

INCLUSIONARY ZONING (IZ) REVIEW TERMS OF REFERENCE

1.0 PROJECT OVERVIEW

1.1 What is Inclusionary Zoning?

Inclusionary Zoning is a regulatory tool that the City of London may consider as a means of supporting the provision of affordable housing stock, consistent with the objectives of the Housing Stability Action Plan and Homelessness Prevention and Housing policies of the *London Plan*.

Council's Strategic Plan identifies the need to increase affordable and quality housing options for Londoners and includes the completion of this Inclusionary Zoning review as an important action to realize that goal.

In general, Inclusionary Zoning refers to zoning regulations that would require certain private development proposals for new residential units to include affordable housing units as part of those proposals. Inclusionary Zoning would also require the affordable units to be maintained as affordable for a period of time.

Inclusionary Zoning is not meant to replace publicly provided housing, nor is it a municipal incentive program with financial support. It may, however, be complementary to those other programs.

The London Plan defines "Affordable Housing". If required, the definition of affordable housing for the purposes of Inclusionary Zoning may be refined through the Assessment Report. In the London Plan "Affordable Housing" means either one of the following:

1. In the case of ownership housing either:
 - a. Housing for which the purchase price results in annual accommodation costs which do not exceed 30% of gross annual household income for low to moderate income households; or
 - b. Housing for which the purchase price is at least 10% below the average purchase price of a comparable resale unit in the city of London;
2. In the case of rental housing either:
 - a. A unit for which the rent does not exceed 30% of gross annual household income for low and moderate income households; or
 - b. A unit for which the rent is at or below the average market rent of a unit in the city of London.

1.2 Legislative Framework and Purpose

As part of the *Promoting Affordable Housing Act, 2016*, the Province provided a framework for municipalities to introduce Inclusionary Zoning into Official Plan policies

and Zoning By-law regulations. Inclusionary Zoning was allowed to be permitted city-wide. The legislation allowed a municipality to include Inclusionary Zoning policies into its Official Plan, and then, if such enabling policies are approved by Council, a municipality is permitted to enact an Inclusionary Zoning By-law to implement its policies.

In April 2018 the Province released O. Reg. 232/18, which provided further detail on the affordable housing need and financial viability assessments that must be prepared when considering adding Inclusionary Zoning policies into an Official Plan. Ontario Regulation 232/18 also defines exempted classes of buildings and identifies requirements of ongoing monitoring once an Inclusionary Zoning by-law is enacted.

Subsequently, the *More Homes, More Choice Act, 2019*, (Bill 108), added additional conditions for where and when Inclusionary Zoning may be applied. Now under Bill 108, Inclusionary Zoning may only be permitted in areas of a municipality that are designated as a “Protected Major Transit Station Area” (PMTSA) or where a Community Planning Permit System (CPPS) is in effect. To date there have been no new Ontario Regulations under the *Planning Act* to replace or complement those regulations found in O. Reg. 232/18.

On December 8, 2020, Municipal Council adopted a *London Plan* Amendment to designate Protected Major Transit Station Areas in the *London Plan*. The PMTSA, as adopted by Council, is shown on Map 1, below. This amendment has been forwarded to the Ministry of Municipal Affairs and Housing for Provincial approval.

The City’s Affordable Housing Development Toolkit report (June 17, 2019) also directs the review and consideration of Inclusionary Zoning policies. In the Toolkit report Inclusionary Zoning was identified as a new regulatory tool to increase the supply of affordable housing units.

PMTSA policies have recently been adopted by Municipal Council, and will be introduced into the *London Plan* following Ministry approval. These policies provide the locational criteria for inclusionary zoning. The purpose of the Inclusionary Zoning review is to determine the scope and structure of inclusionary zoning policies and implementing zoning regulations. The process starts with the preparation of a municipal assessment report and financial viability analysis. This municipal assessment report is required by the Regulation as part of the process to implement inclusionary zoning. Based on the findings, the City may then consider new *London Plan* policies and implementing zoning by-law regulations.

