanningtoronto/pages/2611/attachments/original/1635346486/Inclusionary_Zoning_report-OCT_27_2021-Exec_Summary-FINAL.pdf?1635346486)

- developed through an inclusionary zoning policies in areas where there is strong market activity and high demand, similar to that currently witnessed by Toronto.<sup>12</sup>
- The potential impacts of inclusionary zoning on land values, while holding all other factors constant (e.g., developer profits and construction costs), may not outweigh the benefits of development activities given the other systemic factors that are leading to Toronto’s heated housing market (e.g., lower interest rates and financing costs).
  - Based on the proposed draft by-law amendments, the City won’t witness inclusionary zoning applied to purpose-built rental until 2026. This is despite the fact that rents have already returned to pre-pandemic levels, moratoria on rent-freezes are coming to an end in 2021, and many tenants have begun to receive above-guideline rent increase notices from their landlords that they cannot afford.<sup>13</sup>

### **Further efforts are required to better balance equity, renter need, and market assessments**

- The proposed inclusionary zoning by-law is grounded in the principle of “creating more inclusive, complete and equitable communities” along with “continuing to encourage market housing developments by supporting a diverse range of housing supply.”
  - However, the proposed draft by-law does not reflect a balanced approach to these principles. It prioritizes the latter at the cost of the former.
- The City’s proposed by-law amendments aim to be progressive in further pegging the definition of “affordability” to income (rather than AMR) and distinguishing based-on-income for renter households and homeowner households.
  - However, progress on the definition of affordability is undermined when only a small number of affordable units, especially affordable rental units, is expected to be developed.

### **The longer the City delays inclusionary zoning, the longer Toronto forgoes affordable units**

- According to a recent research report published by Social Planning Toronto, the change lab, and the Affordable Housing Challenge Project at the University of Toronto, the lower set-aside rates and slower phase-in period (September 2022-December 31, 2024) in the most recent draft inclusionary zoning by-law will result in 18,176 fewer affordable rental housing units. This research report also notes that 3,159 new affordable rental units “would be forfeited every year that the implementation of an IZ policy is delayed.”<sup>14</sup>
- City Planning has already spent three years in stakeholder consultation. While consulting is an important part of the policy process, housing affordability has worsened during this time. Further delay in enforcing the inclusionary zoning policy to late 2022, in addition to the significant delays in phase-in periods especially for purpose-built rentals, will only exacerbate the rental affordability crisis in Toronto, a city that continues to witness population growth.

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<sup>12</sup> See pgs ix and 7. Stockton Williams, Ian Carlton, Lorelei Juntunen, Emily Picha, Mike Wilkerson. 2016. *The Economics of Inclusionary Development*. Urban Land Institute – Terwilliger Land Institute. Accessed at <https://uli.org/wp-content/uploads/ULI-Documents/Economics-of-Inclusionary-Zoning.pdf>

<sup>13</sup> Tess Kalinowski. October 18, 2021. “Vacancies fall, rents rise as the GTA’s rental market hits balance, briefly.” *The Toronto Star*. Accessed at <https://www.thestar.com/news/gta/2021/10/18/vacancies-fall-rents-rise-as-the-gtas-rental-market-hits-balance-briefly.html>

<sup>14</sup> Pg. 5. Beth Wilson, Jeremy Withers, and Sean Meagher. October 2021. *Opportunity Knocks: Toronto City Council’s Change to Create Tens of Thousands of Affordable Homes*. Social Planning Toronto, the change lab, and the Affordable Housing Challenge Project. Accessed at: [https://d3n8a8pro7vhmx.cloudfront.net/socialplanningtoronto/pages/2611/attachments/original/1635346486/Inclusionary\\_Zoning\\_report-OCT\\_27\\_2021-Exec\\_Summary-FINAL.pdf?1635346486](https://d3n8a8pro7vhmx.cloudfront.net/socialplanningtoronto/pages/2611/attachments/original/1635346486/Inclusionary_Zoning_report-OCT_27_2021-Exec_Summary-FINAL.pdf?1635346486)

## **The proposed inclusionary zoning policy encourages the development of affordable ownership units, and not affordable rentals**

- In the current proposal, the required set-aside rates are 40% higher for affordable ownership than affordable rental. Given that the level of income needed to meet affordable ownership units is higher than affordable rentals, the cost of developing rental units is prohibitive relative to the cost of affordable ownership units. To ensure that developers are incentivized to choose to build affordable rentals, it is recommended that affordable ownership requirements are at least 50% higher than affordable rental requirements.

