

IMPLEMENTING THE RIGHT TO HOUSING IN CANADA

PLANNING AND DEVELOPMENT TOOLS



Centre for Equality Rights in Accommodation
Centre pour les droits à l'égalité au logement



THE NATIONAL
RIGHT TO HOUSING
NETWORK

© Centre for Equality Rights in Accommodation (CERA) and National Right to Housing Network (NRHN)

CERA is Canada's leading non-profit organization working to advance the right to housing, and we've done so for 35 years. We advance the right to housing by serving renters to help them stay housed, providing education and training about housing rights, and advancing rights-based housing policy through research, policy development, advocacy and litigation.

NRHN is a group of over 350 key leaders, thinkers, subject matter experts and people with lived experience of housing precarity and homelessness, with a mission to fully realize the right to housing for all and eliminate homelessness in Canada.

April 2022

FEDERAL COMMITMENTS TO REALIZE THE RIGHT TO HOUSING

In July 2019, the federal government adopted the [National Housing Strategy Act \(NHSA\)](#), which recognizes the right to adequate housing as a fundamental human right under international law.

The NHSA affirms the federal government's commitment to the progressive realization of the right to housing based on one of the main sources of the right to adequate housing in international law, the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Under the ICESCR, adequate housing must meet [certain standards](#) such as being safe and having the proper infrastructure, being located in areas that have access to necessary social services, as well as being affordable and accessible. The right to adequate housing also requires that all levels of government collaborate to ensure that adequate housing is available to all and that their various policies are reconciled with Canada's obligations to implement the right to housing.



Prior to the adoption of the NHSA in 2017, the federal government adopted its first [National Housing Strategy \(NHS\)](#). The NHS, which must be reviewed and revised to meet the requirements of the new legislation, established a series of funding mechanisms exceeding \$70 billion over ten years. Many of these initiatives are delivered via bilateral agreements, with the support of provinces and territories and are frequently administered by municipalities. Municipalities have the important responsibility of determining the needs of communities and delivering housing and homelessness programs that align with those needs, using various planning and development tools.

Although the goal of the funding programs in the NHS is to create adequate housing and reduce homelessness, housing advocates and experts have voiced concerns over this funding being inadequately targeted towards those most in need and failing to provide rental units that are affordable to lower income tenants.



THE ROLE OF PROVINCIAL, TERRITORIAL AND MUNICIPAL GOVERNMENTS

The right to housing under international law applies to all levels of government and requires federal, provincial, territorial, and municipal governments to adopt necessary measures to realize this right. Ensuring that housing and development support the progressive realization of the right to housing is a key responsibility across governments.

PROVINCIAL AND TERRITORIAL GOVERNMENTS

Each province and territory has a housing minister and ministry in place to implement and monitor housing and homelessness programs. Under bilateral housing agreements with the federal government, all provinces and territories, except Quebec, must implement [action plans](#) to support the progressive realization of the right to housing under the ICESCR and report on outcomes. Ensuring that municipal zoning and planning are regulated in accordance with the progressive realization of the right to housing is an important aspect of provincial and territorial responsibility and should be included in all provincial and territorial housing action plans.

Provinces and territories are also responsible for establishing legislative and policy frameworks, setting out provincial interests for housing, providing annual reports on province-wide progress, engaging the federal government and federal funding streams, and contributing funding for the delivery of affordable housing and homelessness programs. Affordable housing programs are

funded through cost-matching programs established between the provincial, territorial and federal governments.

Provincial programs are delivered on a continuum of support from emergency support, transitional housing, supportive housing, rent-geared-to-income (RGI) housing, and rent supplements, to homeownership assistance. Housing advocates have identified the need for major improvements in all of these areas and have noted that the federal government has too often subsidized homeownership when what is most needed to address core housing need and homelessness is support for affordable rental housing and financial support for lower-income renters. As such, any support for homeownership needs to be carefully targeted – otherwise, it would simply be supporting more affluent households.

MUNICIPAL GOVERNMENTS

Municipal governments in particular must utilize the planning and development tools that are made available to them by provincial legislation in accordance with their obligation to ensure the right to housing in all areas of municipal authority. Each province and territory has legislation in place to govern land-use planning. This legislation in part empowers municipalities to use planning development to address the various housing needs in their communities. In addition to having access to these tools, municipalities have a big role to play in developing and funding affordable housing.



AVAILABLE PLANNING AND DEVELOPMENT TOOLS

OFFICIAL PLANS AND ZONING BY-LAWS

Official Plans and zoning by-laws determine how land is used. They enable municipalities to create new housing supply and protect and maintain existing housing stock, particularly affordable rental units. Official Plans guide the form and structure of land use within a community to ensure a range of housing types, including affordable housing. Land use policy frameworks guide this development activity, primarily through zoning by-laws. Zoning by-laws are the tools that put an Official Plan into motion, and they serve to regulate and manage growth and development. Ideally, Official Plans should include a commitment to the right to housing and recognize the right to housing as a central consideration in all planning and zoning decisions.

BUILDING PERMITS

Building permits are the formal permissions required to begin the construction, demolition, addition or renovation of property. As part of the permitting process, municipal staff must review building plans to ensure that they comply with the local zoning by-laws and other applicable laws. The right to housing should be a key consideration in decisions regarding construction, demolition or renovation. Wherever possible, renovations or the destruction of affordable housing supply should not be permitted. Newly constructed housing should be required to be fully inclusive of those in need of affordable housing.