The purpose of the Terms of Reference is to specify the requirements and deliverables associated with a review of Inclusionary Zoning for the City of London.

1.3 Objectives

The Inclusionary Zoning review will achieve a number of key objectives, including:

- Satisfying requirements for the municipal assessment background report.

- Satisfying requirements for an analysis of potential impacts on the housing market and financial viability of market development.
- Evaluating if Inclusionary Zoning can complement other City and Agency actions, programs, and policies to encourage private developers to create new affordable housing units as part of new market-rental or market-ownership developments.
- Evaluating opportunities for Inclusionary Zoning to help achieve the Key Directions and City Structure of the *London Plan*, including but not limited to the goal of strategically directing the highest intensity of growth to higher-order transit nodes and corridors.
- Engaging stakeholders and the public to gather feedback regarding the assessment reports as well as part of any associated *London Plan* or By-law Amendments.
- Engaging stakeholders and the public to provide information on the range of affordable housing tools and how Inclusionary Zoning may fit within that scope of programs and actions.

1.4 Planning Context

The Provincial Policy Statement 2020 (PPS) sets the foundation for land use and development in Ontario by identifying matters of Provincial interest which must be implemented through consistent municipal policies found in Official Plans. The Provincial Policy Statement states that healthy, liveable, and safe communities are in part sustained by municipalities accommodating an appropriate range and mix of residential uses to meet long-term needs for affordable and market-based housing (s. 1.1.1.b). Also, through the PPS, municipalities are directed to provide an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents (s. 1.4.3). To meet the projected need, PPS s. 1.4.3 identifies that municipalities are required to establish targets for affordable housing, permit and facilitate intensification and redevelopment, promote densities that efficiently use land and resources, require transit-supportive development that prioritizes intensification in proximity to transit, including station nodes and corridors.

Some key directions of the *London Plan* include the city accommodating a range and mix of housing, including affordable housing, and coordination of land use and transportation planning so that infill and intensification are directed to support public infrastructure investments. For example, policy 55_13 of the *London Plan* identifies that it is a key direction to “invest in, and promote, affordable housing to revitalize neighbourhoods and ensure housing for all Londoners”. It is also a goal to design complete neighbourhoods so that they meet the needs of people of all ages, incomes and abilities, allowing for aging in place and access to amenities, facilities and services (policy 61_2). The *London Plan* includes a target of 25% of new housing, in aggregate, to be affordable to low- and moderate-income households, both through the forms of new development in greenfield areas and in intensification and redevelopment projects (policy 517_). Furthermore, the *London Plan* supports the prioritization of proposals that include a mixture of low- and moderate-income rental units which may be available to households in core housing need (e.g. shelter costs exceeding 50% of gross

household income) (policy 520_). The City may also consider changes to zoning permissions to increase building height and density to allow the provision of affordable housing units (policies 521_).

