

## **Inclusionary Zoning: Consultation Update on Implementation Guidelines**

**Date:** June 9, 2022

**To:** Planning and Housing Committee

**From:** Chief Planner and Executive Director, City Planning

**Wards:** All

### **SUMMARY**

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This report presents the results of stakeholder consultations conducted throughout this spring on the draft Inclusionary Zoning (IZ) Implementation Guidelines and provides an update on ongoing area-specific analysis.

City Council adopted IZ Official Plan policies, a Zoning By-law Amendment and draft Implementation Guidelines on November 12, 2021. The Official Plan policies require between 5 and 22 per cent of new residential gross floor area to be secured as affordable rental or ownership housing for a period of 99 years.

As part of City Council's adopted IZ policy framework, Council directed staff to consult and report back with final recommended Implementation Guidelines in the first half of 2022. The draft Guidelines were developed to ensure clarity and transparency with respect to the City's implementation of IZ. They address a number of matters in order to provide clear and transparent outcomes, including guidance on the size and functional layout of the affordable units, household eligibility, tenant selection and access, resale provisions, details about what would be secured in s.35.2 agreements, direction on when offsite development would be supported, and reporting and monitoring.

A stakeholder working group was initiated with members of the development industry and non-profit housing providers in early 2022 in order to gather input on the draft Guidelines. Input was solicited on the following areas: building and unit design, administration of affordable rental units, administration of affordable ownership units, offsite requirements, and transition. Based on input from stakeholders, City staff recommend conducting additional consultations prior to finalizing the Guidelines and report back in the first quarter of 2023 on the final recommended Guidelines.

## **RECOMMENDATIONS**

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The Chief Planner and Executive Director, City Planning recommends that:

1. The Planning and Housing Committee direct City Planning staff to continue consultations with stakeholders on the draft Inclusionary Zoning Implementation Guidelines and report back with final recommended Implementation Guidelines in the first quarter of 2023.

## **FINANCIAL IMPACT**

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The City Planning Division confirms that there are no financial implications resulting from the recommendations included in the report in the current budget year or in future budget years.

## **DECISION HISTORY**

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At its meeting of November 9, 10 and 12, 2021, City Council approved an Inclusionary Zoning policy framework, including adoption of Official Plan policies, a Zoning By-law Amendment, and draft Implementation Guidelines. Council directed the Chief Planner and Executive Director to consult on the draft Implementation Guidelines and report back with final recommended Implementation Guidelines in the first half of 2022.

City Council also directed the Chief Planner and Executive Director to conduct further analysis on a number of specific areas, including North York Centre and report to Planning and Housing Committee in June 2022.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH28.1>

## **COMMENTS**

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### **Draft Inclusionary Zoning Implementation Guidelines**

Draft Implementation Guidelines were developed and circulated for consultation in the fall of 2021 in order to help guide IZ implementation, provide clear direction to land developers, non-profits and members of the public and provide clarity on roles and responsibilities for the administration of affordable housing.

Development of the draft Guidelines was undertaken in consultation with an interdivisional staff working group and based on feedback from stakeholder consultations with the development industry, housing advocates, affordable ownership housing providers and people with lived experience.

The draft Guidelines address a range of implementation matters, including:

- ensuring that affordable units are physically integrated with market units with the goal of creating mixed-income vertical communities;
- identifying opportunities and considerations for non-profit involvement to manage or own the affordable housing;
- outlining expectations for the delivery of off-site affordable housing units;
- the use of a City-administered affordable housing access system for managing access, advertising and allocation of affordable rental housing units;
- the use of a third-party administrator for the administration of affordable ownership units; and
- rules related to rent increase limits and resale price escalation.

The draft Guidelines were posted publicly on the City's Inclusionary Zoning website and circulated to stakeholders and the public for input. Additionally, a stakeholder working group was formed to solicit feedback from development industry and non-profit stakeholders experienced in developing and administering affordable housing. Staff also continue to engage with other municipalities across Ontario who are developing an IZ policy and administrative framework.

## **Feedback from Consultations**

The following is a summary of the key feedback on the proposed policy directions received through the consultations to date.

### **Key Principles**

Two key principles for the Guidelines were identified through stakeholder feedback:

- provide clear information to land developers to assist with planning for the delivery of affordable housing in new developments to ensure consistency across projects and minimize risk associated with uncertainty or unclear requirements; and
- provide flexibility to allow for innovative delivery models, such as partnerships with non-profits, who may have different programming needs.

Stakeholders also suggested that the Guidelines include a preamble to outline how and when they will be applied by City staff in reviewing development applications with Inclusionary Zoning units.

### **Building and Unit Design**

Stakeholders suggested that further clarity be provided on how residential gross floor area will be calculated for the purposes of determining the amount of affordable housing required. Some proposed including diagrams in the Guidelines to explain inclusions and exclusions in the gross floor area calculation.