DEVELOPMENT INCENTIVES

There are numerous development incentives that are available to municipalities to encourage development of affordable housing. These can be fiscal or planning incentives. Municipalities can offer waived or reduced fees, taxes and/or development charges, density bonuses, streamlined permitting processes that expedite projects and minimize project delays, long-term leases of municipal lands, and low-interest loans. These incentives are often attached to the required provision of affordable housing units or community benefits, as defined in policies such as Official Plans. As such, these development incentives can be utilized to house people experiencing homelessness and core housing need.



THE POTENTIAL OUTCOMES OF PLANNING AND DEVELOPMENT TOOLS



There are various examples of outcomes that can be achieved by these tools to ensure the standards of the right to adequate housing are met. These may include ensuring that housing is affordable, safe, has proper infrastructure, and is located in areas that allow residents to access employment opportunities, healthcare services, as well as schools and childcare services.

- ▶ Zoning requirements, as well as development incentives, can be used to require developers to provide affordable rental units. Another example is second suites – also referred to as basement apartments, in-law suites, or secondary suites – which can be achieved through the permitting processes. This is one of the least expensive ways for municipalities to increase affordable rental housing stock and improve housing choice for low- to moderate-income earners while preserving the physical characteristics of neighbourhoods. Typically, these units must be self-contained residential units complete with kitchen and bathroom facilities within homes, coach houses or laneway garages.
- ▶ Municipalities can use Official Plans and zoning by-laws to promote more intensive land usage to increase affordable housing stock and accommodate population growth. This can be achieved through intensification of urban areas, brownfield rehabilitation, permitting mixed-use developments to allow for various land uses to create new housing opportunities and the promotion of complete communities, transit-supportive development, and other land use optimization activities. Within built-up areas, there

may be potential for affordable housing above ground level commercial space and for infill development that is compatible with existing neighbourhoods and infrastructure while also supporting the local economy. It should be noted that when it comes to increasing housing, it is vital that housing stock is affordable, accessible and adequate in order to effectively address core housing need.

- ▶ Official Plans and zoning by-laws can be used to create mixed-use developments that promote housing diversity, social inclusiveness, and complete communities, with more compact, walkable neighbourhoods that are integrated with commercial and service uses. They also have the potential for offering cost savings to developers/property managers in the form of shared parking arrangements and shared costs for building operation and maintenance.
- ▶ Official Plans and zoning by-laws can also be used to provide more opportunities for affordable housing through alternative housing forms. Development costs can be reduced through higher densities including row houses, triplexes, fourplexes, stacked townhouses, as well as low-, mid- and high-rise apartments. Municipalities can use these tools to allow for the conversion of non-residential buildings in designated areas into affordable housing through the renovation and reuse of existing buildings which can result in more inclusive neighbourhoods that attract business and employment talent. It can also be more cost-effective than promoting new development, as the building shell is already in place and the site is already serviced.



FUTURE ACTIONS TO IMPLEMENT THE RIGHT TO HOUSING



There are many ways that federal, provincial, territorial, and municipal governments can develop new approaches to planning and zoning to promote inclusive, vibrant communities that ensure adequate housing for all.



THE FEDERAL GOVERNMENT



The federal government should ensure that funding for housing development is conditional on inclusive developments and on targeting new housing supply to those most in need and at risk of homelessness. Where this is not the case, advocates may utilize procedures under the NHSA to demand changes through submissions to the Federal Housing Advocate.



PROVINCIAL AND TERRITORIAL GOVERNMENTS



Provincial and territorial governments, for their part, must improve their action plans to better address barriers in current development and zoning, and enact legislation to enable municipalities to use effective planning and development tools that are consistent with the right to housing. Where provinces and territories fail to do this, advocates may make submissions to the Federal Housing Advocate regarding non-compliance with bilateral agreements based on the right to housing.



MUNICIPAL GOVERNMENTS



Municipal governments, in turn, need to leverage the full capacity of the planning and development tools that are at their disposal and utilize provincial and federal funding mechanisms to preserve affordable housing, support inclusive neighbourhoods and develop housing that is truly affordable for those most in need. Municipalities should ensure that all zoning and development decisions are consistent with the progressive realization of the right to housing.



INDIVIDUALS



Individuals can learn more about the planning-related requirements in bilateral agreements with the federal government, in federal funding and housing programs. They can familiarize themselves with what provincial legislation will enable municipalities to do when it comes to planning and development. In addition, it is important for rights holders to engage with zoning and planning decisions through participation in municipal processes. To hold municipalities accountable, individuals can learn more about the planning and development laws and policies that their municipal governments are considering and voting on. Affluent residents and homeowners often dominate community consultations, and it is critical that residents who are inadequately or precariously housed or experiencing homelessness be heard – particularly in the context of zoning, planning and development. They can participate in public consultations and council meetings to have their voices heard, and support and vote for politicians who are committed to implementing policies that will help create a more equitable and affordable housing system and contribute to the progressive realization of the right to housing.

IMPLEMENTING THE RIGHT TO HOUSING IN CANADA

PLANNING AND DEVELOPMENT TOOLS

April 2022



Centre for Equality Rights in Accommodation
Centre pour les droits à l'égalité au logement



THE NATIONAL
RIGHT TO HOUSING
NETWORK