EXPANDING HOUSING AFFORDABILITY
Through Market-Based Tools

INTERIM
BACKGROUND REPORT

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DENVER
THE MILE HIGH CITY

Report Contents

Project Purpose

We have an immediate and growing need for housing. The city has made it a priority to address that need by working to create more options and affordability for everybody. As housing costs go up, more families in Denver are spending more of their budgets on where they live or finding themselves priced out of neighborhoods. Additionally, citywide plans and policy documents reflect this need and call for new tools to create more housing opportunities.

The Expanding Housing Affordability project will create tools to drive the construction of affordable and mixed-income housing across the city. Creating new housing at various income levels where people can live near jobs, transit and amenities will help create a more sustainable Denver—and address housing needs.

Along with a zoning incentive and a reexamination of the current linkage fee, the project is expanding to consider and be prepared for potential changes to state law that could allow inclusionary housing on residential rental, as well as for sale housing. Because the State of Colorado limits what Denver can do with affordable housing requirements, potential changes to state law could change the landscape for affordable housing investment. We want the project to be ready if those changes come. Whether or not those changes happen, we're working proactively within the current legal landscape to create and refine tools—such as a density bonus in exchange for an affordable unit contribution—that do more to meet Denver's need for affordable housing.

Project Objective

To establish market-based programs for new development that complement existing tools and resources, enabling the City to address housing needs for low-to-moderate income households in every neighborhood.

Guiding Principles:

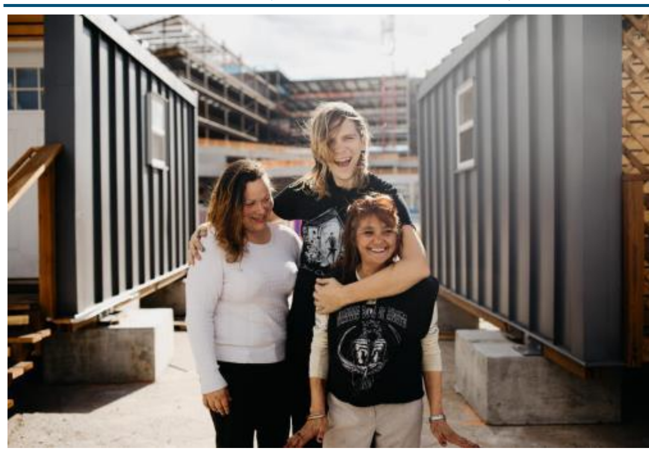
- An **equitable** program that addresses housing needs for low- and moderate-income households in every Denver neighborhood
- A **predictable** program that provides clarity and transparency of process, requirements, and outcomes
- A **market-based** program that responds to varied market conditions and partnership opportunities

What does equity mean for Denver?

Equity Defined: Equity is when everyone, regardless of who they are or where they come from, has the opportunity to thrive. Where there is equity, a person's identity does not determine their outcome. Equitable, inclusive communities are places of value that provide access to resources and opportunities for all people to improve the quality of their life. As a city, we advance equity by serving individuals, families and communities in a manner that reduces or eliminates persistent institutional biases and barriers based on race, ability, gender identity and sexual orientation, age and other factors.

Equitable Development: Equitable development is an approach to meeting the needs of underserved communities through policies and programs that reduce disparities, while fostering places that are healthy and vibrant. Truly equitable development leads to greater choice and opportunities and improves everyone's quality of life.

-- Denver Comprehensive Plan 2040, p 30



Blueprint Denver Key Equity Concepts

Improving Accessing to Opportunity: Creating more equitable access to quality-of-life amenities, health and quality education.

Reducing Vulnerability to Displacement: Stabilizing residents and businesses who are vulnerable to involuntary displacement due to increasing property values and rents.

Expanding Housing and Jobs Diversity: Providing better and more inclusive range of housing and employment options in all neighborhoods.

-- Blueprint Denver, p 30

Tools Explored

This project will explore the creation and/or expansion of three interrelated tools[1] to establish market-based programs for new development that complement existing tools and resources, enabling the City to address housing needs for low-to-moderate income households in every neighborhood.

- **Linkage Fee** is a fee-based tool that applies to all new development that provides funds for the production or preservation of affordable housing. This tool is currently in place, however there is the opportunity study and potentially raise the fee to reflect current market conditions and thereby increase the funding towards affordable housing.

- **Inclusionary Housing** requires new residential development to include a portion of affordable housing units and create mixed-income housing. This tool is currently limited by state law to only apply to for-sale housing; however, with the potential to change, we want to be ready to respond and study the opportunity to implement this policy.

[1]Each of these tools leverage the private development market to produce and fund affordable housing. Therefore, to be successful, they need to work within the market. This effort will conduct the necessary financial analysis and outreach to determine, refine and calibrate program requirements.

- **Incentive Zoning** is a tool that provides incentives to developers (e.g. density, reduced parking, fee reductions) in exchange for affordable housing. Incentive zoning tools are most appropriate and effective in transit-rich areas in which people have good access to transit, jobs, open space and other amenities. Incentives can also be a part of an inclusionary housing program to offset the cost of providing affordable units.

Each of these tools could play an important role in providing solutions to a range of Denver's housing programs and initiatives, all of which are critical to addressing Denver's housing needs. To learn more about Denver's housing priorities and programs, check out and the Denver Affordable Housing Dashboard for additional details on market conditions, housing production, and funding allocations.

Project Process and Timeline

The project is anticipated to conclude at the end of 2021. During this time, city planners will work with the community, industry professionals, advocacy groups and elected officials to develop recommended changes to the Denver Zoning Code (DZC) and Denver Revised Municipal Code (DRMC). The project contains three key phases:

Phase 1: Understanding Housing Needs and Best Practices (Q1 2021)

Building on the work conducted in 2020 for the Affordable Housing Zoning Incentive, the start of the project will focus on understanding Denver's housing needs, and best practices from Denver programs and peer city programs with the added focus on both inclusionary and linkage fee programs.

Outreach will focus on building a foundation of understanding housing needs, industry considerations, lessons learned and best practices. Resources will focus on connecting with impacted communities. (e.g. vulnerable populations, development industry).

Phase 2: Market Feasibility Analysis and Exploring Policy Alternatives (Q2 - Q3 2021)

Building upon the findings and research in phase 1, different policy proposals will be developed from an equity and housing needs approach. Financial feasibility and market analysis will refine/calibrate each of the tools to ensure that these systems work with the market to produce affordable housing. Discussion will start with tools that are applied to all development (inclusionary housing and linkage fees) to determine the baseline expectations for housing affordability of all new development. Incentives will then be explored to determine what offsets are necessary and where additional housing affordability can be produced. Key policy discussions will be informed by an equity lens, housing needs, and financial feasibility.

Outreach will focus on evaluating financial feasibility and exploring program alternatives for the three tools. As each of these programs will incur trade-offs, outreach and community priorities will inform key program considerations. Resources will focus on reaching a broad range of community members with a focus on connecting with impacted communities. (e.g. vulnerable populations, development industry).

Key Program Considerations for Inclusionary Housing:

- Project threshold size for build-requirement (e.g. all units, 5+ units, 10+ units, 30+ units)
- Percentage of units that must be affordable (e.g.10%, 15%, 20%)
- Affordability level of rental and ownership units (e.g. less than 60% AMI, 61-80% AMI, 80-100%AMI)
- Length of affordability (e.g. 60-years, 99-years)
- Geographic variants (e.g. different requirements based on market costs and housing needs)
- Options for alternative satisfaction of requirements (e.g. in lieu fees)
- Development incentives (e.g. expedited permitting review, fee reduction, parking reductions, etc.)
- Implementation/effective date (e.g. projects in SDP formal review after __ date must adhere to new standards)

Key Policy Considerations for Linkage Fee:

- Fee assessed by use
- Options for alternative satisfaction of requirements (e.g. Build-Alternative Plan)
- Implementation/effective date (e.g. projects in SDP formal review after __ date must adhere to new fees)

Key Policy Considerations for Incentive Zoning:

- Geographic applicability and variants
- Density bonus amount (e.g. 20%, 50%, 100% more height)
- Percentage of affordable units that must be affordable (e.g. 10%, 15%, 20%, 25%)
- Affordability level of rental and ownership units (e.g. less than 60% AMI, 61-80% AMI, 81-100% AMI)
- Length of affordability (e.g. 60-years, 99-years)
- Additional zoning incentives (e.g. relief from form standards, reduced vehicle parking)
- Implementation/effective date (e.g. projects in SDP formal review after __ date must adhere to new fees)

Phase 3: Confirming Program Requirements and Ordinance Drafting (Q3 2021)

Building upon the findings and feedback received in phase 2, the policy approaches will be refined and confirmed by stakeholders and the broader community. Additional refinements will occur prior to drafting zoning code and ordinance changes.

Outreach will focus on refining policy decisions, building understanding of the proposal, and gaining community and development industry support.

Phase 4: Legislative Review

Before entering the legislative review phase, the different program requirements should be clearly articulated and understood by all stakeholders. The legislative review process will include public review drafts, formal comment periods, and a series of public hearings with Planning Board, Council Committees and City Council making the final determination and vote.

Outreach will focus on the successful implantation of these programs. The standard public comments opportunities will exist throughout the legislative process.

2020	2021	Q1 2021	Q2- Q3 2021	Q3 2021	Q4 2021
		Understanding Housing Needs & Best Practices	**Financial Feasibility Analysis & Exploring Policy Alternatives**	**Confirming Policy Alternatives & Drafting**	**Legislative Review with City Council & Planning Board**
Affordable Housing Zoning Incentive (AHZI)	**Expanding Housing Affordability Re-Launch** Builds-upon research, and feedback and outreach as a part of the AHZI project	**Outreach** will focus on building a foundation of understanding housing needs, industry considerations, lessons learned and best practices	**Outreach** will focus on evaluating financial feasibility and exploring policy alternatives for the three different tools	**Outreach** will focus on refining policy decisions, building understanding of the proposal, and gaining community/industry support	**Outreach** will focus on implementation. Standard public comment opportunities throughout the legislative process

Planning Context

This project seeks to implement key policy recommendations of our adopted plans. Citywide and neighborhood-specific plans articulate the vision and objectives for neighborhood development throughout Denver. Each plan is based on an extensive public process that seeks to balance a variety of stakeholder interests. The city uses plan guidance to inform implementation efforts, like regulatory updates such as this project. The adopted plans summarized below provide guidance relevant to this affordable housing zoning incentive project.

Comprehensive Plan 2040

Comprehensive Plan 2040 provides the 20-year vision for Denver and its people and reflects the voice of thousands who have shared their hopes, concerns and dreams for the future. The City will use its recommendations to guide the decisions that will shape our city over the next 20 years. Comprehensive Plan is organized by six vision elements to inform the long-term goals that will guide our future.

1.
2.
3. A city that's equitable, affordable and inclusive.
4. A Denver made up of strong and authentic neighborhoods….
5. With connected, safe and accessible places that are easy to get to, no matter how we want to travel.
6. We want a community that is economically diverse and vibrant...
7. While being environmentally resilient in the face of climate change.
8. And we want a healthy and active city with access to the types of amenities and experiences that make Denver uniquely Denver.

While all vision elements are equally important, this plan focuses on implementing recommendations to support an equitable, affordable and inclusive Denver.

This plan outlines six goals and associated strategies to achieve our vision of an equitable city. The specific strategies guiding this regulatory implementation project are provided below.

Goal 1: Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities.

> Strategy A: Increase development of housing units close to transit and mixed-use developments.

Goal 2: Build housing as a continuum to serve residents across a range of incomes, ages and needs.

> Strategy A: Create a greater mix of housing options in every neighborhood for all individuals and families.
> Strategy B. Ensure city policies and regulations encourage every neighborhood to provide a complete range of housing options.
> Strategy C. Foster communities of opportunity by aligning housing strategies and investments to improve economic mobility and access to transit and services.
> Strategy D. Increase the development of senior-friendly and family-friendly housing, including units with multiple bedrooms in multifamily developments.

Goal 3: Develop housing that is affordable to residents of all income levels.

> Strategy B: Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit.

Goal 5: Reduce the involuntary displacement of residents and businesses.

> Strategy C: Evaluate city plans, projects and major regulatory changes for the potential to contribute to involuntary displacement; identify and implement strategies to mitigate anticipated impacts to residents and businesses.