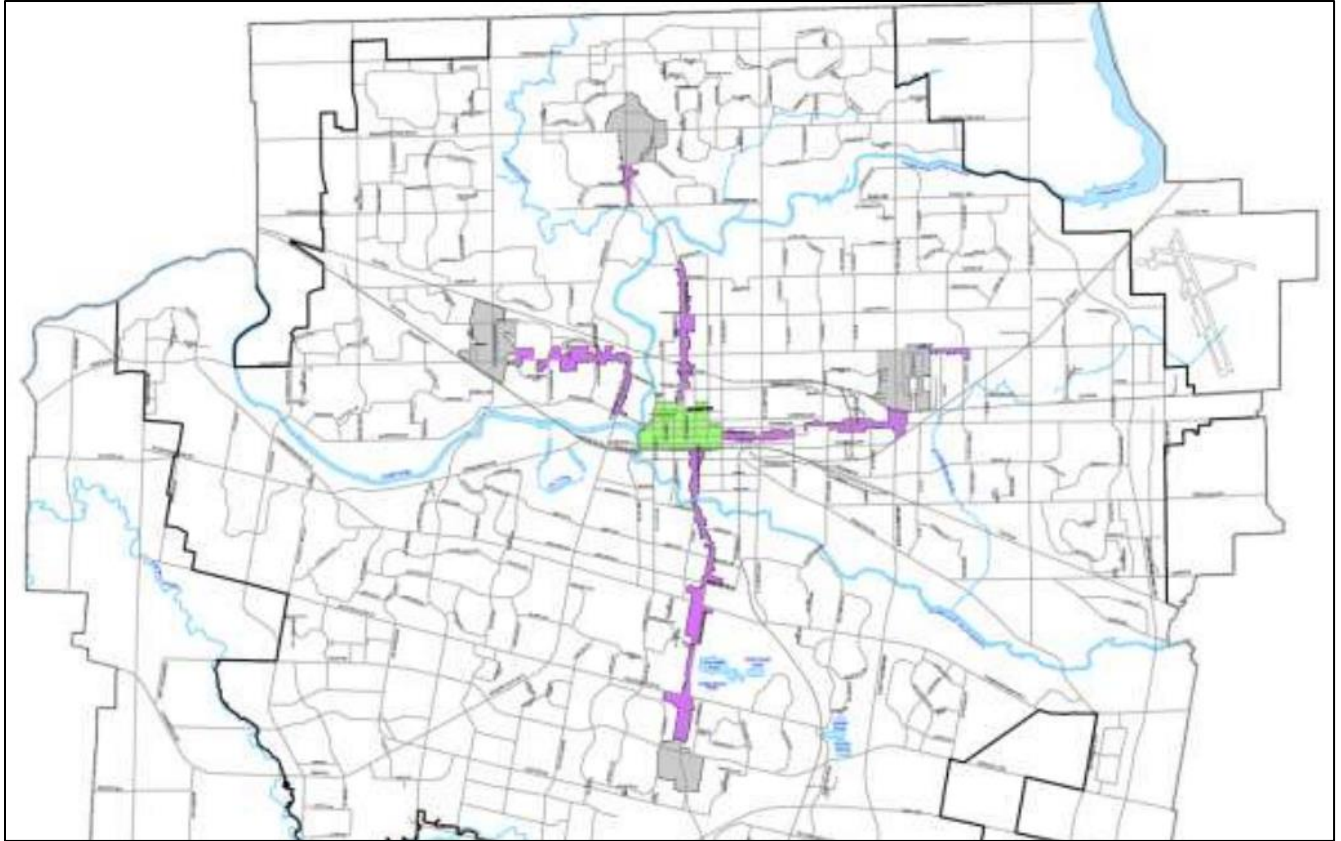
Additionally, the *London Plan* identifies that infill and intensification in a variety of forms will be supported to increase the supply of housing in areas where infrastructure, transit, and other public services are available and accessible (policy 506_). The *London Plan* also establishes a City Structure Plan, which focuses high-intensity, mixed-use development to strategic locations – along rapid transit corridors and within the primary transit area (policy 59_1).

Inclusionary Zoning policies and regulations may be an opportunity to support the provision of new affordable housing units, consistent with the PPS requirements for a range and mix of affordable housing to meet the community's needs. Inclusionary Zoning is also in conformity with the key directions and policies of the *London Plan*. Also, through the Provincial requirements that directs Inclusionary Zoning to designated Protected Major Transit Station Areas, inclusionary zoning will also assist with the implementation of the City Structure Plan and direct the highest intensity infill and redevelopment to strategic locations aligned with planned rapid transit routes.

1.5 Applicable Areas

In accordance with the *Planning Act*, policies to allow Inclusionary Zoning may be applied to either lands within the Protected Major Transit Station Area (PMTSA) designated in the *London Plan*, or in areas where a Community Planning Permit System (CPPS) is enacted.

