



APPENDIX C

Français

ONTARIO REGULATION 232/18

made under the

PLANNING ACT

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INCLUSIONARY ZONING

Definitions

1. In this Regulation,

"inclusionary zoning by-law" means a by-law passed under section 34 of the Act to give effect to the policies described in subsection 16 (4) of the Act; ("règlement municipal relatif au zonage d'inclusion")

"non-profit housing provider" means,

- (a) a corporation without share capital to which the *Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing,
- (b) a corporation without share capital to which the *Canada Business Corporations Act* applies, that is in good standing under that Act and whose primary object is to provide housing,
- (c) a non-profit housing co-operative that is in good standing under the *Co-operative Corporations Act*, or
- (d) an organization that is a registered charity within the meaning of the *Income Tax Act* (Canada) or a non-profit organization exempt from tax under paragraph 149 (1) (l) of that Act, and whose land is owned by the organization, all or part of which is to be used as affordable housing; ("fournisseur de logements sans but lucratif")

"offsite unit" means an affordable housing unit that is required in an inclusionary zoning by-law and that is erected or located in or on lands, buildings or structures other than those that are the subject of the development or redevelopment giving rise to the by-law requirement for affordable housing units. ("logement hors site")

Assessment report

2. (1) An assessment report required by subsection 16 (9) of the Act shall include information to be considered in the development of official plan policies described in subsection 16 (4) of the Act, including the following:

- 1. An analysis of demographics and population in the municipality.

2. An analysis of household incomes in the municipality.
 3. An analysis of housing supply by housing type currently in the municipality and planned for in the official plan.
 4. An analysis of housing types and sizes of units that may be needed to meet anticipated demand for affordable housing.
 5. An analysis of the current average market price and the current average market rent for each housing type, taking into account location in the municipality.
 6. An analysis of potential impacts on the housing market and on the financial viability of development or redevelopment in the municipality from inclusionary zoning by-laws, including requirements in the by-laws related to the matters mentioned in clauses 35.2 (2) (a), (b), (e) and (g) of the Act, taking into account:
 - i. value of land,
 - ii. cost of construction,
 - iii. market price,
 - iv. market rent, and
 - v. housing demand and supply.
 7. A written opinion on the analysis described in paragraph 6 from a person independent of the municipality and who, in the opinion of the council of the municipality, is qualified to review the analysis.
- (2) The analysis described in paragraph 6 of subsection (1) shall take into account the following related to growth and development in the municipality:
1. Provincial policies and plans.
 2. Official plan policies.
- (3) An updated assessment report required by subsection 16 (10) or (11) of the Act shall contain the information specified in subsection (1).

Official plan policies

3. (1) Official plan policies described in subsection 16 (4) of the Act shall set out the approach to authorizing inclusionary zoning, including the following:
1. The minimum size, not to be less than 10 residential units, of development or redevelopment to which an inclusionary zoning by-law would apply.
 2. The locations and areas where inclusionary zoning by-laws would apply.
 3. The range of household incomes for which affordable housing units would be provided.
 4. The range of housing types and sizes of units that would be authorized as affordable housing units.
 5. For the purposes of clause 35.2 (2) (a) of the Act, the number of affordable housing units, or the gross floor area to be occupied by the affordable housing units, that would be required.
 6. For the purposes of clause 35.2 (2) (b) of the Act, the period of time for which affordable housing units would be maintained as affordable.
 7. For the purposes of clause 35.2 (2) (e) of the Act, how measures and incentives would be determined.

8. For the purposes of clause 35.2 (2) (g) of the Act, how the price or rent of affordable housing units would be determined.
 9. For the purposes of section 4, the approach to determine the percentage of the net proceeds to be distributed to the municipality from the sale of an affordable housing unit, including how net proceeds would be determined.
 10. The circumstances in and conditions under which offsite units would be permitted, consistent with paragraphs 2, 3 and 4 of section 5.
 11. For the purposes of paragraph 2 of section 5, the circumstances in which an offsite unit would be considered to be in proximity to the development or redevelopment giving rise to the by-law requirement for affordable housing units.
- (2) Official plan policies described in subsection 16 (4) of the Act shall set out the approach for the procedure required under subsection 35.2 (3) of the Act to monitor and ensure that the required affordable housing units are maintained for the required period of time.

Net proceeds from sale of affordable housing unit

4. (1) An inclusionary zoning by-law may require a portion of the net proceeds from the sale of an affordable housing unit to be distributed to the municipality.
- (2) A by-law referred to in subsection (1) shall set out the percentage of the net proceeds to be distributed to the municipality, which shall not exceed 50 per cent.
- (3) If a by-law referred to in subsection (1) is in force, an agreement referred to in clause 35.2 (2) (i) of the Act shall provide that, where an affordable housing unit is sold, a percentage of the net proceeds from the sale shall be distributed to the municipality in accordance with the by-law.