Other related goals and strategies can be found in the Comprehensive Plan. All other citywide (e.g. Blueprint, Game Plan) and neighborhood plans are adopted as supplements to Comprehensive Plan 2040.

Blueprint Denver

Blueprint Denver builds upon Comprehensive Plan 2040 as a citywide land use and transportation plan for the next 20 years. Blueprint calls for growing an inclusive city through:

- complete neighborhoods and complete transportation networks;
- a measured, common-sense approach to growth;
- and for the first time, land-use decisions through the lens of social equity.

Blueprint Denver offers three major concepts to consider for future policies and investments. Integrating these concepts into planning an implementation project helps create a more equitable Denver.

- Improving Access to Opportunity
- Reducing Vulnerability to Displacement
- Expanding Housing and Jobs Diversity

Blueprint recognizes that as Denver grows, neighborhoods will change, and implementation actions will need to consider these equity concepts to ensure residents and businesses can remain and thrive.

Blueprint establishes a hierarchy of Neighborhood Contexts, Future Places, and Street Types as elements of a complete neighborhood. Blueprint also provides a nuanced way to handle growth and development, preserving our most cherished historic and cultural assets while directing growth to key centers, corridors and high-density residential areas where there is underutilized land and strong transportation options.

In addition to a system of complete neighborhoods, growth strategy and equity concepts, Blueprint contains many recommendations organized by the three elements of a complete neighborhood:

Specific strategies guiding this effort are provided below.

General Policy 2: Incentivize or require efficient development of land, especially in transit-rich areas.

Strategy C: Allow increased density in exchange for desired outcomes, such as affordable housing, especially in transit-rich areas.

General Policy 11: Implement plan recommendations through city-led legislative rezonings and text amendments.

Strategy A: Prioritize larger-scale, legislative rezonings over site-by-site rezonings to implement plan recommendations and to achieve citywide goals, including equity goals.

Strategy C: Use a robust and inclusive community input process to inform city-led rezonings and zoning code text amendments.

Housing Policy 6: Increase the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities.

Strategy A: Incentivize affordable housing through zoning, especially in regional centers, community centers and community corridors adjacent to transit. This could include a process—informed by community input—to create citywide height bonuses in the zoning code, where additional height is allowed in exchange for income restricted units. Incentives for affordable housing are particularly important for areas that score high in Vulnerability to Displacement and score low in Housing Diversity.

Strategy B: Implement additional parking reductions for projects that provide income-restricted affordable units.

Strategy C: Implement other incentives for affordable housing, such as lower building permit fees for projects that commit to a certain percentage of income-restricted units onsite.

Housing Policy 7: Expand family-friendly housing throughout the city.

Strategy A: Implement tools to require and/or incentivize the development of family-friendly housing. This could include bonuses for affordable large units (those with three or more bedrooms), especially in multifamily developments.

Strategy D: Advance housing affordability recommendations from this plan and Housing an Inclusive Denver to ensure new units include units affordable to a range of income levels.

Housing an Inclusive Denver

Housing an Inclusive Denver, the City's 5-year housing policy, strategy and investment plan, was approved by City Council in 2018. *Housing an Inclusive Denver* is focused on tools that address a continuum of housing needs, including housing for residents experiencing homelessness, affordable and workforce rental housing, and attainable homeownership. The plan seeks to align the city and its partners' actions between 2018-2023 according to four strategic goals:

- Create affordable housing in vulnerable areas and in areas of opportunity
- Preserve affordability and housing quality
- Promote equitable and accessible housing options; and
- Stabilize residents at risk of involuntary displacement.

Specific recommendations related to the creation of affordable housing and promotion of access includes the following, "Expand and strengthen land use regulations for affordable and mixed-income housing" (p. 47).

Key recommendations to support the above recommendation include:

- Implement and evaluate success of a proposed incentive overlay for building heights at the 38th and Blake transit station and explore expanding the program to other areas where increased density may be appropriate, such as near transit.
- Create a package of incentives that provide value for a developer, such as more clearly defined parking reductions, lower building permit fees, or special staff support to navigate the complex multi-agency permitting process, in exchange for a certain percentage of affordable units built onsite.

To learn more about the current housing priorities for 2021, check out the Housing an Inclusive Denver 2021 Action Plan and addendum.

To see monthly activity reports on housing spending and production, funding priorities, and data on housing needs and production, check out the Denver Affordable Housing Dashboard.

Affordable Housing

What is affordable housing?

Housing is affordable when individuals and families can pay for housing while still having money left over for necessities like food, healthcare, transportation, education, childcare and savings.

The most common way of determining what share of a household's budget should go toward housing costs is based on the federal government's definition: Housing is affordable when it consumes no more than 30% of a household's gross income. This means what is considered "affordable" depends on a household's income.

Affordable housing can describe dedicated (income-restricted) or naturally occurring affordable (or attainable) housing.

Dedicated affordable housing units, which are usually created through public assistance, public-private partnerships or market-rate programs, are essential for ensuring affordability in neighborhoods where market rents are rising rapidly. They are also well suited to create inclusive communities and provide affordable housing to households with very low incomes. Dedicated affordable housing units with deep levels of affordability—typically developed by nonprofit and public housing providers—provide housing that serve residents who could not find affordable units in the private market.

Naturally occurring affordable units (NOAH) are units that may rent or sell at affordable levels – but they do not have legally binding affordability requirements. NOAH is commonly provided by the private sector and generally consists of developments that are older, have few amenities, are located on busy streets.

NOAH has declined significantly in the past decade. Compared to 2010, Denver has 28,000 fewer rental units at affordable rents.

For this EHA project and report, we focus on the type of dedicated affordable housing in which a person or household must meet income eligibility requirements.

Aria Apartments for households earning less than 60% AMI

Why do we need affordable housing?

Decent, safe and stable affordable housing is not only a basic human need, but it contributes positively to the broader community. When people can access stable affordable housing, it allows their children to thrive in school; reduces stress and leads to improved health outcomes; allows families to spend money on healthy food and health care; improves the economic vitality enabling for money to return to the local economy; supports the local workforce; and allows for individuals and families to grow and thrive in the community of their choosing. Multiple research studies have concluded that housing stability leads to positive long-term outcomes for children and facilitates economic stability.

Additionally, striving toward an equitable, affordable and inclusive Denver is a key pillar of the city's adopted plans.

What happens when housing is unaffordable?

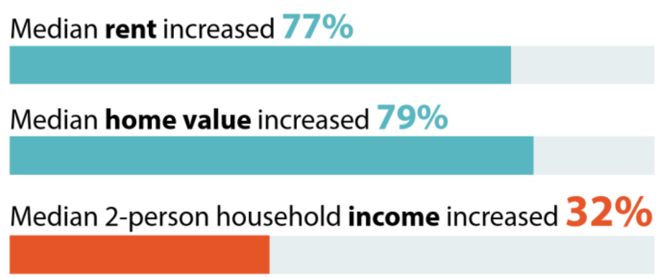
When housing is unaffordable, the following outcomes commonly occur:

- Less money flows into the local economy. This is because a greater portion of people incomes go into housing costs, less money is left over for good and services that can support the local economy.
- Inequities are furthered. When low-income income individuals or families are unable to live in areas with good access to jobs, multi-modal transportation, parks and other amenities inequities increase.
- Economic growth slows. We see economic growth within the region slows as employers cannot find the workforce in critical industries when affordable housing is not avaliable.
- Increased traffic, emissions, and infrastructure costs. as people are forced to live further from their jobs and other services, traffic increases, emissions increase, and public infrastructure costs grow further.

How have housing needs changed over time?

During the past decade, the supply of housing, and especially affordable housing, has not been able to keep up with the demand nor the needed affordability levels to serve the existing Denver community. This is evident in the broadening of Denver households who are "cost burdened"—when a household pays more than 30% of their incomes in housing costs. Cost burden is now common for all but the highest income households.

Between 2010 and 2019,



Rising housing costs cannot be attributed to one single issue but are a result of many different economic factors locally and globally. For example, in recent years, labor and material costs have grown by over 50%. Land costs have doubled in many of Denver's neighborhoods. Investors have sold homes they rented to new homebuyers displacing renters.

For many in Denver, this means that wages and incomes have significantly lagged increases in housing costs.

As Denver looks toward the future, it will have trouble providing housing to its growing workforce in critical industries without creating affordable housing.

The Zephyr Building which is a part of the 700 mixed-income units and community space in the Mariposa Development

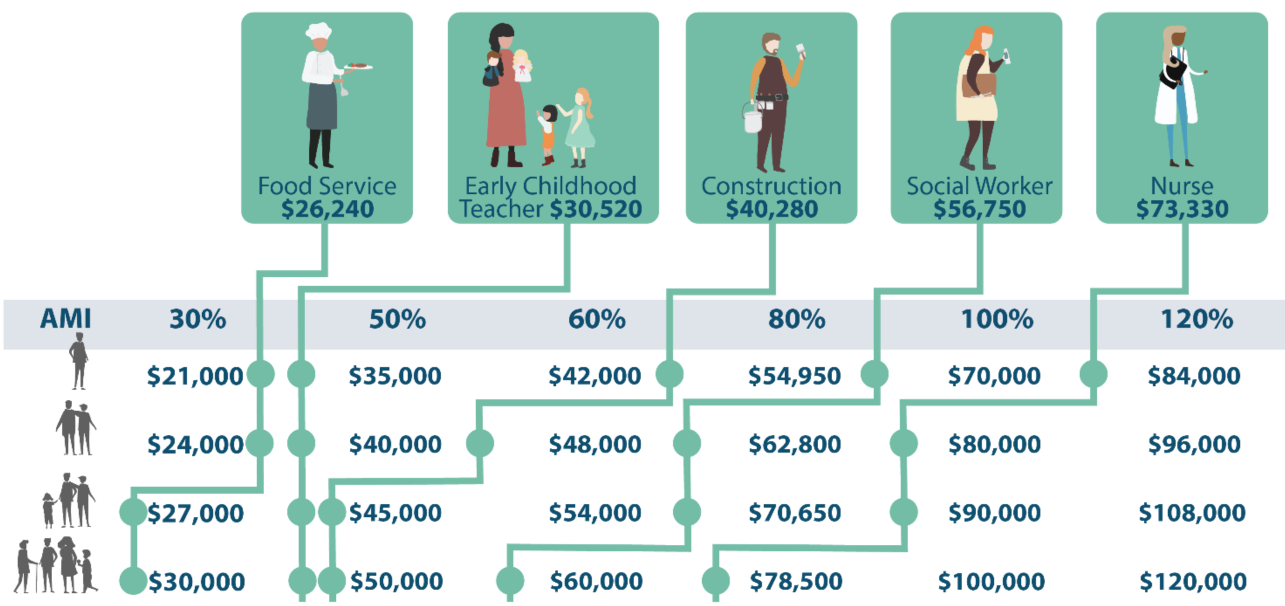
What is AMI and why does it matter?

Income-restricted housing commonly uses Area Median Income to determine whether a household is considered low income and therefore eligible to obtain a restricted unit. The U.S. Department of Housing and Urban Development (HUD) uses AMI thresholds, adjusted by household size, to set the income thresholds households cannot exceed to be eligible for income-restricted affordable housing. This allows income-restricted housing programs to determine eligibility using income levels that make sense for a geographic area. For example, 100% AMI for a two-person household in Pitkin County is $88,400, and 100% AMI for the same size household is $56,200 in Trinidad, Colorado.

Generally, affordability levels are organized into the following groupings with the Median Family Income (100% AMI) at $80,000 for a two-person household in 2020.

AMI %	2010	2020
HUD 100% AMI 2-person household in metro Denver	$60,800	$80,000
Income Limits		
0-30%	$18,240	$24,000
31-50%	$30,400	$40,000
51-60%	$36,480	$48,000
61-80%	$48,640	$62,800
81-100%	$60,800	$80,000
101-120%	$72,960	$96,000

Instead of thinking about AMI as a table of numbers, it's important to understand that these categories represent people with jobs working in a range of professions.