Some stakeholders expressed that concentrating affordable units within a building would foster a sense of community among tenants and would be beneficial for construction financing, while others indicated that dispersing affordable units throughout

a building would support fully integrated units and assist in achieving an optimal range of unit types and sizes.

Non-profit stakeholders identified the need for family-sized affordable units and supported the unit mix requirements outlined in the draft Guidelines. Development industry stakeholders were concerned that the minimum unit sizes identified in the Guidelines were too onerous, particularly for Downtown buildings where units are smaller.

Industry stakeholders recommended that additional guidance be provided on acceptable finishings for affordable units (e.g. builder basic vs. upgrades) and expectations for finishes in luxury buildings.

Stakeholders raised concerns with the Guideline's target of 20% accessible units relative to the demand for accessible units and identified the need for flexibility to integrate certain accessible features (e.g. wider corridors, grab bars) in lieu of building fully accessible units.

### **Administration of Affordable Rental Units**

The draft Guidelines outline that IZ units will be advertised and marketed using the City's centralized housing access system, which is currently being developed by City staff. Stakeholders indicated that the timeline for accessing the System and administrative efficiency of the System will be critical in ensuring affordable units are leased as quickly as possible and vacancy loss is minimized. Stakeholders also recommended that the System be flexible enough to allow partnerships between developers and non-profits to support equity-deserving groups.

Developers identified the need for guidance on non-profits partnerships (e.g. case studies, lists of non-profits with experience in delivering affordable housing, at what stage of the development approvals process they should be initiating discussions with non-profits). Similarly, non-profits expressed they need guidance on which landlords to reach out to for partnerships. Non-profits in the Violence against Women (VAW) sector suggested that the Guidelines could highlight landlord education resources that support capacity building for selecting tenants in accordance with the Ontario Human Rights Code. They also recommended that the tenant access plan should identify whether or not a landlord has undertaken an education session from the VAW sector.

### **Administration of Affordable Ownership Units**

The draft Guidelines outline that a third party administrator selected by the City will be responsible for the administration of affordable ownership units. While stakeholders supported the use of a third party administrator, they identified additional guidance is required on the role of the administrator and how costs associated with the administrator's role will be funded.

Stakeholders identified that additional consultations should be undertaken with financial institutions, including mortgage underwriters and pre-construction lenders, the Municipal Property Assessment Corporation (MPAC) and development industry members on the

process for transfer and occupancy of affordable ownership units, interim occupancy of units, the timing for Agreements of Purchase and Sale, assessment of affordable ownership units, standard terms for condominium declarations, and the process for resale of units.

## **Transition**

Throughout consultations, many questions were raised about the transition provisions in the Zoning By-law. The draft Guidelines currently do not provide guidance on the transition provisions. Stakeholders suggested that the Guidelines should outline scenarios to explain how the increasing set aside rates will apply after 2025 and how purpose-built rental developments will be transitioned, as rates don't begin to apply for purpose-built rental projects until January 1, 2026.

## **Other Matters**

The following feedback was also provided as part of stakeholder consultations:

- provide clearer direction on how affordable rental rates and affordable ownership prices will be calculated;
- include requirements for reporting the percentage of affordable units that are leased or sold to women-led households at initial occupancy;
- explore opportunities for families of affordable units to access vehicle parking spaces as they often need a vehicle for work; and
- dedicate City staff to support the development review process for initial IZ projects.

## **Additional Area-Based Analysis**

As noted, with the adoption of the IZ policy and zoning framework in November 2021, Council directed that additional area analysis be undertaken. Staff have engaged a consultant to undertake additional area-based analysis for specific Protected Major Transit Station Areas (PMTSAs) to identify whether IZ could apply or whether a higher IZ requirement could apply based on updated density assumptions. PMTSAs within Mount Dennis, Little Jamaica, Marlee Ville, North York and the Sheppard Subway corridor are all being reviewed.

The additional analysis will consider heights and densities contemplated under updated planning frameworks for these areas. Updated pro forma analysis will incorporate the most recent construction costs and fees, including final Development Charges and alternative parkland rates, along with current revenue assumptions. This work is currently underway. Staff will report back on this analysis in early 2023.

## **Next Steps**

While Inclusionary Zoning Official Plan policies are in effect, IZ will be implemented on the date that is the later of September 18, 2022 and the date of approval of a Protected Major Transit Station Area (PMTSA). PMTSAs will come forward in batches to City Council and will be forwarded and considered by the Minister incrementally. This will mean that IZ will apply to different areas of the city over time. To date, City Council has

approved 18 PMTSAs which are currently before the Minister and Staff are currently advancing an additional 86 PMTSAs.

Based on input from stakeholders, staff recommend undertaking further consultation with the development industry and non-profit stakeholders, MPAC and financial lenders prior to finalizing the IZ Implementation Guidelines. Staff will also continue to engage with other Ontario municipalities who are in the process of developing an IZ policy and administrative framework. Staff recommend developing the final recommended IZ Implementation Guidelines following these additional consultations and reporting back in the first quarter of 2023.

## **CONTACT**

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## **SIGNATURE**

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