## **Comparison of set-aside rates in the City of Toronto’s proposed inclusionary zoning draft by-law amendments**

- The following tables provide a comparison of what set-aside and phase-in rates the City of Toronto proposed in its October 22, 2021 draft by-law<sup>15</sup> based on a revised NBLC feasibility study (2021).<sup>16</sup> NBLC’s revised feasibility assessment is in response to recommendations made in the peer-review provided by U.S.-based Economic and Planning Systems in August 2021.<sup>17</sup>

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<sup>15</sup> Planning and Housing Committee. October 28, 2021. “PH 28.1: Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and Draft Implementation Guidelines.” *Toronto City Council and Committee: Meetings, Agendas, and Minutes*. Accessed at <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH28.1>

<sup>16</sup> NBLC. May 2021, Revised October 2021. Update: Evaluation of Potential Impacts of an Inclusionary Zoning Policy. Accessed at <https://www.toronto.ca/wp-content/uploads/2021/10/8f5c-CityPlanningUpdateEvaluationPotentialImpactsInclusionaryZoningPolicy.pdf>

<sup>17</sup> Economic and Planning Systems Inc. August 17, 2021. Peer Review of NBLC “Evaluation of Potential Impacts of an Inclusionary Zoning Policy”. Accessed at <https://www.toronto.ca/wp-content/uploads/2021/10/8e15-CityPlanning-IZ-Peer-ReviewFinal-Report.pdf>

**Table 1: Feasibility of adopting inclusionary zoning by market areas based on NBLC 2019 study**

	<b>Purpose-built rentals</b>	<b>Condo (affordable rentals)</b>	<b>Condo (affordable ownership)</b>
Market area 1	At least 20%	30%	30%
Market area 2	At least 10%	20%	20%
Market area 3	At least 5%	10%	10%

**Table 2: Set-aside rates (in %) for purpose-built rentals<sup>18</sup>**

	<b>Feasible</b>	<b>Proposed by City of Toronto in July 2021</b>		<b>Difference between NBLC and July 2021 proposals</b>		<b>Proposed set-aside rates (%) in October 2021 proposal based on NBLC 2021 study</b>							<b>Difference between NBLC and October 2021 proposals</b>						
	<b>NBLC 2019 study</b>	<b>for 2022</b>	<b>for 2027</b>	<b>for 2022</b>	<b>for 2027</b>	<b>2022 - 2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>	<b>2022-2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
Market area 1	At least 20%	7	11	-13	-9	0	0	5	5	5	5	5	-20	-20	-15	-15	-15	-15	-15
Market area 2	At least 10%	2	6	-8	-4	0	0	3	3	3	3	3	-10	-10	-7	-7	-7	-7	-7
Market area 3	At least 5%	N/A	N/A	-5	-5	0	0	0	0	0	0	0	-5	-5	-5	-5	-5	-5	-5

<sup>18</sup> “Set-aside rates” - the percentage of affordable housing units required in new developments.

**Table 3: Set-aside rates for condo buildings (affordable rentals)**

	Feasible	Proposed by City of Toronto in July 2021		Difference between NBLC and July 2021 proposals		Proposed set-aside rates (%) in October 2021 proposal							Difference between NBLC and October 2021 proposals						
	NBLC 2019 study	For 2022	For 2027	For 2022	For 2027	2022-2024	2025	2026	2027	2028	2029	2030	2022-2024	2025	2026	2027	2028	2029	2030
Market Area 1	30%	12	16	-18	-14	7	8.5	10	11.5	13	14.5	16	-13	-11.5	-10	-8.5	-7	-5.5	-4
Market Area 2	20%	8	12	-12	-8	6	7	8	9	10	11	12	-14	-13	-12	-11	-10	-9	-8
Market Area 3	10%	5	9	-5	-1	5	5.5	6	6.5	7	7.5	8	-5	-4.5	-4	-3.5	-3	-2.5	-2

**Table 4: Set-aside rates for condo buildings (affordable ownerships)**

	Feasible	Proposed by City of Toronto in July 2021		Difference between NBLC and July 2021 proposals		Proposed set-aside rates (%) in October 2021 proposal							Difference between NBLC and October 2021 proposals						
	NBLC 2019 study	For 2022	For 2027	For 2022	For 2027	2022-2024	2025	2026	2027	2028	2029	2030	2022-2024	2025	2026	2027	2028	2029	2030
Market Area 1	30%	20	26	-10	-4	10	12	14	16	18	20	22	-20	-8	-12	-14	-12	-10	-8
Market Area 2	20%	14	20	-6	0	8	10	11	13	14	15	17	-12	-10	-9	-7	-6	-5	-3
Market Area 3	10%	8	14	-2	4	7	8	8	9	10	11	11	-3	-2	-2	-1	0	1	1



**Table 5: Evolution of phase-in period in City of Toronto proposed inclusionary zoning draft by-law**

Draft policy 2020 (proposed in Sept 2020)	Draft policy 2021 (Proposed July 2021)	Draft policy 2021 (Proposed Oct 21, 2021)
<ul style="list-style-type: none"> <li>A lengthy phase-in of affordability requirements was unavailable to developers</li> </ul>	<ul style="list-style-type: none"> <li>Set-aside rate will be gradually phased in over 5 years (2022-2027) with check-in after 3 years.</li> </ul>	<ul style="list-style-type: none"> <li>Phasing in the full affordability requirements over 8 years (2022-2030).                             <ul style="list-style-type: none"> <li>Minimum set-aside rates for purpose-built rentals only come into effect in 2026 for market areas 1 and 2, and remain constant until 2030.</li> <li>Minimum set-aside rates for affordable rentals in condo buildings remain constant between 2020-2024. Then they gradually increase at the rate of 1.5% per year, 1% per year, and 0.5% per year until 2030 in market areas 1, 2, and 3, respectively.</li> <li>Minimum set-aside rates for affordable ownership in condo buildings come into effect in 2022 and remain constant until 2024. Then they gradually increase at varying levels for the different market areas until 2029, before beginning to decline in 2030 for market areas 1 and 2.</li> </ul> </li> </ul>