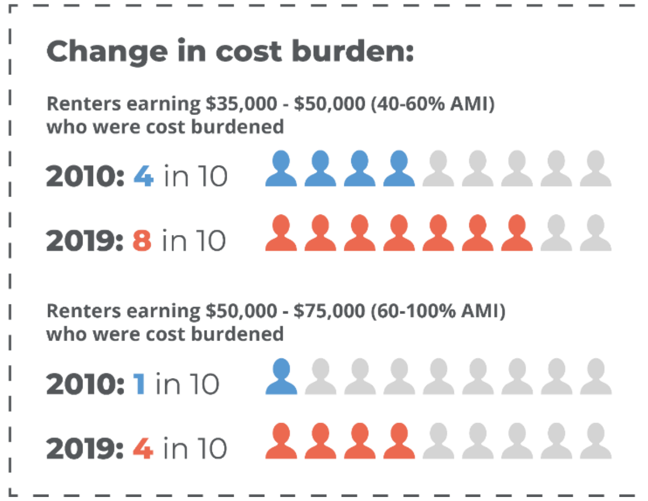
Source: Bureau of Labor Statistics (2019 Data)
35-2015 Cooks, Short Order; 25-2011 Preschool Teachers; 47-2141 Painters, Construction and Maintenance; 21-1022 Healthcare Social Workers; 29-1141 Registered Nurses

What is the current affordable housing need?

In Denver, 46% of Denver households are cost burdened, and 24% are severely cost burdened[i]. Cost burden has always been a challenge for very low-income households and is becoming increasingly prevalent among middle income households: In 2010, 38% of renters with incomes between $35,000 and $50,000 were cost burdened; by 2019, this had risen to 81%. Overall cost burden decreased from 2010 to 2019, but that decrease was entirely driven by the influx of high-income renters, very few of whom are burdened.

Unit shortages exist for renters with incomes of 60 percent AMI and lower—especially for renters at the 50 percent AMI level and below. Publicly assisted housing provides a large share of housing for these households, yet is nowhere near the level needed. As such, renters must "rent up" to find housing, resulting in cost burden.

On the for-sale side, if for sale price trends continue, the vast majority of homes for sale—an estimated 86 percent—will serve 151 percent AMI households. These trends will reduce the homeownership rate in the city and drive would-be-owners into rentership longer term, potentially increasing the need for 61-80 percent rental units, or drive them to purchase homes elsewhere.



What is the current legal context?

Currently, Colorado state law places a significant constraint on the ability of Denver and other local municipalities to address affordable housing. In 1981, Colorado prohibited rent control and more specifically prohibits local governments from "enacting any resolution or ordinance that would control rent on private residential real property or private residential housing units" via CRS § 38-12-301. In 2000, the Telluride decision determined that inclusionary housing/zoning policies on rental housing would be considered a form of rent control. The result from the Telluride Court's interpretation of the state rent control statute clarified that local governments cannot require that a developer create affordable rental housing on its property as a condition of a land use approval.

As a result, local jurisdictions cannot create an inclusionary housing program that applies to rental housing. Therefore, under current state law, Denver cannot require the construction of affordable housing units on multi-family rental projects and must instead work through systems such as the existing linkage fee or develop voluntary systems through incentives until the State modifies the Rent Control Laws.


Source: Kevin J. Beaty/Denverite

Potential for changes at the state level

In the 2021 legislative session, HB21-1117 Local Government Authority Promote Affordable Housing Units was introduced. The bill clarifies that the existing authority of cities and counties to plan for and regulate the use of land includes the authority to regulate development or redevelopment in order to promote the construction of new affordable housing units. The provisions of the state's rent control statute do not apply to any land use regulation that restricts rents on newly constructed or redeveloped housing units as long as the regulation provides a choice of options to the property owner or land developer and creates one or more alternatives to the construction of new affordable housing units on the building site.

Whether or not those changes happen, we are working proactively within the current legal landscape (linkage fee and incentives) and exploring use of expanded tools (inclusionary) to create and refine tools that do more to meet Denver's need for affordable housing.

Linkage Fee

Linkage fees are a tool that generate revenue to support affordable housing by charging a fee on new development. Linkage fees are assessed on all new development.

Through studies, the City determined that there is a direct nexus between both nonresidential and residential development, job growth, and demand for new housing that is affordable to households with low or moderate incomes.

In addition to the nexus study (which determined the legal "nexus" between development, jobs and housing need) a financial feasibility study was also conducted to determine the impacts that the linkage fee may have on development.

Nexus & Financial Feasibility Study (2016)

The nexus study (conducted in 2016) determined the legally justifiable fee that could be charged on different development types. Legally justified fees range from $9.60 per square foot on single-family residential development to $119.29 per square foot on stand-alone retail development, including a variety of residential and commercial prototypes evaluated with legally justified fees within that range. The summary table can be found on page 3 of the 2016 report conducted by DR&A.

The feasibility analysis examined the effect of a proposed range of linkage fees on the economic feasibility of various 'typical' development types. The study examined Return on Equity (ROE), Return of Cost (ROC) and Residual Land Value (RLV). The analysis concluded that a linkage fee up to $7.00 per square foot could be supported without limiting financial feasibility of most developments in Denver.

Current Fee System

The linkage fee is assessed based on new gross floor area only (not including parking) except for additions of 400 square feet or less to existing single-unit or duplex buildings. To respond to inflation, the fees are adjusted for inflation in an amount equal to the percentage change from the previous year in the national Consumer Price Index for All Urban Consumers (CPI-U).

Current fees can be found online.

Current Build Alternative

In lieu of paying the fee, a developer has the option of meeting the "build alternative" by building affordable housing units within the development, or within a quarter-mile radius of the development, according to a set formula which varies by use and is outlined in the Rules and Regulations.

For example, a 100,000 square foot multi-family project would be required to build 2 units or could pay $157,000. In most areas of the city, the cost to build a single unit far exceeds $78,500, making the fee option far more economically desirable.

Outcomes of the Linkage Fee to Date

Year	Total Fees	Fees Exempted	Net Fees Collected
2017	$6.3M	$5.1M	$1.1M
2018	$23.2M	$18.9 M	$4.4M
2019	$20.8M	$10.5M	$10.3M
2020	$18.7M	$10.4M	$8.3M
Total:	$69M	$43.9M	$24.1M
Source: Accella Permit Information – CPD			

While permit activity and square footage constructed exceeded initial projections, the effective date policy or "grandfathering" approach exempted far more projects than originally anticipated. This approach exempted any project that submitted a concept plan (not a formal Site Development Plan, or SDP) before January 1st, 2017 which led to a significant rush of concept plans to avoid the payment of the fee. A challenge with this approach was that requirements for the "readiness" of projects at concept plan stage was very minimal, so in some cases projects submitted a concept plan that may take many years to reach full design, Site Development Plan, and eventually build out.

As mentioned previously, the developer has the option to meet the build alternative instead of paying the linkage fee. However, because the system is not set up to incentivize the construction of units, to date only two projects (outside of the 38th and Blake Incentive Overlay area) have constructed units through a build alternative plan (BAP). The following table summarizes the outcomes of the two projects that built the required units instead of paying the fee.

Address	Total Units	Income Restricted Units	Unit Details
1241 Stuart Street	20	1	1-bedroom unit rental at 80% AMI
1051 N Mariposa	58 Units	2	2-Bedroom for-sale at 80% AMI (DHA)

2020 Housing Action Plan

The linkage fee ordinance specified that an annual inflation adjustment may occur on July 1, 2018 and each July after for an adjustment equal to the percentage change from the previous year in the CPI-U. On average, this has been about a 2% increase.

The ordinance specified the fee could not be increased prior to 2020, and if/when an increase is pursued the city must conduct another financial study (feasibility analysis) to evaluate the economic impact of the fee change.

The *Housing and Inclusive Denver Annual Action Plan* (2021) identified the following 20202021 action: "Coordinate with CPD to advance policy recommendations related to the use of incentive tools, such as zoning to support mixed-income development, evaluate the linkage fee structure, and evaluate inclusionary housing if state law provides flexibility for such programs" (p 23).

As a part of EHA, a financial feasibility study will be conducted to evaluate the economic impact and opportunity to change the fee to better reflect market conditions and address housing needs.

Inclusionary Housing

Inclusionary housing (sometimes referred to as inclusionary zoning) requires new residential development to include a portion of affordable housing units in order to create mixed-income housing. As discussed, on page 13 above, Colorado's rent control prohibition has been interpreted as limiting inclusionary zoning application to for-sale residential developments only.

Prior Inclusionary Housing Ordinance (IHO)

Before the linkage fee system, Denver had an Inclusionary Housing Ordinance (IHO) from 2001 until 2016, at which point it was replaced[2] with the linkage fee. The IHO was Denver's primary tool to facilitate homeownership opportunities of workforce housing. The city's original IHO was targeted at people earning between 50% and 95% AMI.

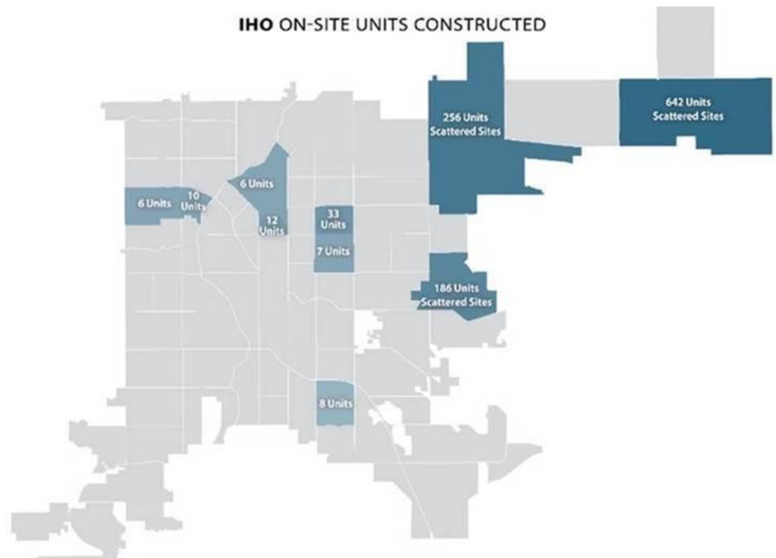
Requirements of the IHO

Generally, the IHO required for-sale projects over 30 units to restrict a minimum of 10% of its units to households with incomes between 50% and 95% AMI depending on household size and type of unit constructed, and price those units accordingly. Most of the units required a minimum income restriction of 15 years.

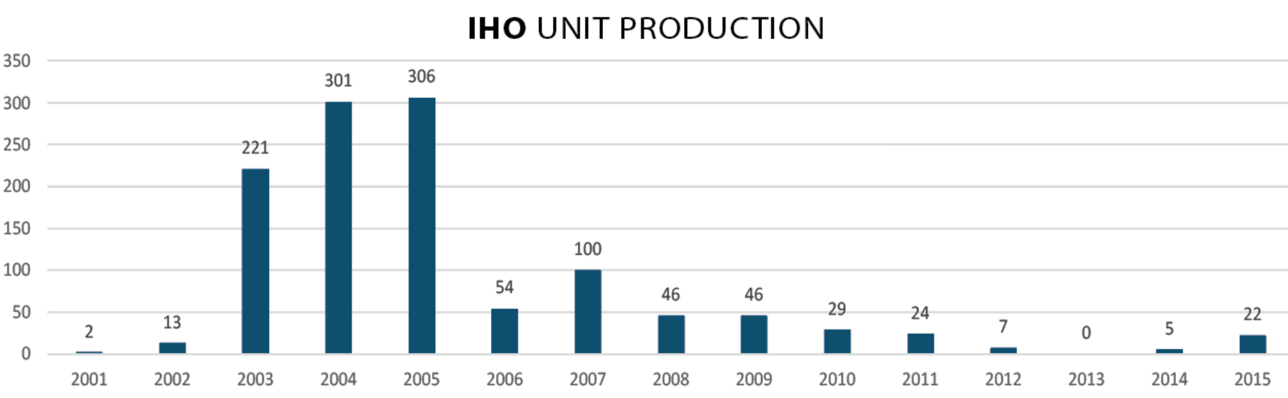
Developers were provided with financial incentives including a cash incentive ($5,500 per unit) and parking reductions and density bonuses as a means to partially offset the financial burden of selling units at a reduced price.

Outcomes of the IHO

IHO production is reflective of the market for for-sale housing production in Denver; therefore, IHO unit production has been somewhat dependent on conditions affecting all for-sale housing in Denver. As shown in the map above, the majority of IHO units were constructed as part of largescale developments located in Lowry, Green Valley Ranch and Stapleton, built from 2003-2005 though construction at some of these developments is ongoing. As the housing market slowed in the mid-2000s due to the Great Recession, IHO production slowed along with it.



Source: IHO Housing Report 2015



Source: IHO Housing Report 2015

[2] Language associated with the IHO is still contained within the DRMC Article IV Section 27 as there are some developments and/or units that remain subject to the IHO.

