



## Regulation Proposal Notice:

### Title:

Proposed regulation under the Planning Act related to inclusionary zoning

**EBR Registry Number:** 013-1977

### Ministry:

Ministry of Municipal Affairs and Housing

### Date Proposal loaded to the Registry:

December 18, 2017

**Keyword(s):** Land use planning

**Comment Period: 45 days: submissions may be made between December 18, 2017 and February 01, 2018.**

## Description of Regulation:

The *Promoting Affordable Housing Act, 2016* (Bill 7) was introduced on September 14, 2016 and received Royal Assent on December 8, 2016. Schedule 4 of Bill 7 amended the *Planning Act* to enable municipalities to adopt official plan policies and to pass zoning by-laws related to inclusionary zoning. Subsections 2(1) and (3) and 3(3) and Sections 7 and 8 of Schedule 4 of Bill 7 came into force on the day Royal Assent was given. Otherwise, Schedule 4 would come into force on a day to be named if proclaimed.

The legislation would, if proclaimed, also enable the Minister to make regulations under the Planning Act to provide direction on a variety of matters related to inclusionary zoning.

This summary sets out the proposed regulatory content related to inclusionary zoning if Schedule 4 is proclaimed.

### Summary of Proposed Regulatory Content:

**1. Prescribed Official Plan policies** – An official plan that contains policies described in subsection 16(4) would be required to include provisions for matters that would:

- a) provide that zoning by-laws giving effect to the policies described in subsection 16(4) could only apply to developments or redevelopments that propose no less than twenty (20) residential units;
- b) identify locations and areas in the municipality that may be appropriate for inclusionary zoning by-laws; and
- c) identify the range of household incomes for which inclusionary zoning by-laws could provide for affordable housing units;
- d) identify an approach to setting an average market price for each proposed unit type that may be required to be provided as affordable housing units in an inclusionary zoning by-law. The average market price may vary across different locations within the municipality. The average market price would be updated annually.

**2. Municipal Assessment Report** – A municipal assessment report that would be required to be prepared prior to adopting official plan policies authorizing inclusionary zoning, would be required to contain the following:

- a) Information relating to current and projected trends for housing needs including:
  - i. municipal demographics and population (e.g., age distribution, population growth);
  - ii. anticipated household characteristics (e.g., household sizes and types);
  - iii. anticipated household income;
  - iv. existing and planned housing supply; and
  - v. housing affordability analysis; and
- b) information, including any documentation, relating to an analysis of the average market price for each proposed unit type that may be required to be provided as affordable housing units, taking into consideration location within the municipality

## Contact:

**All comments on this proposal must be directed to:**

Laurie Miller  
Director  
Ministry of Municipal Affairs and Housing  
Local Government and Planning  
Policy Division  
Provincial Planning Policy Branch  
777 Bay Street  
Floor 13  
Toronto ON  
M5G 2E5  
Phone: (416) 585-6014  
Fax: (416) 585-6870

**To submit a comment online, click the submit button below:**

(opens in new window)

## Additional Information:

**The following government offices have additional information regarding this Proposal. To arrange a viewing of these documents please call the Ministry Contact or the Office listed below.**

Provincial Planning Policy Branch  
777 Bay Street  
Floor 13

c) Any updated assessment report would also include the above information and documentation.

Toronto ON  
M5G 2E5  
Phone: (877) 711-8208

**3. Provisions Required in Inclusionary Zoning By-laws** – An inclusionary zoning by-law would be required to include provisions regarding the following matters:

a) **Unit Set Aside** – The total number of affordable housing units or the total gross floor area proposed to be occupied by the affordable housing units that could be required:

i. would not exceed five (5) percent of the total units or would not exceed five (5) percent of the total gross floor area of a proposed development or redevelopment to which the by-law applies; or

ii. if a development or redevelopment is proposed to be located in a high density transit-station area identified in an official plan, would not exceed ten (10) percent of the total units or would not exceed ten (10) percent of the total gross floor area of a proposed development or redevelopment to which the by-law applies; and

iii. a definition of total gross floor area of a proposed development or redevelopment would be considered as the total gross floor area of the total residential units not including the total gross floor area of the common areas;

b) **Affordability Period** –

i. for a period of no less than 20 years and no greater than 30 years from the date of its first occupancy, each affordable housing unit in a proposed development or redevelopment would be maintained as affordable as determined by the by-law; and

ii. for a period of no greater than 10 years following the period referred to in clause (i), each affordable housing unit would be maintained as affordable solely in respect of the proposed price and sale provisions set out in clause 3 (d)(ii) and clause 4(iii) of this Regulation Proposal Notice;

c) **Measures and Incentives** –

i. where a development or redevelopment is on land subject to a community planning permit system, no measures or incentives would be required to be provided; or

ii. Where a development or redevelopment is not on land subject to a community planning permit system, the measures and incentives would be a financial contribution paid by the municipality to the development or redevelopment;

iii. The financial contribution would be calculated using the formula,

$$(A - B) \times 0.4$$

in which,

A = the total sum of the average market price for all of the affordable housing units required in clause 3(a) above;