**Table 6: Set-aside rates proposed by Steve Pomeroy (2019)<sup>19</sup>**

- Pomeroy’s analysis provides feasible set-aside rates in current zoning as well as rezoned contexts, unlike the NBLC study and the City of Toronto’s draft by-law proposals, which assume only rezoned context. Therefore, Pomeroy’s proposed set-aside rates have been excluded from previous tables.

	“Potential maximum inclusion rate”	
	Current zoning	Rezoned
Market area 1 (higher cost zone)	25% of new units	30% of new units
Market area 2 (medium cost zone)	10% of new units	15% of new units
Market area 3 (lower cost zone)	“Current market does not support the development of new affordable housing units through inclusionary zoning.”	

<sup>19</sup> The 2019 analysis provided by Steve Pomeroy and commissioned by Maytree, *Examining the feasibility and options for an inclusionary zoning policy in Toronto*, can be accessed at <https://maytree.com/wp-content/uploads/Examining-feasibility-options-inclusionary-zoning-policy-Toronto.pdf> (refer to pg. i-ii).

## Background

- On October 28, 2021, the Toronto City Council’s Housing and Planning Committee is set to consider inclusionary zoning by-law amendments.
- The recommended inclusionary zoning policy and zoning framework are aimed at improving the supply of affordable housing units (including both rentals and ownership) by requiring *minimum* set-aside rates in new developments approved in the city.
  - The “summary” accompanying the proposed zoning by-law amendments acknowledges that the “introduction of mandatory affordable housing requirements will positively contribute to transforming the delivery of housing in the City by ensuring that affordable housing keeps better pace with the delivery of market housing, contributing to social and economic cohesion in the years to come.”<sup>20</sup>
- **Principles of Toronto’s inclusionary zoning policy:**
  - Through inclusionary zoning, the City hopes to
    - “increase the supply of affordable housing;
    - continue to encourage market housing development by supporting a diverse range of housing supply; and
    - create more inclusive, complete and equitable communities.”<sup>21</sup>
- **Stakeholder engagement:**
  - The City of Toronto began consulting with stakeholders on the proposed inclusionary zoning policy direction in 2019. Stakeholders have been consulted on the percentage of affordable housing required (including different requirements for condominium ownership and purpose-built rental projects), minimum size of development projects where inclusionary zoning would be applied to, how long the units remain affordable for, and a proposed new definition for affordable housing.
- **Evolution of inclusionary zoning feasibility assessment<sup>22</sup>:**
  - In 2019, City Planning commissioned N. Barry Lyon Consultants Limited (NBLC) to assess the financial impacts of a range of inclusionary zoning requirements on the housing market, including in different geographies across the city.
  - NBLC’s recommendations on proposed set-aside rates following the release of its 2019 study report are available in Table 1.
    - Tables 2, 3, and 4 also compare the City Planning proposed set-aside rates in its July 2021 draft by-law amendment.
  - City of Toronto Planning Division also commissioned U.S.-based Economic and Planning Systems (EPS) to conduct an independent peer review of the NBLC 2019 study and proposed inclusionary zoning feasibility criteria. This report was published in August 2021.

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<sup>20</sup> Planning and Housing Committee. October 28, 2021. “PH 28.1: Inclusionary Zoning Official Plan Amendment, Zoning By-law Amendment and Draft Implementation Guidelines.” *Toronto City Council and Committee: Meetings, Agendas, and Minutes*. Accessed at <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH28.1>

<sup>21</sup> City of Toronto. (no date). *Inclusionary Zoning Policy: Overview*. Accessed at <https://www.toronto.ca/city-government/planning-development/planning-studies-initiatives/inclusionary-zoning-policy/inclusionary-zoning-overview/>

<sup>22</sup> City of Toronto. (no date). “Background Reports: Financial Impact Analysis” in *Inclusionary Zoning Policy: Information and Reports*. Accessed at <https://www.toronto.ca/city-government/planning-development/planning-studies-initiatives/inclusionary-zoning-policy/inclusionary-zoning-reports/>

- Following EPS’s recommendations in its peer review, NBLC undertook a second feasibility assessment and published a study report in October 2021. In this latest report, it introduced an additional test (titled Test 2) where NBLC measured “the impact of the proposed inclusionary zoning policy on the land value supported by redevelopment prior to and following the introduction of the policy.”
- It also assumed the impact to land value to be 15% or more, and recommended that the City apply a “less aggressive inclusionary zoning policy with lower set-aside requirements.”
  - A comparison of set-aside rates for different types of developments proposed by City Planning following the release of the latest NBLC study is also available in Table 2, 3, and 4 (see previous section).