Additionally, the IHO allowed for projects to comply with the IHO through a cash-in-lieu payment, which varied according to the needs for affordable housing at the location of the project. In total, 11 of these projects that were subject to the IHO took advantage of this option, providing a total of $7,647,921 cash instead of the 115 units that would have been required if built on site. A large majority of these projects were in the city's highest cost markets including Downtown (e.g. the Spire, Four Seasons, One Lincoln Park) or other high-cost areas such as Cherry Creek or Ballpark.

Over the 15-year timeframe that the IHO was in place, a total of 2,028 for-sale units were built, most of which were during the earlier years of the ordinance and located predominately in one of the three aforementioned largescale developments.

Lessons Learned from the IHO

Denver's IHO was in place during a unique economic cycle. The ordinance was enacted to respond to a period of very rapid growth during the 1990s, which introduced unprecedented housing affordability challenges. IHO unit production was concentrated in new neighborhoods with little history of market resilience, which was tested during the Great Recession. The experience with that IHO offers several lessons for future programs in the Denver market. Specifically:

- The IHO produced very few units relative to overall development in Denver. IHO units generated through onsite production represented fewer than 5 percent of for- sale units built in the city between 2002 and 2012.[3] This was a factor of the structure of the IHO, which did not incentivize unit production due to a low cash-in-lieu, and the Great Recession, which dampened housing demand.
- The vast majority of IHO units—91 percent—occurred as part of large scale developments in Green Valley Ranch, Lowry, and Stapleton, which at the time, were reflective of moderate-cost markets. The developments that opted out were largely high-end condominium projects.
- During the Great Recession in the mid-2000s, Green Valley Ranch experienced considerable price declines, which brought the price of market rate units close to the discounted price of IHO units—making the IHO units very difficult to resell. As a result, the foreclosure rate of IHO units in large scale areas was very high: 16% for all large-scale areas and 25% in Green Valley Ranch alone. By contrast, Lowry's model of IHO compliance utilized a land trust which allowed the units to achieve deeper levels of affordability and were less vulnerable to foreclosures.
- The IHO did not succeed in introducing affordable units into high-cost market areas or near Downtown, where employment opportunities and transit access is strongest. This is due to incentive and cash in lieu options that were uniformly available to developers across different market areas resulted in affordable units primarily built in lower cost markets, where calibrating incentive and cash in lieu options to different market areas helped drive some development of units in higher cost areas.
- Compliance procedures originally put in place were insufficient to monitor long-term compliance and ensure proper application of deed restrictions. Compliance procedures are essential to maintaining the long-term affordability of properties and ensuring the units are serving the population they are intended to serve.
- Onsite development of affordable homes drove more predictable processes and outcomes; negotiations for offsite development sometimes produced more units but were more complex and time consuming.
- In sum, these outcomes emphasize the importance of designing an IHO that takes into account the submarket context, as submarkets differ in their ability to absorb IHO requirements.
- Form an equity perspective, concentrating affordable units geographically results in poor resale values when the market contracts compared to market rate offerings.
- Finally, the cash-in-lieu option must be large enough to incentivize unit production to justify departure from a linkage fee—otherwise, the IHO behaves like a fee but with more administrative burden.

[3] Denver Housing Economic Study, Economic & Planning Systems, March 2015.

Zoning

What is zoning?

The Denver Zoning Code (DZC) implements the city's vision for the future of Denver, by calibrating regulations for structures, uses and parking by neighborhood context. The DZC was adopted in 2010. Each piece of land in Denver is assigned a specific zone district. Zone districts are categorized by context and then by district.

Additionally, zoning provides a prescriptive framework for building and site design. These elements include:

- Building Form Standards: building height, setbacks, setbacks, entry requirements, transparency, build-to, etc.
- Design Standards: Parking location, landscaping, street level active uses, etc.
- Use Limitations and Restrictions: specify which land uses (e.g. residential) are permitted and if any restrictions apply to the use.

The current Denver zoning code can be found online.

Zoning Code Naming Convention			
Neighborhood Context	Dominant Building Form and Character	Maximum Building Height in Stories	Special Purpose
S = Suburban E = Urban Edge U = Urban G = General Urban C = Urban Center D = Downtown	RH = Row House MU = Multi Unit RO = Residential Office RX = Residential Mixed Use CC = Commercial Corridor MX = Mixed Use MS = Main Street	2 2.5 3 5 8 12 16 20	x = Special provisions tailored to that zone district A = Special provisions, especially design standards or allowed building forms, tailored to that zone district

Therefore, a C-MX-8 zone district is an Urban Center, Mixed Use zone district with a maximum height of 8 stories.

What is incentive zoning?

Incentive zoning is a tool that allows for voluntary trade-offs between the developer and the city. This is also sometimes described as value capture.

This means that a developer may be granted additional building height or zoning relief in exchange for providing something that would not otherwise have been incorporated by the developer. For example, a developer may have a site that can build by-right to a three-story height, however if the developer commits to meet the standards for a height incentive, may be able to build an additional two stories in exchange for incorporating desired community benefits, such as affordable housing.

The intent of zoning incentives is for the trade-off, in this example the additional density, to serve as a subsidy that can offset some/all of the cost to build the affordable units. If the incentives are not properly calibrated to be economically viable, the incentive will not be used, and the community benefit will not be achieved.

Incentive zoning should set clear standards for what the developer must do (e.g. provide XX% of units as affordable housing for YY% AMI) in exchange for the additional height. Clarity and predictability of the requirements is key to any successful incentive system.

In Denver, incentive zoning has been used in downtown zone districts for decades. Most recently, two height incentive system focused on affordable housing were adopted for the 38th and Blake Station Area and Central Platte Valley Auraria.

Other Zoning Incentive Systems

While this project will focus on incentives for the construction of affordable housing, the DZC does offer other incentives in some of the geographic specific districts such as Cherry Creek, Arapahoe Square, and portions of Downtown. These incentives sometimes offer greater development capacity for the provision of open space, residential uses, affordable housing, public art, wrapped parking and active uses.

38th and Blake Incentive Overlay

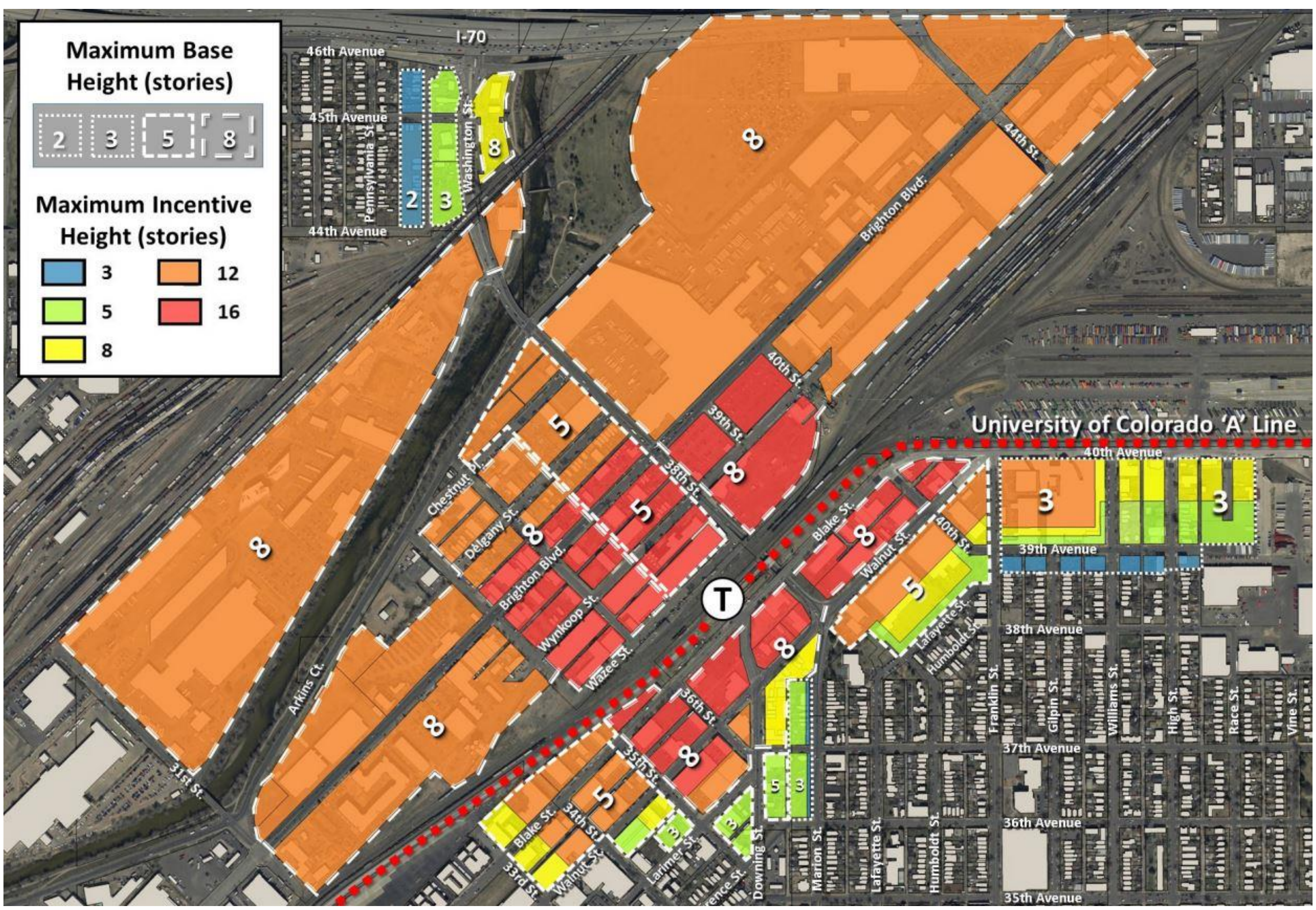
Most relevant to the Affordable Housing Zoning Incentive project is the 38th and Blake Incentive Overlay pilot project. This incentive system was adopted by City Council in February of 2018 and applies to the station area around 38th and Blake covering portions of the Five Points, Globeville and Cole neighborhoods. The incentive system for this area intended to accommodate growth and change in a transit-rich in a manner that provides community benefits in exchange for greater development height. While the pilot project has resulted in fewer affordable units than anticipated, we will draw upon the lessons learned from this pilot program.

38th and Blake Plan Amendment

The system sets a "base height" and an "incentive height" which varies throughout the station area and was informed by the 38th and Blake Height Amendments Plan adopted in 2017. The recommendations of the plan amendment focused on the refinement of the existing five neighborhood and area plans with a focus on building heights, to achieve the following:

- Make clear the vision for building height,
- Respond to changing conditions and public investment affecting the 38th & Blake Station Area and the surrounding NDCC area, and
- Support appropriate and desired growth patterns, including building form standards, and mixed income housing opportunities associated with greater density and height within the overall 38th & Blake Station Area.

The plan provides a future maximum building heights map indicating appropriate maximum "base" height and maximum incentive height throughout the plan area. The recommended heights map is shown below. The process attempted to provide a clear "base height" as the height generally described by previous plans and set incentive heights as those that were consistent with the overall vision. While this system ensured strong community buy-in, it created a somewhat arbitrary system for creating base and incentive heights. For example, some sites may have a base of 2-stories and a maximum of 5-stores, and others with a base of 5-stories and a maximum of 16-stories.



Plan Implementation

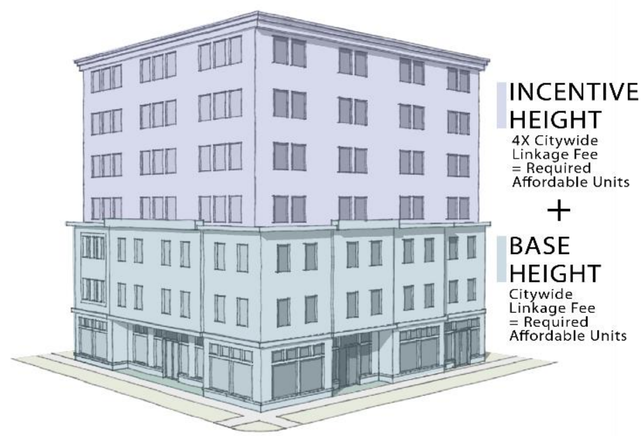
The 38th and Blake Station Area Plan implementation was sponsored by the district's council member at the time and resulted in zoning code text and map amendments (rezoning). The zoning code language itself was changed to create the incentive overlay and the area was rezoned to align with the overlay base and incentive height. Many of the sites were previously zoned Industrial (either I-A or I-B) with a minimum FAR of 2.0. Concurrent to the development and mapping of the overlay, a design overlay (DO-7) was created establishing regulations to achieve a vibrant pedestrian realm with building and site design that emphasizes walkability and access to daylight, minimizes the impact of parking and integrates appropriately with existing buildings in RiNo and portions of the 38th and Blake Station area that are just outside the district. The design overlay includes regulations for building setbacks, parking location and access, massing (the shape and form of a building as perceived by a viewer at street level), street-level active uses, pedestrian access and transparency.