The PMTSA is identified in Map 1 below, and includes the Downtown, Rapid Transit Corridor, and Transit Village Place Types of the *London Plan* (shown in green, purple, and grey, respectively).



Map 1: PMTSA

The Downtown, Rapid Transit Corridor, and Transit Village Place Types support the implementation of the *London Plan's* City Structure Plan, which directs high-intensity, mixed-use development to strategic locations (*London Plan* policy 59_1). These Place Types are intended to allow for intense, mixed-use neighbourhoods and business areas that support transit infrastructure and rapid transit ridership (*London Plan* policy 95_). As such, these Place Types permit the highest intensity and are generally expected to absorb some of the greatest levels of infill, intensification, and regeneration in the city.

A Community Planning Permit System (CPPS) may be established by a municipality to control land use development, in accordance with s. 70.2.2 of the *Planning Act*. The CPPS is an alternative land use regulation that includes zoning, but which may combine it with other planning tools, such as the site plan or minor variances processes. The City of London currently does not have a CPPS; however, a CPPS could be established for a specific area or city-wide. The City of London is currently engaging on the ReThink Zoning process, which will lead to the preparation of a new by-law to replace Zoning By-law Z.-1. A CPPS is an option that will be considered through ReThink Zoning.

2.0 PROVINCIAL REQUIREMENTS TO PASS INCLUSIONARY ZONING

As noted in the section 1.2, the legislation and regulations related to Inclusionary Zoning have changed since originally introduced by the Province of Ontario in 2016.

In order to introduce Inclusionary Zoning, the City must satisfy the following processes and requirements in accordance with the *Planning Act* and O. Reg. 232/18.

2.1 Planning Act

Planning Act requirements include:

- An official plan may contain Inclusionary Zoning policies for areas if they are designated PMTSA or where a CPPS is established. As such any amendment to implement inclusionary zoning regulations will also include policies to be added to the London Plan.
- The policies may authorize the inclusion of affordable housing units within buildings or projects containing other residential units and providing for the affordable units to be maintained as affordable over time.
- The policies shall include goals and objectives, and describe the measures proposed to attain the goals and objectives.
- The Inclusionary Zoning policies in the official plan must address the municipality's approach to the matters that will be prescribed in the IZ by-law, including the approach to:
 - Eligible development or redevelopment size, noting that municipalities are authorized to permit inclusionary zoning on buildings of 10 units or more;
 - The locations and areas where inclusionary zoning by-laws would apply;
 - The range of household incomes for which affordable housing units would be provided;
 - The range of housing types and sizes of units that would be authorized as affordable housing units;
 - The number of affordable units or gross floor area occupied by affordable units that would be required;
 - The "affordability period" for which the units would be maintained as affordable;
 - Approach to how measures and incentives would be determined;
 - Approach to how the price or rent of affordable units would be determined;
 - If affordable units are for ownership and to be sold, then the municipality may require a portion of the proceeds to be distributed to the City and must identify the approach to determining distribution of proceeds;

- Policies addressing the circumstances and conditions under which offsite units would be permitted, and how “proximity” to the market development would be defined;
- How the units will be monitored to ensure affordability is maintained.

2.2 Assessment Report

Before adopting the Inclusionary Zoning policies in the *London Plan*, an Assessment Report must be prepared to evaluate the city’s housing costs and the demand for affordable housing, as well as potential impact on market housing.

The Assessment Report must include:

- An analysis of demographics and population in the city;
- An analysis of household incomes in the city;
- An analysis of housing supply by housing type, both existing and planned for in the *London Plan*;
- An analysis of housing types and sizes of units that may be needed to meet anticipated demand for affordable housing;
- An analysis of current average market price and current average market rent for each housing type, taking into account location;
- A financial viability analysis that includes:
 - Consideration of Provincial policies for growth and official plan policies; and
 - Potential impact on the housing market including:
 - Value of land;
 - Cost of construction;
 - Market price;
 - Market rent; and
 - Housing demand and supply.

