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**For Information**


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DATE: July 4, 2018

REPORT TITLE: **THE PROMOTING AFFORDABLE HOUSING ACT, 2016 - INCLUSIONARY ZONING UPDATE**

FROM: Janette Smith, Commissioner of Public Works

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**OBJECTIVE**

To provide an update on the recently proclaimed inclusionary zoning provisions of the *Planning Act* and associated final Regulations.

**REPORT HIGHLIGHTS**

- On April 11, 2018, the Province released the final inclusionary zoning Regulations and proclaimed the associated *Planning Act* changes, as amended by the *Promoting Affordable Housing Act, 2016*;
- Regional comments and concerns on the draft Regulations have largely been addressed in the final inclusionary zoning regulations.
- The legislation enables municipalities to adopt official plan policies and zoning by-laws related to inclusionary zoning. Inclusionary Zoning would enable municipalities to require affordable housing units or gross floor area to be provided in new development projects and to ensure affordable housing over time.
- This report provides an overview of the key requirements set out in the final regulations and legislation.
- In collaboration with local municipalities, Regional staff aims to utilize the housing policy focus area of the Peel 2041 Regional Official Plan Review to introduce revised housing policies that strengthen the use of planning tools including providing a framework to support the use of inclusionary zoning in Peel.

**DISCUSSION**
**1. Background**

On May 18, 2016, the *Promoting Affordable Housing Act* was released for comment. This legislation includes changes to the *Planning Act*, to enable municipalities to adopt official plan policies and zoning by-laws related to inclusionary zoning. This new land-use planning tool would provide an opportunity for municipalities to require affordable housing units or floor area to be provided in new development projects and to ensure affordable housing over time. This legislation received Royal Assent on December 8, 2016.

## THE PROMOTING AFFORDABLE HOUSING ACT, 2016 - INCLUSIONARY ZONING UPDATE

On December 18, 2017, a summary of the draft Regulations related to inclusionary zoning were posted for comment to Ontario's Environmental Registry. Staff comments were endorsed by Regional Council on February 22, 2018, via Resolution 2018-122. Regional comments strongly recommended that the Province revisit elements of the draft inclusionary zoning Regulations by considering: flexibility at the local level; not adding financial burden on to municipalities to contribute to measures; incentives and costs associated with administration, implementation, monitoring and reporting; and, addressing the significant gap in rental housing. These concerns have been largely addressed in the final inclusionary zoning Regulations, as illustrated in the next section of the report.

On April 11, 2018, the Province released the final inclusionary zoning Regulations O.Reg. 232/18 and proclaimed into force the inclusionary zoning provisions of the *Planning Act*, as amended by the *Promoting Affordable Housing Act, 2016*. Inclusionary zoning legislation is now in effect as of April 12, 2018.

### 2. Overview of Final Regulations

The following is an overview of requirements set out in the final regulations, which focus on inclusionary zoning implementation.

#### Official Plan Policies

The regulations would require Official Plan Policies authorizing inclusionary zoning to include the following:

- Limit to a minimum size of not less than 10 residential units.
- Locations where an inclusionary zoning by-law would apply.
- Identification of a range of household incomes for which affordable housing units would be provided.
- Identification of the range of housing types and sizes of units that would be authorized as affordable housing units.
- The number of units or gross floor area to be occupied by the affordable housing units.
- Address how measures and incentives would be determined.
- Identification of approach to setting an affordable housing price or rent.
- Address how net proceeds would be distributed from the sale of the affordable housing unit.
- Address how off-site units would be considered as it relates to proximity.
- Address the approach to monitoring to ensure units remain affordable over time.

Prior to the adoption of Official Plan Policies authorizing inclusionary zoning, a housing Assessment Report is required, containing information related to: demographics and population; household incomes; housing supply; housing need by type and size; current average market price and current market rent for each housing unit type by location. Unlike the previous draft inclusionary zoning Regulations, the final Regulations also require the housing Assessment Report to include potential impacts of inclusionary zoning on the housing market and a financial analysis of the viability of the development from inclusionary zoning bylaw (including consideration for value of land, cost of construction, market price, market rent, and housing demand and supply). A peer review of the Assessment Report is now also required by an independent third party. This Assessment Report must be updated within five years, to understand whether inclusionary zoning policies need to be amended.

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Inclusionary Zoning – Share of Proceeds from Equity

- The inclusionary zoning by-law may require a portion of the net proceeds (up to 50 per cent) of the sale of an affordable housing unit to be distributed to the municipality, in order to offset any potential costs to the municipality.