Incentive System

For a predominately residential development (with more than 50% of its gross floor area ("GFA'") as residential uses) to exceed the base height, the development must either (1) provide the required affordable units within the subject development; or (2) provide the required affordable units at an off-site location within the incentive area. No payment-in-lieu options are contemplated for predominately residential developments.

For commercial buildings (with less than 50% of its GFA as residential uses) to exceed the base height, the development must (1) pay the standard linkage fee for the entire project plus an incentive linkage fee for the portion above the base height equal to four times the standard rate", (2) provide the required affordable units at an off-site location within the incentive area, or (3) pay the citywide linkage fee and execute a community benefits agreement. The community benefits agreement is developed with the DEDO in consultation with CPD to consider the applicable community serving uses and appropriateness of exchange in benefit to additional height. Examples of these uses may include day cares, groceries, artists' spaces, or other uses identified by the community as lacking or needed in the area.

The following graphic depicts the general framework to achieve the incentive heights.

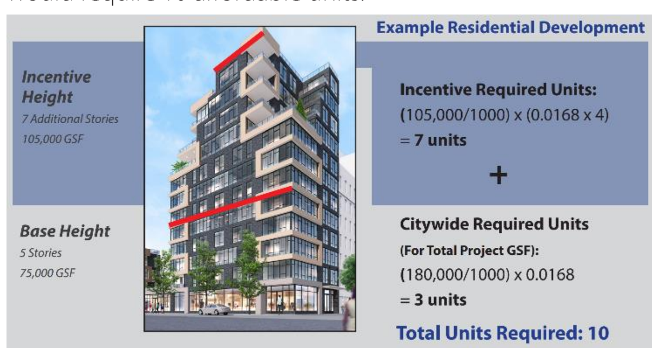


General residential affordability requirements must meet the following:

- Units must be affordable at 80% AMI and below
- Units provided to meet incentive requirements must be located within the overlay area
- Mix and size of affordable units must match market rate units

In addition to the overlay incentivizing affordable units, a system was developed to incentivize community-serving uses.

The following is an example of a multi-family residential development with a base height of 5 stories building to the maximum height of 12 stories. This hypothetical project would require 10 affordable units.



See the next page for details on the outcome of the systems.

Findings of the 38th and Blake Incentive Overlay

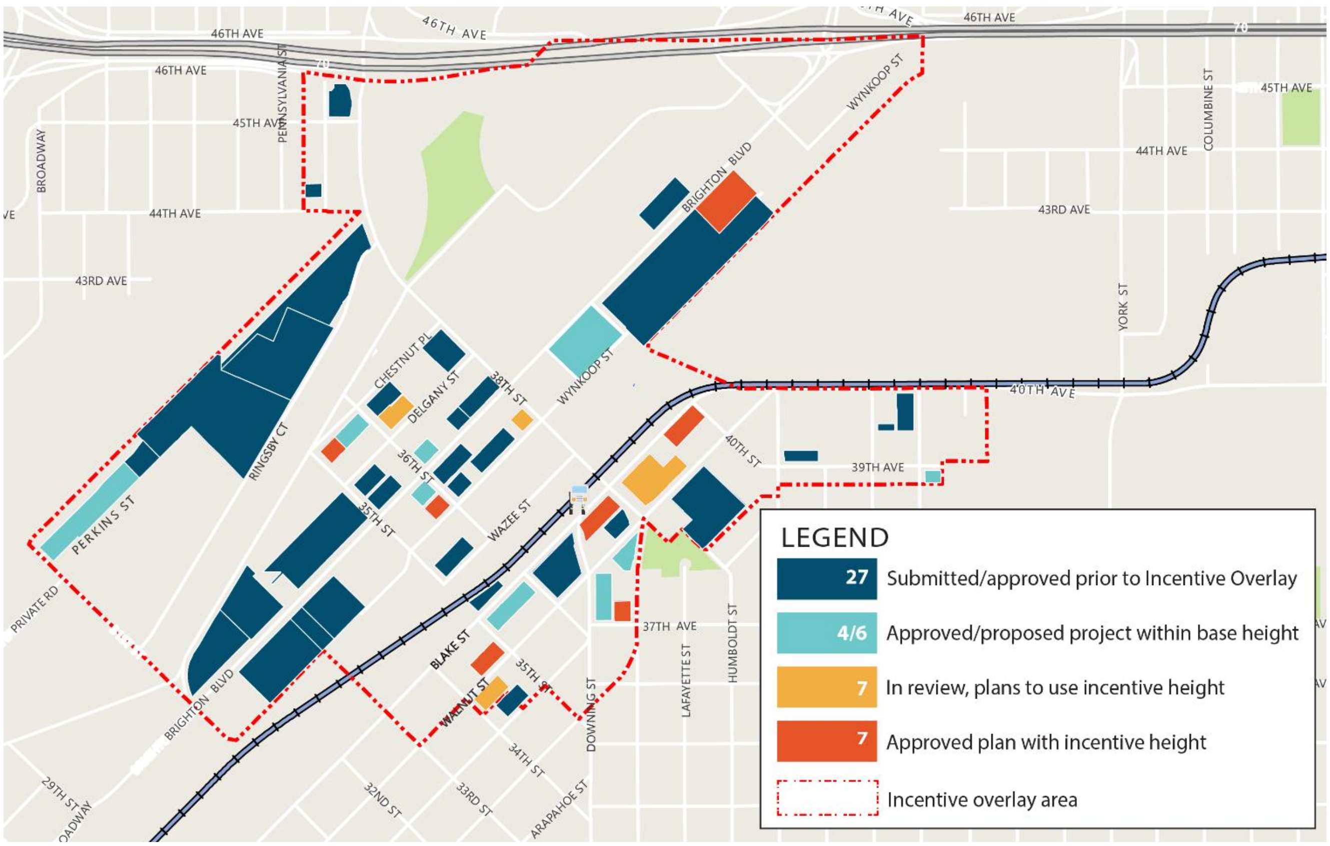
The 38th and Blake and RiNo area have seen significant development activity in recent years. The following map identifies the recent developments within the Overlay Area.

Before the adoption of the incentive overlay, 27 projects were approved/permitted and built or currently under construction. One of them is a low-income housing tax credit (LIHTC) development at 38th and Walnut providing 66-units for families earning 30% to 60% AMI.

Outcomes of approved projects with height incentive

Following the adoption, seven projects have been approved to use the incentive height to produce 95 affordable units. See the table on the following page for more information on the details of the approved projects.

Because the incentive is based on the floor area and uses within the project (and not number of units) with different multipliers based on uses contained within the development, there is not a set percentage outcome, as can be seen in the table below. In the projects approved, the affordable units produced via the overlay incentive represent approximately 5% of the total residential units completed.



Address	Base Height	Max. Height per Incentive	Built Height	Affordable Units @ 80% AMI	Total Units	% of total Units	Affordable Unit Summary
3433-3463 Walnut Street	5 Stories	12 Stories	13* Stories	16	382	4.1%	All rental 8 studio units: 438sf 7 one-bedroom units: 582sf 1 two-bedroom unit: 1,026 sf
3701 Marion Street	3 Stories	5 Stories	5 Stories	2	54	3.7%	All rental 2 one-bedroom units: 693 sf
3750 & 3770 Blake Street	8 Stories	16 Stories	17* Stories	19	348	5.4%	All rental 6 studio units: 540sf 9 one-bedroom units: 667sf 4 two-bedroom units: 1,073sf
4290 Brighton	8 Stories	12 Stories	11 Stories	17	397	4.2%	All rental 6 studio units: 542 – 677 sf 7 one-bedroom units: 699-1,207 sf 4 two-bedroom units: 1,150 – 1,715 sf
3500 Chestnut	8 Stories	12 Stories	12 Stories	8	92	8.8%	All Rental 5 One Bedroom 642 Sq Ft 3 Two Bedroom 889 Sq Ft
40th Street & 1580 E 39th	5 Stories	12 Stories	12 Stories	23	483	4.7%	All Rental 11 Studio Ave 591 Sq Ft 6 one bedroom Ave 789 Sq Ft 6 two bedroom Ave 1161 Sq Ft
3595 Wynkoop	8 Stories	16 Stories	16 Stories	10	182	5.5%	All Rental 2 Studio 433 Sq Ft 6 one bedroom 720 Sq Ft 2 two bedroom 1036 Sq Ft
Total	--	--	--	95	1938	5%	--

Source: Approved/Recorded Site Development Plans (SDPs) and Build-Alternative Plans (BAPs)
*Projects were able to leverage the DSC Article 13 ROM for height in stories.

Status	Address	Base Height	Maximum Height per Incentive	Proposed/Approved Height	Proposed Use
Approved projects **within base height** (no affordable units or additional fees provided)					
Approved	3560 Chestnut Place	8 Stories	12 Stories	1 Story	Restaurant
Approved	2095 31st St.	8 Stories	12 Stories	4 Stories	Multi-Unit
Approved	3750, 3760, 3770 Walnut Street	8 Stories	8 Stories	7 Stories	Retail, Restaurant, Multi-Unit, Hotel
Approved	3515 Brighton & 3508 Delgany	12 Stories	16 Stories	7 Stories	Office, Retail, Restaurant
Projects under review planning to **build within the base height** (no affordable units will be provided)					
Under Review	3601 Brighton	8 Stories	16 Stories	1 Story	Restaurant/Brewery (Adaptive reuse)
Under Review	3732 -3740 Downing	8 Stories	8 Stories	6 Stories	Multi-Unit, Office
Under Review	3560 Brighton	8 Stories	16 Stories	8 Stories	Hotel
Under Review	3500 Blake	8 Stories	16 Stories	6 Stories	Restaurant and Office
Under Review	3900 Brighton Boulevard	8 Stories	16 Stories	7 Stories	Multi-Unit (408 units), Retail
Under Review	3700 Downing Street	8 Stories	8 Stories	*9 stories	Multi-Unit (197) and Retail
Projects under review planning to **leverage the incentive height**					
Under Review	3615 Delgany	8 Stories	12 Stories	12 Stories	Restaurant and Office
Under Review	4290 Brighton	8 Stories	12 Stories	11 Stories	Multi-Unit
Under Review	3800 Blake	8 Stories	16 Stories	14 Stories	Office and Hotel
Under Review	3753 Wynkoop	5 Stories	16 Stories	13 Stories	Multi-Unit
Under Review	3400 Walnut	5 Stories	12 Stories	8 Stories	Office and Retail
Under Review	3108 N Brighton Boulevard	8 Stories	16 Stories	12 Stories	Office and Retail
Under Review	3930 Blake Street	8 Stories	16 Stories	16 Stories	Multi-Unit (187 units planned) and Retail
Source: Approved/Recorded Site Development Plans (SDPs) and Internal project records *Projects were able to leverage the DSC Article 13 ROM for height in stories.					

Benefits of the current 38th and Blake Incentive System:

- Creates a predictable system of base height, incentive height, and affordable housing requirements for the developer
- Captures the impacts of both commercial and residential projects
- Requires the affordable units to be built (no fee option) for projects with more than 50% GFA residential uses
- Supports appropriate and desired growth patterns within the station area
- Creates an efficient system that allows units to get to the market faster
- Creates a system for monitoring and tracking

Drawbacks to the current 38th and Blake Incentive System:

- The base and incentive height were determined before market or financial analysis
- The base height is often sufficient for the development market
- The yield of affordable units is lower than intended
- The system does not incentivize larger units or deeper affordability
- Based on the linkage fee which requires reevaluation with modifications to the citywide fee
- The off-site construction option may lead to delayed affordable units to the market
- Community serving use option does not provide a clear system of expectation by the city, community or developer
- For some sites, the base and incentive height are the same negating the ability for affordable housing to be realized
- The rule-of-measurement (ROM) for building heights can allow for an additional story

Community Feedback

The community has noted in various settings the following drawbacks of the current incentive system at 38th and Blake.