The financial viability analysis must be peer reviewed. A written opinion on the financial viability analysis must be provided by an independent professional who is qualified to do so.

The Assessment Report is required to be made available for public review and consultation, prior to the *London Plan* Amendment for IZ policies being adopted.

Inclusionary Zoning policies are not appealable to the Local Planning Appeal Tribunal (LPAT), except for an appeal by the Provincial Minister.

Once Inclusionary Zoning policies are approved, an Inclusionary Zoning by-law may be passed under s.34 (Zoning by-laws) of the *Planning Act* to provide further detail, implement, and regulate the Inclusionary Zoning policies

2.3 Inclusionary Zoning By-law

The Inclusionary Zoning By-law is required to regulate certain matters in order to specific eligible and exempt buildings, as well as direct the implementation of the Inclusionary Zoning policies.

The content of the Inclusionary Zoning By-law and its regulations is required to include

- The number of units or gross floor area that will be affordable and governed by the regulation.
- The length of time that the units will be maintained as affordable.
- Building, development, and/or unit standards and exemptions.
- Any associated measures or incentives.
- Establishment of affordable unit rental rates for rental units or affordable unit purchase prices for units to be sold.
- That agreements will be entered into by the landowners and municipality to ensure compliance with inclusionary zoning policies and by-law, and that those agreements shall be registered against the title of the land.
- All required matters as identified in O. Reg. 232/18.

No appeal to the LPAT is permitted for the conditions, requirements, or standards established in the Inclusionary Zoning by-law that implements the IZ policies.

Council may authorize that some or all of the required affordable units be constructed “off-site” on lands other than those subject to the development application for market residential units.

Council may not authorize the payment of cash-in-lieu of the required affordable housing units.

Future monitoring and update of the assessment report and by-law is required as well. Monitoring reports are required every two years after adoption of the by-law, and updates to the assessment report including the demographic, income and housing data are required every five years. Future monitoring and updates will require public engagement.

3.0 CONSULTATION

Inclusionary Zoning would require private development to deliver some affordable housing units as part of proposals for new residential units. As such, a consultation process must be undertaken which includes input from representatives of the development industry as well as community stakeholders and the public. Engagement with the development industry will occur throughout the Inclusionary Zoning review process, including during project initiation, during preparation of the assessment report and financial viability assessment, as well as during the development of Inclusionary

Zoning policies to be added to the *London Plan* and the subsequent preparation of new zoning by-law regulations.

Public consultation will be similarly undertaken through the inclusionary zoning review process.

It is anticipated that certain consultation may be required to be “virtual” in accordance with public health guidelines associated with the COVID-19 pandemic. Methods of consultation will follow all required City and public health protocols associated with COVID-19.

4.0 PROJECT MANAGEMENT

The Inclusionary Zoning Review will be a City Planning-led process. Assistance from other areas will include Homeless Prevention and Housing Services, Development Services, Development Finance, or others. Independent consultants will be retained to deliver the assessment report (including financial viability analysis), and the peer review as required by Provincial legislation.

5.0 PROJECT SCHEDULE

The project schedule for the Inclusionary Zoning Review shall contain the following milestones:

5.1 Preliminary Direction – Terms of Reference - Q1 2021

The initial report to Council will identify high-level project goals, approach, and expected schedule. The initial report will adopt the Terms of Reference to initiate the Inclusionary Zoning review. The adoption of this document sets out project process and scope.

5.2 Assessment Report: Hiring of Consultant – Q1 2021

Upon Council’s approval of Terms of Reference, Staff will prepare a Request for Proposals (RFP) to seek qualified economic and planning consulting firms to undertake the preparation of the assessment report, including the financial viability analysis. Procurement of the successful consultant, including evaluation of RFP submissions and establishing the contract will occur in Q1 2021. Preparation of the assessment report will include engagement with the development industry and public.