B = the total sum of the affordable price for all of the affordable housing units required in clause 3(a) above;

and where,

average market price would mean the average market price set out in the official plan policies; and

affordable price would mean the affordable price determined in the by-law.

iv. where a financial contribution would be required as a measure and incentive, such financial contribution could be satisfied through one or more of the following:

1) a waiver or reduction in planning application fees in respect of a development or redevelopment including fees associated with applications made under s. 22, s. 34, s. 41 and s. 51;

2) a reduction in parking requirements for the proposed development or redevelopment;

3) an exemption from the requirement for payment of all or part of the parkland cash-in-lieu applicable to the development or redevelopment; and

4) an exemption from all or part of the development charges that may be applied to the development or redevelopment;;

v. For clarity, a financial contribution could not be satisfied through an increase in height or density for the proposed development or redevelopment;

d) **Price** –

i. during the affordability period referred to in clause (b)(i) above, the price of an affordable housing unit at which the unit may be sold would be determined by the by-law; and

**The documents linked below are provided for the purposes of enhancing public consultation.**

All links will open in a new window

1. [Bill 7, Promoting Affordable Housing Act](#)

2. [Planning Act](#)

3. [Inclusionary Zoning](#)

4. [O. Reg. 173/16 Community Planning Permits](#)

[s](#)

ii. for the period of time referred to in clause (b)(ii) above, the sale price of an affordable housing unit would be at market rate.

**4. Provisions Required in Inclusionary Zoning Agreements - Share of Proceeds Related to Equity** – An agreement between an owner of lands, buildings or structures to be developed or redeveloped and the municipality would be required to include the provisions about the following matters:

i. During the affordability period referred to in clause 2(b)(i) above, the owner of the affordable housing unit and the municipality would share, on a basis as determined by by-law, in the proceeds related to the equity of an affordable housing unit, if any, that may arise from the sale of an affordable housing unit; and

ii. During the ten (10) year period referred to in clause 2(b)(ii) above, the owner of the affordable housing unit and the municipality would share in the proceeds related to the equity of an affordable housing unit, if any, that may arise from the first sale within the ten (10) year period, on the following basis:

1) the owner has owned the unit for two (2) years or less - 10% of the proceeds to the owner, 90% of the proceeds to the municipality;

2) the owner has owned the unit for more than two (2) years and less than five (5) years - 20% of the proceeds to the owner, 80% of the proceeds to the municipality;

3) the owner has owned the unit for more than five (5) years and less than ten (10) years - 30% of the proceeds to the owner, 70% of the proceeds to the municipality;

4) the owner has owned the unit for more than ten (10) years and less than fifteen (15) years - 50% of the proceeds to the owner, 50% of the proceeds to the municipality; and

5) the owner has owned the unit for more than fifteen (15) years and less than twenty (20) years - 75% of the proceeds to the owner, 25% of the proceeds to the municipality; and

6) the owner has owned the unit for twenty (20) or more years – 90% of the proceeds to the owner, 10% of the proceeds to the municipality.

iii. There would be no share in the proceeds related to the equity of an affordable housing unit between the municipality and the owner for any sale after the first sale referred to in clause 2(b)(ii) above;

iv. For the purposes of this section, “equity” and “proceeds related to the equity” means the difference between the price at which the owner paid for the purchase of the affordable housing unit and the price at which the owner sold the affordable housing unit, less any remaining mortgage payments owed by the owner at the time of the sale, and less all reasonable costs related to the sale.

**5. Reporting by council of a municipality** – A report documenting the status of the affordable housing units would be required every two years from the date of passing of the first inclusionary zoning by-law and such report would be required to include the following information:

a) the number of affordable housing units secured in relation to the income of the households;

b) the types of affordable housing units secured (e.g., studio, 1-bedroom, 2-bedroom);

c) the location of the units; and

d) the number of affordable units that returned to market units; and

e) the total amount of the share of proceeds related to equity received by the municipality from the sale of affordable housing units.