The output of the affordable units is too low. Now that multiple projects have been approved and the yield of affordable units is around 5%, there is a feeling that the tradeoff is not fair or sufficient to meet the needs of the community.

The base height is too high. Many of the projects do not need to take advantage of the incentive height to create an economically feasible project. Additionally, much of the base height is in the ideal building height range for the market.

The affordability level of 80% does not meet the community need. Many of the surrounding neighborhoods include individuals and families that require units at lower level AMIs.

Industry Feedback

Members of the project team met with a series of developers and those within the industry to better understand the development perspective on the benefits and drawbacks of the existing system.

The following is intended to summarize the feedback received from these discussions:

What factors led to your decision to either use the incentive height or build within the base height?

Lot size: Some parcels are better suited for large stick frame podium buildings whereas other (sometimes smaller) can only justify a high-rise building.

Necessary Capital: To build at higher heights (generally above 7 or 8 stories) this requires concrete/steel construction. This type of construction is more expensive and therefore requires additional upfront capital. For some developers, this is a significant change in business model or investor base and does not make sense to change their approach.

Prior Experience: Developers that planned for or used the incentive have done mixed-income development previously either in Denver or other communities.

Market Condition: Denver has much lower high-rise developments compared to other peer cities. This is due to an imbalance between the market rental rates and the cost to build high-rises. Therefore, only certain neighborhoods or sites can get the rents required to cover the premium for high rise construction.

For those interested building with the incentive height, did the requirements cause challenges in financing or otherwise?

Developers intending to use the incentive did not find the requirement deter investors or financial intuitions, and with the increase in social investing, some even saw this as a benefit to the development. Banks and investors are seeking a return on their money and the system can ensure certain thresholds of returns. However, if other factors changed such as land price, AMI level, and market rate rent, this may not remain the case.

How did the approval process for the Build-Alternative Plan (BAP) impact your project approval?

While intended to be a clear and predictable process, this was not always the experience. The developers realize that this is a new program and there are kinks to work out, but it did lead to a less predictable process and outcome than expected. Because the required affordable units are determined by the gross square footage, which is not formally calculated towards the end, this could lead to delayed understanding of the required units and challenges with investors. Additionally, the covenant language included some problematic language that required confusion and additional length to the approval process.

The incentive overlay was paired with a design overlay that removed parking requirements within ½ mile radius of the station area. Did this change your development plan or parking ratio?

While the developers were interested in providing less parking, the market (even adjacent to a rail station) still requires for people to drive cars, therefore on average a rate of one space per unit is expected.

How might this system need to change or respond if developed into a citywide system?

There is an acknowledgement that the RiNo neighborhood is very uniquely positioned for a density bonus program. The significant amount of public investment (I-70, Brighton Boulevard, 38th and Blake Station, National Western Center, RiNo Park, etc.) in the area along with a large area of land ripe for redevelopment has created the opportune location for a density incentive.

In other areas of the city, the market may not warrant taller buildings and there may be greater neighborhood opposition to a change in heights. For example, shallow lots adjacent to protected districts may not support significant redevelopment.

The city may need to look at other incentives beyond zoning tools to offset the cost needed to construct affordable units.

Other Existing Zoning Incentives

In addition to the 38th and Blake Incentive Overlay, the Downtown Area Plan Amendment led to the implementation of new zoning for the Central Platte Valley (D-CPV). This new zoning included an incentive system like 38th and Blake. However instead of identifying different base and incentive heights, the amendment set a district wide 5-story base height and unlimited incentive height for project that meet the DRMC requirements for the incentive height. The DRMC specifies that any residential mixed use project will build the standard citywide linkage fee for the base heights and 6-times the citywide build-alternative on incentive stories. Commercial mixed-use projects would pay 6-times the linkage fee on the incentive height or a community benefits agreement. Additionally, it required that all large or multi-phased projects execute a negotiated affordable housing plan with HOST.

Since development in the Central Platte Valley has yet to occur, an analysis of the outcomes has not been conducted.

Summary of Affordable Housing Zoning Incentive Systems

	38th & Blake	CPV-Auraria	D-GT	D-C
Adoption Year	Feb. 2018	Dec. 2018	2010*	2010*
Base Height	Varies (2-8 stories)	5-stories	4.0 FAR	10.0 FAR
Incentive Height	Varies (2-16 stories)	no max	0.4 FAR	1.0 FAR
Incentive Height Multiplier	4x Fee	6X Fee	N/A	N/A
Outcomes to Date:	95 units approved	none	none	none

*Downtown districts were carried over from the Former Chapter 59 zone district which were last revised in the early 90s.

In the downtown zone districts the floor area premium is very low in caparison to other premiums. Because of this, no projects used the affordable housing floor premium. These existing systems will be reviewed and likely revised as a part of the project.

Peer City Best Practice Research

While many cities operate in different legal, political, and socioeconomic contexts, an analysis of similar cities' approaches can provide a baseline of understanding about the advantages and drawbacks of different incentive or inclusionary affordable housing systems. The purpose of this section is to provide an overview of the key components of affordable housing programs in peer cities, including those programs that blend zoning incentives with inclusionary housing requirements.

Peer cities were selected based on one or more of these criteria:

- Presence as a major city or county within a combined metropolitan statistical area with a similar population to the Denver metropolitan area;
- High housing costs including a history of high housing costs or recent, rapid escalation in costs; and
- Existence of an inclusionary housing ordinance and/or an affordable housing zoning incentive (AHZI) and/or a blended inclusionary housing and AHZI program ("blended program"); and
- Longevity of the program to measure outcomes.

This analysis covers rental and for sale housing and includes both voluntary and mandatory programs. Recognizing that affordability targets differ among cities; this review does not focus on a particular household Area Median Income (AMI) range.

Peer city's programs

The following methods or systems to create affordable housing through new development include:

- Requiring affordable units in new residential developments. This is commonly called "**inclusionary zoning**" or "**inclusionary housing**."
- **Imposing a fee** on new development that is then used by the public sector to create affordable housing, often leveraged with federal housing programs. Such fees take many forms and may be called impact, linkage, or "in-lieu" fees if the fees are allowed in place of building required affordable units.
- **Offering incentives** for the creation of affordable housing such as density bonuses, reductions in parking requirements, waivers of fees, and streamlined permit processing.

These programs rarely work in isolation and are usually designed to complement to a core program. In some cases, cities have several programs that apply under different conditions.

Peer Cities Reviewed

The peer cities research began with a larger selection of cities than are included in this section. Preliminary reviews of some cities' programs found that the programs had been paused due to state law limitations (e.g., Nashville).

The resulting peer cities reviewed in this section, by type of program, include:

Incentives Only

- Austin, Texas

Blended Programs

- Atlanta, Georgia
- Los Angeles, California
- San Jose, California
- Seattle, Washington

Inclusionary Only

- Boston, Massachusetts
- Boulder, Colorado
- Fairfax County, Virginia
- Longmont, Colorado
- Minneapolis, Minnesota
- Montgomery County, Maryland
- Portland, Oregon
- Santa Fe, New Mexico
- Toronto, Ontario

Top Level Findings from Peer City Research

Mandatory affordable housing contributions for new private sector residential developments—inclusionary housing—is becoming a more common solution in high cost, moderate to large size cities such as Denver. Generally, programs are most successful at generating affordable units when:

- Inclusionary housing is mandatory;
- Requirements apply to the whole jurisdiction;
- Demand is pent up for both affordable and market rate housing;
- Fees-in-lieu reflect the cost of developing affordable units;
- Regulations are calibrated to submarket costs; and
- Incentives are used to achieve greater levels of affordability and/or promote voluntary affordable housing for a higher income segment.

Overall, inclusionary housing and complementary incentive programs should be designed to achieve the goals and meet the housing needs of the local jurisdiction. Peer cities prioritize payment of a fee-in-lieu or performance—the construction of affordable units. Both approaches serve an affordable housing need, but there are tradeoffs between favoring one over the other.

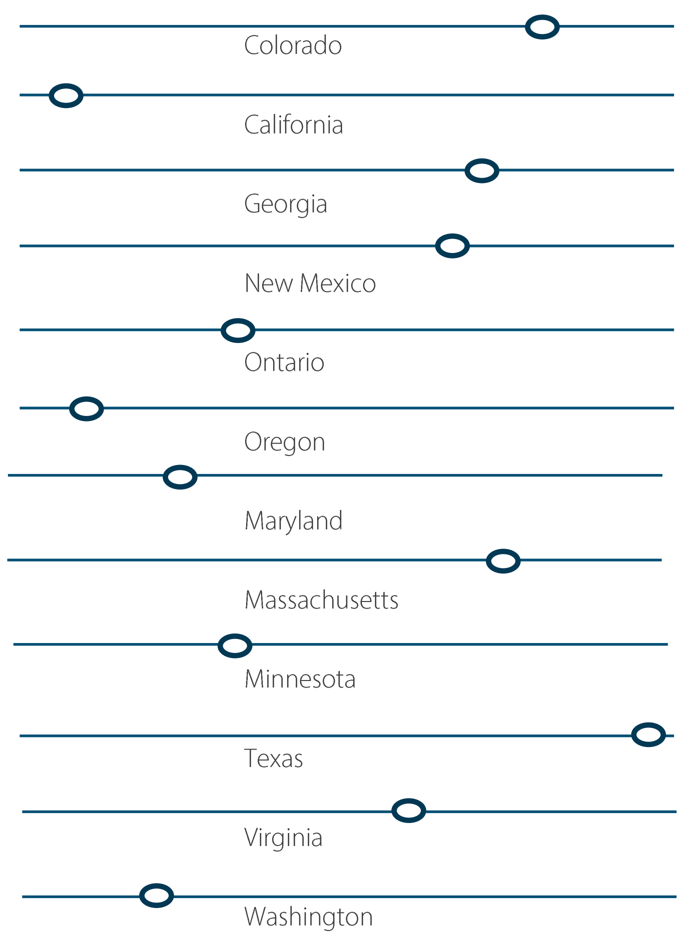
Generally, a fee focused system prioritizes generating funds in order to leverage assets to construct housing for extremely low-income residents. In other words, fees are used by nonprofit developers or housing authorities to construct housing for residents not served by the private market with the most need. However, this model can result in a further concentration of low-income housing, commonly in areas with fewer services and amenities.

Performance—or unit production—focused systems ensure a distribution of affordable units geographically and within high opportunity areas. However, performance-based systems offer limited affordability.

Programs in the Context of State Law

State law plays a significant role in the opportunities, constraints, and structure of local affordable housing incentives and mandates. State laws which influence the affordable housing and density bonus programs of peer cities include:

State Law Requirements for Affordable Housing Policies/Programs (e.g. requires rent control or Inclusionary Housing)	State Law Plays a Neutral Role in Affordable Housing Policies	State law limits or prohibits Affordable Housing Policies (e.g. bans rent control)



California

California enacted a State Density Bonus Law (SDBL) in 1976. That law requires cities to offer density bonuses in exchange for affordable housing and prescribes the level of bonus by Area Median Income (AMI), for condo conversions, and for senior housing. Those requirements are shown in the Appendix Table 1: State of California Density Bonus Requirements. The bonus incentives apply to the "gross allowable residential density."[4]

California state law also allows for land donation or provision of childcare on-site, allows more bonuses for additional incentives (e.g., flexibility in design standards and setbacks), and sets specific parking maximums. The affordability term mandated by state law is 55 years.

Georgia

Georgia, like Colorado, prohibits rent control. Atlanta's City Council is pushing to change state law and has enacted an incentive-heavy inclusionary housing program that applies only to certain areas of the city where significant public benefit is providing for value-capture opportunities (state law makes a city-wide ordinance virtually impossible).

Oregon

Oregon passed House Bill 2001 in 2019, which requires cities with more than 10,000 people or within the Portland metropolitan area to allow duplexes in lands zoned for single-family dwellings within their designated urban growth boundaries. It also prohibits conditioning approvals of Accessory Dwelling Units (ADUs) within urban growth boundaries on off-street parking availability or owner occupancy. A companion bill allows nonresidential places of worship to allow multiple affordable housing units on land zoned for nonresidential place of worship use. The state also recently passed a bill that caps annual rent increases at seven percent plus inflation.

Texas

Texas prohibits all types of inclusionary zoning. In response, Austin has enacted several density bonus incentives to facilitate affordable housing creation.