Off-site Restrictions

Official Plan policies may outline the circumstances of inclusionary zoning affordable housing units being provided off-site, however the units must be:

- Located in close proximity to the principal development.
- The affordable housing units must be located in an area zoned for inclusionary zoning.
- The offsite units do not count towards satisfying the inclusionary zoning requirements to which the offsite development would otherwise be subject.

Restrictions on Use of Section 37 of the *Planning Act*

- The affordable housing units or gross floor secured through the inclusionary zoning program cannot be used as a community benefit under section 37 of the *Planning Act*.

Exemptions and Transition

The inclusionary zoning requirements will not apply to:

- Developments containing less than 10 residential units
- Developments proposed by non-profit housing providers
- Applications submitted for approval including official plan amendment, zoning by-law amendment, plan of subdivision are exempt, if an application is made before the date that the official plan authorizing inclusionary zoning is adopted by Council.
- Applications for building permits, development permits, community planning permits or site plan approval are exempt, if submitted before the date that an inclusionary zoning by-law is passed.

Reporting Requirement

- A report documenting the status of affordable housing units is required every two years from the date of passing of the inclusionary zoning by-law.
- The report must contain annual information related to the number, type, location of affordable housing units secured, range of household incomes for which the units were provided, number of affordable housing units converted to market, and the total amount of share of equity proceeds received.

**THE PROMOTING AFFORDABLE HOUSING ACT, 2016 - INCLUSIONARY ZONING UPDATE****3. Regional Implications**

Regional staff recognize the potential of utilizing the inclusionary zoning planning tool to increase the supply of affordable housing stock in Peel and address needs in the community.

Staff have been working on the Affordable Housing Needs and Strategies project, which has led to the development of the 2018 Regional Housing Strategy and updating of the Peel Housing and Homelessness Plan. As part of the Regional Housing Strategy work, a Housing Needs Assessment was undertaken. This work included research and analysis which addressed many of the elements of an inclusionary zoning housing Assessment Report; however, it is recognized that additional work will need to be undertaken such as consideration of potential impacts of inclusionary zoning on the housing market and associated financial analysis. Staff are targeting year end to complete the comprehensive Assessment Report. A peer review of the report will also be required. Regional staff will be using existing 2018 budget to work with a consultant to develop an inclusionary zoning housing Assessment Report, capitalizing on previous work undertaken. Regional and local staff will be collaborating to develop the Regional Assessment Report, intended to meet the requirements of the legislation and regulation, thereby enabling the development of inclusionary zoning official plan policy.

It is anticipated that the inclusionary zoning Assessment Report will provide input to a Regional Official Plan Amendment addressing inclusionary zoning and other housing policy matters, via the housing policy focus area of the Peel 2041 Regional Official Plan Review. This Regional Official Plan Amendment could provide an inclusionary zoning policy framework for Peel that addresses the Regional role in supporting the local municipalities in areas such as incentives, implementation tools, mechanisms, monitoring and reporting. Peel staff will be working with local municipalities to develop Regional inclusionary zoning policies, which would be complementary to detailed inclusionary zoning Local Official Plan Amendments and zoning by-laws. The legislation does require official plan policy to be in effect to enable an inclusionary zoning by-law, however the legislation is flexible in terms of official plan policy at the Regional level, local level or both.

The inclusionary zoning legislation and Regulations require that incentives be addressed. This direction is in alignment with the renewed Peel Housing and Homelessness Plan, Strategy Three: 'Incent Building Affordable Housing'. Strategy three includes an immediate action to bring forward a framework in principle for a Community Improvement Plan to direct and stimulate private-sector investment in affordable housing through an incentive- based program, by summer 2019. Regional staff are working with stakeholders on this initiative.

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**CONCLUSION**

The Peel Housing and Homelessness Plan strategies and actions support the need to collaborate with the local municipalities to consider inclusionary zoning in Peel. Further, the Housing Strategy included a review of financial incentives and planning tools to encourage affordable housing (under a separate report on the same agenda). Through this work it was recognized that the housing focus area of the Peel 2041 Regional Official Plan Review, revised housing policies can be introduced that aim to strengthen the use of planning tools including introducing an inclusionary zoning framework in Peel. Regional staff will work with local municipal planning staff to pursuing an inclusionary zoning approach for Peel.



Janette Smith, Commissioner of Public Works

**Approved for Submission:**



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