5.3 Draft Assessment Report – Data Collection, Analysis, Consultation – Q2-Q3 2021

Staff will manage the work of the consulting firm hired to prepare the assessment report. Required demographics, income, and housing need/supply data will be collected and compiled by the consultant. Staff will coordinate engagement with development and housing industry stakeholders during the data collection and analysis, including consultation on data for the financial viability analysis and impacts on market housing, as prescribed in the O. Reg 232/18.

Public and Stakeholder engagement will begin during this phase of the Inclusionary Zoning project and consultation opportunities will continue throughout. Methods of consultation will include in-person and/or video meetings and information meetings with interested parties as well as online engagement (e.g. through Get Involved London).

5.4 Draft Assessment Report to Council – Q3/Q4 2021

Following data collection, analysis, and initial industry consultations, Staff will bring forward the draft Assessment Report for Council's review. With Council's direction, the draft report will be circulated to stakeholders and made available for public review and comment.

5.5 Final Assessment Report Q1 2022

After considering the feedback received regarding the draft Assessment Report, a final Assessment Report, including Financial Viability Analysis, will be brought back to Council. The final assessment report will consider the public feedback received.

5.6 Peer Review of Assessment Report (Financial Viability) – Q1 2022

Upon Council's approval of the Assessment Report, Staff will coordinate a peer review of the financial viability analysis, in accordance with Provincial regulations.

5.7 London Plan and Zoning By-law Amendment – Q1-Q3 2022

The Staff report that accompanies the final Assessment Report will identify options for next steps, including potential considerations for London Plan and Zoning By-law amendments. If Council direction is that *Planning Act* applications be opened to consider potential London Plan Amendments and Zoning By-law Amendments, then the following milestones may also occur:

a) Draft London Plan Policies and Draft Regulations

Draft Inclusionary Zoning policies and Draft Regulations will be presented to the Planning and Environment Committee for Council's consideration. Draft policies will include the approach to authorizing inclusionary zoning, including the regulatory matters as informed by the Assessment Report.

Stakeholders and the public will be engaged in the preparation of the draft policies and implementing regulations. Upon receipt of feedback from stakeholders, the community and Council, a final Public Participation Meeting will be scheduled.

b) Public Participation Meeting for Amendments

Recommended policies for a London Plan Amendment and Zoning By-law Amendment will be presented to the Planning and Environment Committee. This meeting will fulfill the requirements of the statutory public meeting. Members of the public will be given an opportunity to ask questions or provide comments to the

Planning and Environment Committee before a decision is made on the proposed Inclusionary Zoning policies and regulations.

6.0 DELIVERABLES

The Inclusionary Zoning review process shall include the following elements:

- Assessment Report
 - An initial report, identifying goals and terms of reference for the review (target: Q1 2021);
 - An interim report, including the draft Assessment Report, draft financial viability analysis, and summary of stakeholder consultation to date (target: Q3 2021);
 - A final Assessment Report, including financial viability analysis and summary of feedback received on the draft Assessment Report (target: Q4 2021/Q1 2022).
 - A peer review of the Assessment Report (target: Q1 2022).
 - A recommendation report identifying next steps regarding an application for potential London Plan Amendments and Zoning By-law Amendments. Recommendations for next steps will be based on the findings of the Assessment Report and its financial analysis (target: Q1 2022).
- London Plan Amendment/ Zoning By-law Amendment (Q1-Q3 2022)
 - If an application for *London Plan* and Zoning Amendments is recommended as a result of the findings of the Assessment Report, then there will be two additional reports to Council:
 - The first will identify draft London Plan policies and draft Zoning regulations regarding the prescribed matters. It will be circulated for feedback; and,
 - Second, a staff recommendation report with final policies and by-laws to be considered at a statutory public participation meeting held before the Planning and Environment Committee.