Minnesota

Minnesota, like Colorado, has an anti-rent control statute (Chapter 471 Section 9996). That statute contains an exception that allows a city or county to adopt an ordinance to control rents and sales price limits as conditions for development approval if that ordinance is approved in a general election. The law also allows cities to negotiate rent pricing with developers (e.g., in cases of city subsidies to support the development).

Washington

Washington State has been proactive in encouraging cities to use incentive tools for affordable housing, including passing legislation to eliminate the need for cities to perform a nexus analysis before they can enact affordable housing incentive programs and recommending density bonuses and setting minimum standards for affordable housing incentive programs.[5] Additionally, Washington cities with a population of 15,000 or more may establish a multifamily tax exemption (MFTE) program to stimulate the construction of new, rehabilitated, or converted multifamily housing within designated areas, including affordable housing. Projects approved under this program allows for a tax exemption up to 12 years. The city of Seattle is currently pushing for revisions to the MFTE program to allow for longer tax exemption periods.

New Mexico

New Mexico is a home rule state, and the state does not have enabling or preempting legislation for inclusionary zoning. New Mexico prohibits rent control, like Colorado and Georgia. However, the rent control statute makes an exception for voluntary inclusionary housing policy and at least one locality has adopted mandatory inclusionary zoning for ownership and rental housing. The topic of rent control in relation to inclusionary zoning has not been litigated in New Mexico.

Ontario

Enabling legislation for inclusionary housing policies in Ontario is new. Ontario first enacted legislation in April 2018 to allow municipalities to implement inclusionary zoning. In September 2019, the More Homes, More Choice Act (Bill 108) was enacted to limit where municipalities can impose inclusionary zoning requirements to protected major transit station areas or areas where a development permit system has been required by the Minister of Municipal Affairs and Housing.

Massachusetts

Massachusetts is a home rule state, and the state does not have enabling or preempting legislation for inclusionary zoning. The state does prohibit local rent control but permits incentive zoning. Several communities in the state have successfully implemented mandatory inclusionary housing

[4] The effectiveness of the state law varies by market area, dependent on market rents, existing base heights, and construction costs. The City of Berkeley, which does not have base heights for most multifamily districts, backs into an "implicit" base height based on development standards.

[5] https://app.leg.wa.gov/RCW/default.aspx?cite=36.70A.540

policies and many communities use the special permit process to achieve affordability through voluntary incentive programs.

Virginia

Virginia State Code permits inclusionary housing ordinances. However, the Virginia Supreme Court ruled against a mandatory statute and inclusionary housing ordinances in the state must be paired with increased density allowances (i.e., density bonuses).

Maryland

Maryland is a home rule state, and the state expressly authorizes mandatory inclusionary housing.

Austin, Texas: Affordable Housing Zoning Incentives

History

The City of Austin has had density bonuses in place since 2004. Austin is prohibited by Texas state law from requiring inclusionary zoning or imposing a fee and, as such, developed density bonuses as an alternative. The city has 10 density bonus programs, each created by a different city ordinance over the years. The programs differ greatly by incentives, community benefit requirements, fee-in-lieu options, and outcomes.

Key elements of Austin's zoning code: Multifamily districts are relatively low density, with a maximum of 90 feet in the highest density district (approximately 8 stories). Higher density is achieved through overlays and planned unit developments.

Key requirements.

The figure below compares the primary criteria of each program. Primary components include:

Most programs require an affordability commitment of 10 percent of all units.

- AMI ranges are generally between 60 and 120 percent AMI.
- Seven of the programs allow a fee-in-lieu, which ranges from 50 cents per net rentable square foot to $12 per gross bonus square foot.
- The affordability periods vary considerably.
- All affordable developments must accept Housing Choice Vouchers.
- The East Riverside Corridor, which includes a neighborhood adjacent to downtown with gentrification pressures, has the highest affordability set-aside requirement. This area is somewhat similar to the Colfax corridor in Denver.
- The North Burnet Gateway is unusual in that it is a very suburban context district adjacent to the unincorporated county—this area is similar to South Hampden in Denver.
- The Safe, Mixed-Income, Accessible, Reasonably Priced, and Transit-Oriented (S.M.A.R.T.) program is a system for fee waivers and fast-track for affordable units.

New density bonus program

Austin's newest density bonus program—"Affordability Unlocked"—was enacted in May 2019. Affordability Unlocked is designed for and meant to be paired with city funding for affordable housing developers. The program has two tiers, with the first tier requiring:

- Rental units: At least 50 percent of rental units must be affordable to 60 percent AMI, with 20 percent at 50 percent AMI, and affordable for 40 years. One-fourth of the units must include 2 or more bedrooms or be used for supportive or elderly housing.
- Ownership units: At least half must be affordable to 80 percent AMI for 99 years. One-fourth of the units must include 2 or more bedrooms or be used for supportive or elderly housing.
- Density bonuses: Base zoning height is increased by 1.25 times and/or up to 6 dwelling units per lot in single family zones. Design and site requirements are waived, and parking is reduced.

Tier 2 developments have stronger requirements and also have a geographic components: Tier 2 developments are located within ¼ mile of a transit corridor and are allowed up to 1.5 times the base height with up to 8 dwelling units per lot in single family zones. At least 75 percent of units must be affordable with 10 percent at 30 percent AMI and 50 percent with two or more bedrooms.

Additional Incentives

Incentives include fast-track approval and extensive modifications of development regulations, as well as, city funding, as mentioned above. Parking is only required for accessible parking spaces based on city code and ADA or FHAA regulations. It is worth noting that the city has had some challenges with property managers prohibiting income-restricted tenants from using parking spaces and now specifies tenants' rights in program compliance documents.

Program Outcomes

As shown by the figure in Table 3: Austin Density Bonus Outcomes, in addition to units developed through "Smart Developments," or fee waivers, negotiated Planned Unit Developments and the University Neighborhood Overlay have generated the most affordable units in numbers.

Key Takeaways

- Public subsidies are needed to achieve deep levels of affordability in a low-density contexts
- A non-standardized, piecemeal approach to incentive programs creates varied geographic outcomes, even when programs have similar requirements;
- Fee waivers and expedited review are powerful incentives; and
- Planned Unit Development/Large Development Area agreements can be effectively used to produce affordable units.

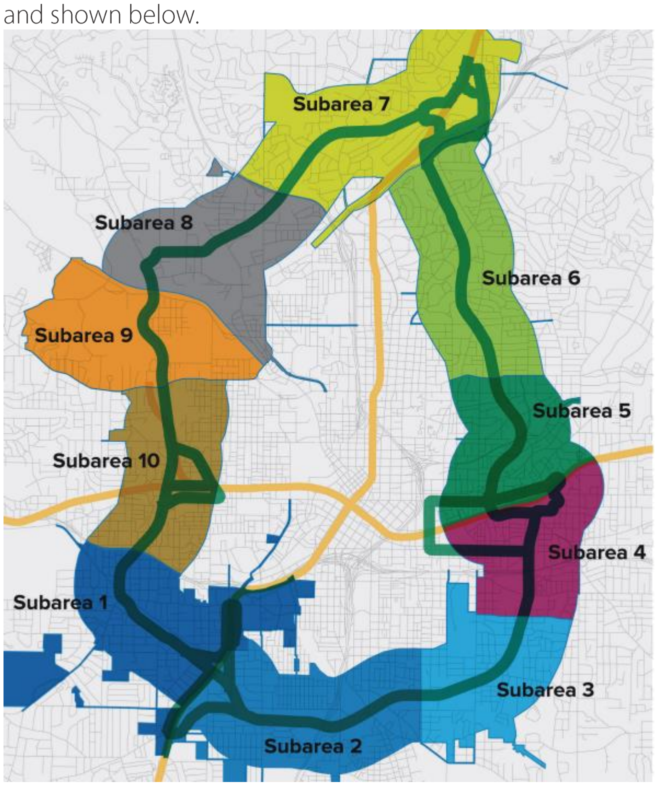
Capitol Studios in Austin, TX providing 135 income restricted units Photo source: https://foundcom.org/housing/our-austin-communities/capital-studios/

Atlanta, Georgia: Incentive-Heavy Inclusionary Zoning

History

The City of Atlanta passed an Inclusionary Zoning (IZ) ordinance in January 2018 requiring all new multifamily rental developments with at least 10 units located in specified overlay districts to provide income restricted units or pay a fee in-lieu. Though required to participate, developers are given a choice among various incentives in return for their compliance.

Atlanta desired a city-wide ordinance, but state law prevents rent control and makes a citywide application virtually impossible. The city's "work-around" was to apply the inclusionary zoning requirement to a specific portion of the city where there was significant public investment allowing the city to require a public benefit without risk of a "takings" argument. Development in these areas is also strong, catalyzed by the city's major trail investment (the BeltLIne) and shown below.



Map of the Beltline where the requirement applies. Source: http://beltline.org/wp-content/uploads/2016/03/IAP-Report-Final.pdf

Key elements of Atlanta's code: Neighborhoods are clustered into zones that determine zoning standards. Base for high-density multifamily is 15 stories, including those that abut single family neighborhoods. TOD base is 22 stories.

Key Requirements

The following requirements and incentives apply to multifamily rental developments (and conversions) with 10 or more units in the BeltLine and Westside Overlay Districts beginning January 29, 2018.

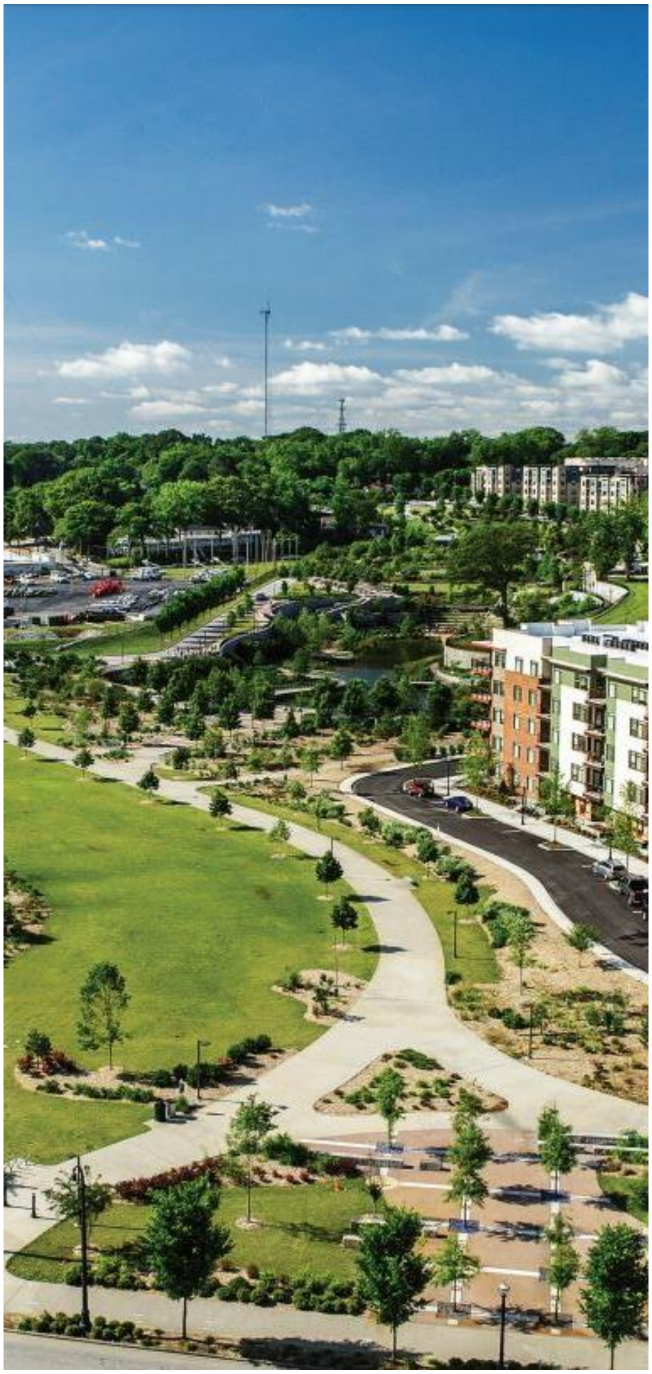
- Developers are required to reserve 15 percent of units at or below 80 percent AMI or 10 percent of units at or below 60 percent AMI.
- Developers can pay a one-time fee in lieu of providing units. The fee schedule fluctuates depending on the specific market area (based on variation in land costs) and ranges from $124,830 to $167,364 per unit. (Construction costs per unit are assumed to be $120,698 in all subareas).
- Developers that opt to construct the affordable units can select up to three incentives to help offset the cost of providing the affordable units (those that pay in-lieu fees are not offered incentives):
  - 15 percent density bonus based on FAR;
  - Transferrable development rights (note that affordable units must be generated on-site but unused density can be transferred offsite);
  - No residential minimum parking requirement;
  - 25 percent reduction in non-residential parking requirement;
  - Expedited permit review (Special Administrative Permit applications 21 day guarantee); and/or
  - "Major project status" which grants a project meeting with representatives from all relevant departments to review the project for potential issues and expedite the process.