**6. Restrictions on off-site** – The authority to permit the inclusionary zoning units to be located on lands, building or structures other than those that are the subject of the proposed development or redevelopment would be subject to the following restrictions:

a) the offsite units must be located in proximity to the development from which the units are being transferred;

b) the land on which the offsite units would be situated must be zoned for inclusionary zoning unless the development or redevelopment is proposed by a non-profit housing provider;

c) the offsite units shall be ready for occupancy no later than thirty-six (36) months after the transfer of the affordable units from the proposed principal development;

d) the offsite units cannot count towards the satisfaction of any inclusionary zoning requirements to which the offsite development would otherwise be subject; and

e) no more than 50 percent of the units in the offsite development may be inclusionary zoning units.

**7. Restrictions on use of s. 37** – the authority to use s. 37 with respect to the

development or redevelopment with inclusionary zoning would be subject to the following restrictions:

- a) the affordable housing units or the gross floor area proposed to be occupied by the affordable housing units that could be required in clause 3(a) above, could not be used to determine community benefits under s. 37; and
- b) s. 37 would not apply where a development or redevelopment with inclusionary zoning is proposed to be located on lands within an area where a community planning permit system is in effect.

**8. Developments or Redevelopments** – would be exempted from the application of an inclusionary zoning by-law where:

- a) an application was made under the Planning Act for approval of a development or redevelopment that proposes to be built for the purposes of residential rental units;
- b) an application was made under the Planning Act by a non-profit housing provider as defined in the regulation;
  - i. A definition for a non-profit housing provider could include the following:
    - 1) a registered charity in good standing with the Canada Revenue Agency; or
    - 2) a corporation incorporated as a not-for-profit organization without share capital under federal or provincial not-for-profit, corporate or cooperative legislation;
  - c) an application for a building permit, development permit or community planning permit, or site plan approval for a development or redevelopment was made before the day that an inclusionary zoning by-law was passed that applies to the area in which the development or redevelopment proposes to be built; and
  - d) concurrent applications accepted by a municipality and were made for approval of an official plan amendment, a zoning by-law amendment, and either a site plan, a plan of subdivision, or a description under s. 9 of the Condominium Act, 1998 on the day before the day that an official plan policy authorizing inclusionary zoning was adopted by council.

**9. Community Planning Permit System** - It is also proposed that O. Reg. 173/16, “Community Planning Permits”, would be amended to permit inclusionary zoning to be implemented within a community planning permit system on the basis described above.

**Purpose of Regulation:**

1. To inform the public, stakeholders and municipalities of Ontario that the province is considering a regulation under the Planning Act;
2. To provide the basic outline of the proposed new regulation; and
3. To provide 45 days for the public, stakeholders and municipalities of Ontario to comment on the proposed regulation by directing their written concerns to the contact person noted below. (Note: personal information about the person providing comments, such as name, phone and address can be accessed by any individual under the Freedom of Information and Protection of Privacy Act and will be released, unless specifically requested not to do so.)

**Other Information:**

In addition to this EBR posting, comments can be submitted electronically to: [inclusionaryzoning@ontario.ca](mailto:inclusionaryzoning@ontario.ca)

Comments can be provided electronically, by mail, or letter. The Ministry of Municipal Affairs can be reached during regular business hours from 8:30 AM - 5:00 PM, Monday to Friday, at 1-855-776-8011.

To submit written comments, please forward your response to the following Contact Person:

Laurie Miller, Director  
Provincial Planning Policy Branch  
777 Bay Street, 13th floor  
Toronto, Ontario, M5G 2E5  
Phone: 416-585-6014

**Public Consultation:**

This proposal has been posted for a 45 day public review and comment period starting

December 18, 2017. If you have any questions, or would like to submit your comments, please do so by February 01, 2018 to the individual listed under "Contact". Additionally, you may submit your comments on-line.

All comments received prior to February 01, 2018 will be considered as part of the decision-making process by the Ministry if they are submitted in writing or electronically using the form provided in this notice and reference EBR Registry number 013-1977.

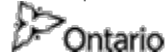
Please Note: All comments and submissions received will become part of the public record. Comments received as part of the public participation process for this proposal will be considered by the decision maker for this proposal.

Your personal information may be used in the decision making process on this proposal and it may be used to contact you if clarification of your comment is required. It may be shared (along with your comment) with other Ontario Ministries for use in the decision making process. Questions about this collection should be directed to the contact mentioned on the Proposal Notice page.

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