Restrictions on offsite units

5. The authority of a council of a municipality under clause 35.2 (5) (a) of the Act is subject to the following restrictions:
 1. Offsite units shall not be permitted unless there is an official plan in effect in the municipality that sets out the circumstances in and conditions under which offsite units would be permitted.
 2. Offsite units shall be located in proximity to the development or redevelopment giving rise to the by-law requirement for affordable housing units.
 3. The land on which the offsite units are situated shall be subject to an inclusionary zoning by-law.
 4. Offsite units shall not be used to satisfy the by-law requirement to include a number of affordable housing units, or gross floor area to be occupied by affordable housing units, that applies to the development or redevelopment in which the offsite units are permitted.

Restrictions on the use of s. 37 of the Act

6. The authority of a council of a municipality under section 37 of the Act is subject to the following restrictions and prohibitions:
 1. Any increase in the height and density of a development or redevelopment permitted in return for facilities, services or matters under section 37 of the Act is deemed not to include:
 - i. the height and density associated with the affordable housing units required in an inclusionary zoning by-law,
 - ii. any increase in height and density permitted in an inclusionary zoning by-law as an incentive described in clause 35.2 (2) (e) of the Act.

2. For greater certainty, the council shall not use its authority under section 37 of the Act with respect to a development or redevelopment giving rise to a by-law requirement for affordable housing units in an area in which a community planning permit system is established.

Reports of municipal council

7. (1) For the purposes of subsection 35.2 (9) of the Act, if a council of a municipality passes an inclusionary zoning by-law, the council shall ensure that a report is prepared and made publicly available at least every two years.

(2) The council shall ensure that each report describes the status of the affordable housing units required in the by-law, including the following information for each year that is the subject of the report:

1. The number of affordable housing units.
2. The types of affordable housing units.
3. The location of the affordable housing units.
4. The range of household incomes for which the affordable housing units were provided.
5. The number of affordable housing units that were converted to units at market value.
6. The proceeds that were received by the municipality from the sale of affordable housing units.

Exemptions from inclusionary zoning by-law

8. (1) An inclusionary zoning by-law does not apply to a development or redevelopment where,

- (a) the development or redevelopment contains fewer than 10 residential units;
- (b) the development or redevelopment is proposed by a non-profit housing provider or is proposed by a partnership in which,
 - (i) a non-profit housing provider has an interest that is greater than 51 per cent, and
 - (ii) a minimum of 51 per cent of the units are intended as affordable housing, excluding any offsite units that would be located in the development or redevelopment;
- (c) on or before the day an official plan authorizing inclusionary zoning was adopted by the council of the municipality, a request for an amendment to an official plan, if required, and an application to amend a zoning by-law were made in respect of the development or redevelopment along with an application for either of the following:
 - (i) approval of a plan of subdivision under section 51 of the Act, or
 - (ii) approval of a description or an amendment to a description under section 9 of the *Condominium Act, 1998*; or
- (d) on or before the day the inclusionary zoning by-law is passed, an application is made in respect of the development or redevelopment for a building permit, a development permit, a community planning permit, or approval of a site plan under subsection 41 (4) of the Act.

(2) Despite clause (1) (b), an inclusionary zoning by-law applies to any offsite units that would be permitted in a development or redevelopment.

9. *Clause (a) of the definition of "non-profit housing provider" in section 1 is revoked and the following substituted:*

- (a) a corporation to which the *Not-for-Profit Corporations Act, 2010* applies that is in good standing under that Act and whose primary object is to provide housing,

Commencement

10. (1) Subject to subsection (2), this Regulation comes into force on the later of the day subsection 10 (1) of

Schedule 4 to the *Promoting Affordable Housing Act, 2016* comes into force and the day this Regulation is filed.

(2) Section 9 comes into force on the later of the day subsection 211 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force and the day this Regulation is filed.

Made by:

Pris par :

Le ministre des Affaires municipales,

BILL MAURO

Minister of Municipal Affairs

Date made: April 11, 2018

Pris le : 11 avril 2018

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Markham Planning Staff overview of the main components/requirements of inclusionary zoning

1. An assessment report in support of the development of Official Plan policies including, among other things, an analysis of :
 - demographics and population;
 - household incomes;
 - current and planned housing supply by housing type;
 - housing types and sizes of units that may be needed to meet anticipated demand for affordable housing;
 - current average market price and current average market rent for each housing type, taking into account location; and
 - potential impacts on the housing market and the financial viability of development or redevelopment from inclusionary zoning by-laws taking into account the value of land, cost of construction, market price, market rent and housing demand and supply;
2. Official Plan policies authorizing the use of inclusionary zoning by-laws with no appeal including, among other things;
 - the minimum size of development or redevelopment to which an inclusionary zoning by-law would apply;
 - the locations and areas where inclusionary zoning by-laws would apply;
 - the range of household incomes for which affordable units would be provided;
 - the number of affordable units or the gross floor area to be occupied by affordable units; and
 - the period of time affordable units would be maintained as affordable;
3. Implementing inclusionary zoning by-laws addressing the Official Plan provisions with no appeal;
4. An agreement between the City and the owner or subsequent owner which may be registered on title to secure the affordable and rental units for the time period established; and
5. Monitoring and reporting out to Council through a report made publicly available at least every 2 years on the status of the affordable and rental housing units required in the inclusionary zoning by-laws.