According to the city's planning department, developers are primarily interested the "major project status" and expedited review incentives. Developer perception is that the market does not support additional density nor does it support parking reductions.

Atlanta's IZ ordinance requires the affordable units to be substantially similar to the market-rate units in construction and appearance; they must be scattered throughout the development, and the bedroom mix must be proportionate to that of the market rate units. The affordability period is 20 years.

Additional incentives

There are some additional density bonuses throughout the city, but they are created on a district-by-district basis and are rarely used. City planning staff report that developers are building under the allowable FAR throughout the city and do not perceive additional density as a value add.



The Atlanta BeltLine. Source: http://beltline.org/wp-content/uploads/2016/03/IAP-Report-Final.pdf

Program outcomes

The IZ policy went into effect in January of 2018. Since that time, 2,369 total rental units have been constructed or approved in the BeltLine Overlay; 731 of those units are income restricted (487 at 60% AMI and 244 at 80% AMI). Out of all the rental units constructed during this time 31 percent are affordable—well above the required 10 to 15 percent. This total includes several non-profit developments that were 100 percent affordable at 60 percent. To date, no developer has opted to pay the fee in lieu.

Atlanta Takeaways

- Mandatory programs are successful in producing affordable units when the fee-in-lieu payment approximates the cost to develop an affordable unit.
- Developers value expedited review over density bonuses when the density bonus is low, and the market is perceived to favor low density products.

Los Angeles, California: Affordable Housing Zoning Incentives

History

Los Angeles has had a density bonus option in place for many decades, as required by California state law. A January 2017 audit by the city's Controller found that between 2008 and 2014 only 426 units were created under the program (about 60 units per year).

In 2016, voters successfully passed Measure JJJ, which revised the density bonus program and created two new affordable housing zoning incentive programs: 1) Value capture, and 2) Transit Oriented Communities (TOC). These projects bolster the state-mandated program and, thus far, have been much more successful in producing affordable housing—including privately-provided housing affordable to 0-30 percent AMI households—and stimulating overall market rate residential development in transit-rich areas.

Key elements of Los Angeles' zoning code: Heights are regulated by "height districts." Highest density multifamily zones are limited to 13:1 FAR not to exceed 13 stories.

Key requirements

Los Angeles has several density bonus programs:

Standard + Value Capture

The city must offer the standard density bonus incentives, based on state law and shown in the first four columns in Table 1: State of California Density Bonus Requirements. The new "value capture" program adds density and incentives for contribution of affordable units as indicated in the far-right column in the table.

An added bonus is that projects proposing these incentives—called "on menu" requests—are processed by planning staff; they do not go through planning commission or City Council.

Density bonus > 35 percent

Measure JJJ requires that projects receiving a discretionary General Plan amendment, zone change, or height district change exceeding 35 percent or a development of residential use where they were not previously allowed to provide density bonuses, which vary affordability level. For rental, these bonuses require a mix of affordability levels as shown in Table 4: Requirements for Density Bonus exceeding 35% or new Residential Use.

Transit Oriented Communities Bonus

The Transit Oriented Communities bonus, or TOC also stemmed from Measure JJJ. This option applies to housing developed within ½ mile of a "Unique TOC Affordable Housing Incentive Area."

Parcels within the TOC designation are assigned a tier from 1 to 4 based on the shortest distance between any point on the lot and a qualified "Major Transit Stop"—a light rail, bus rapid transit (BRT) site, or traditional bus site. The tier depends on proximity to transit and quality of transit (for example, Tier 1 = 2 bus lines, Tier 4 = BRT).

TOC maximum bonuses and incentives are generous and are summarized in Table 5: TOC Density Bonuses and Requirements.

In Lieu Fee

The Value Capture and TOC programs do not have a fee-in-lieu option. For other programs, Measure JJJ sets the in-lieu fee at 1.1 times the number of affordable units that would have been provided if developed, multiplied by an "affordability gap." The fee in lieu for a density bonus increase exceeding 35 percent is shown below:

Unit Size	Fee Per Unit*
Studio	$53,233
1 bedroom	$56,684
2 bedroom	$62,891
3 bedroom	$69,927
*The fee is higher for residential projects in neighborhoods were unit types were formerly disallowed to incentive production in those areas.	

Parking Requirements

California state law sets the parking maximums for developments participating in density bonuses at 1 space/unit for studios and 1 bedroom units; 2 spaces for 2-3 bedroom units; and 2.5 spaces for 4+ bedroom units. For projects with transit access, minimum parking ratios range from 0.3 (special needs developments) to 0.5 (seniors, mixed-income, affordable rental). Los Angeles allows lower parking ratios (from no parking required to 1 space per dwelling unit) for TOC program participants and these vary depending on the development area.

Additional incentives

Los Angeles offers a suite of additional incentives in exchange for increases to the proportion of units that are affordable and/or adherence to the city's labor standards. Those incentives include setbacks/yards, open space, lot coverage, lot width, and additional height (ranging from 1-3 additional stories).

Program outcomes

The city's planning department maintains an interactive Housing Progress Report website that tracks outcomes by program.

In 2020, 19,903 residential units were approved with 3,957 of those affordable, or 20 percent of all units. This is a substantial increase since 2015 when 16,481 units were approved, and 7 percent were affordable. In 2020, 52 percent of approved affordable units were affordable for low income households, 23 percent for very low income households, 22 percent for extremely low income households, and 3 percent for moderate income households.

As demonstrated by the following figure below, the TOC program has grown to be a significant portion of residential units proposed, accounting for 37 percent of units proposed in 2020. Units proposed through standard density bonuses have been consistent over time, ranging between 17 and 21 percent of all units in most years. Residential developments created through zone changes have declined significantly since Measure JJJ was enacted, as have units proposed through other entitlements.

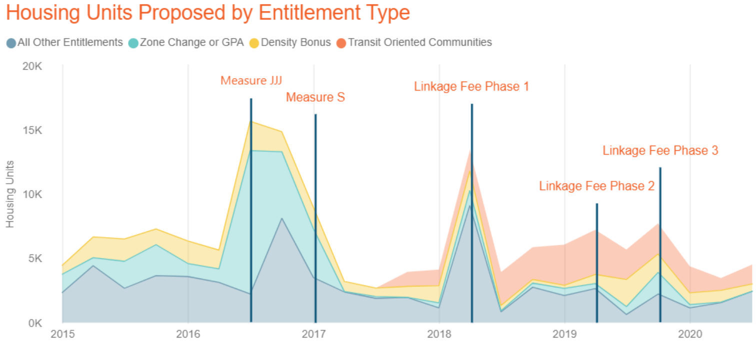
Los Angeles Takeaway's

The city's combination of relatively low base heights, generous density bonuses with no fee-in-lieu option, and pent up demand for housing has achieved a unique depth of affordability and unit volume.

Housing Proposed through Planning Entitlements

January 2015 - September 2020

Housing Units Proposed by Entitlement Type



Year	All Other Entitlements	Zone Change or GPA	Density Bonus**	Transit Oriented Communities	Total Units Proposed*
2016	17,075	18,387	7,062	0	42,524
2015	13,096	6,570	5,264	0	24,930
2019	7,623	3,234	4,501	11,321	26,679
2017	9,749	3,972	3,959	1,127	18,807
2018	13,866	1,969	3,552	7,949	27,336
2020	5,146	298	2,396	4,540	12,380
Total	**66,555**	**34,430**	**26,734**	**24,937**	**152,656**

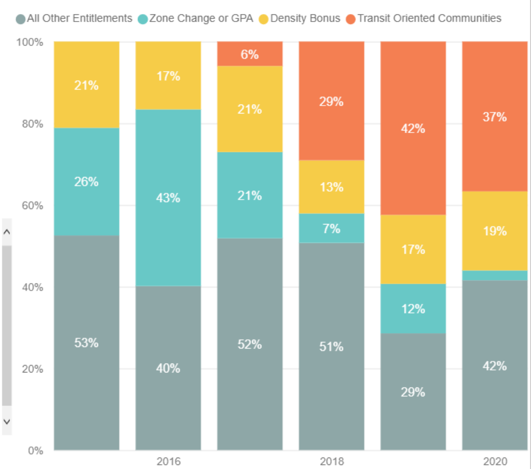
**Summary totals do not include Hotels, Motels, and Hostels*

***Density Bonus totals reflect only projects where the Density Bonus was not requested in combination with a Zone Change or GPA*

Total Units Proposed *

152,656

Percentage of Units Proposed by Entitlement Type



San Jose, California: Blended Program

History

San Jose implemented rental inclusionary zoning for the first time in 2010 and immediately halted the ordinance due to a lawsuit in Los Angeles challenging inclusionary zoning. That ordinance was reinstated in July 2016 once that lawsuit was resolved. The city's ordinance has been relatively ineffective because of the low buy out option. A recent feasibility study concluded that the city's current inclusionary ordinance is unlikely to produce affordable rental units except in one location—West San Jose—due to rising construction costs and moderation of rents. The study found the program ineffective for for-sale products in all parts of the city for the same reason (current for sale prices cannot support construction costs). Therefore, San Jose is acknowledging the need to revise their existing programs to better meet the need.

Key elements of San Jose's zoning code: The program is limited to 4 residential zone districts. Base heights are specific to planning areas, employment centers, downtown, and transit corridors. Maximum height along transit corridors ranges from 120 to 200 feet.

Key requirements

Inclusionary housing ordinance (IHO) and impact fee

San Jose is in the process updating its inclusionary housing ordinance to encourage more on-site affordable housing. The current ordinance applies to developments with 20 units or more and has multiple compliance options (developments between 3 and 19 units pay an impact fee). The IHO terms and proposed changes include:

- 15 percent of total units. No revision proposed other than size at which the ordinance is required (5 or more units). Affordability thresholds:
  - Now: 9 percent of units at 80 percent AMI and 6 percent at 50 percent AMI.
  - Proposed to broaden the range and deepen affordability: 5 percent at 100 percent AMI; 5 percent at 60 percent AMI; and 5 percent at 50 percent AMI or 10 percent at 30 percent AMI.
- Currently, developers may use combination of on-site apartments and in-lieu fees, but the rules are changing. The proposed modification will allow 5 percent of moderate-income affordable apartments on-site, and a fee of $18.26 per sq. ft. in lieu of building the remaining low-income affordable apartments. The modification will also allow developments on adjacent parcels to qualify as "on-site."
- Affordability period is 55 years; proposed change to 99 years.

In-lieu fee

Currently, the in-lieu fee is $125,000 per inclusionary unit (roughly equivalent to $28 per sq. ft. The city is proposing to increase to $43 sq. ft. for the entire development. Fees may differ by planning area; this is currently under evaluation. San Jose is also currently working to create a Commercial Linkage Fee.

Density bonus

San Jose offers the same terms as the state density bonus law requires shown in Table 1: State of California Density Bonus Requirements, including the same incentives (parking reductions, some design concessions). According to staff, density bonuses have not been commonly used by the private sector due to: 1) Lack of interest and awareness by the development community; 2) Limited value to developers; 3) Lack of land for dense developments; and 4) Neighborhood opposition to density. Density bonuses are most common for "100 percent affordable" developments and in high frequency bus areas (less than ½ mile from bus stop).

Program outcomes

All but one project has chosen in-lieu compliance, hence the ordinance update.

San Jose Takeaways

- A low fee-in-lieu discourages developers from constructing affordable units
- Density bonus programs are very context sensitive

Seattle, Washington: Blended Program

History

The City of Seattle has offered density bonus incentives for affordable housing since the 1970s, with the most successful application in the downtown market. According to the city, prior to establishment of its current program, incentive zoning took a piecemeal approach, which was difficult to administer and yielded inconsistent results.

The city revisited those incentives in 2014 in reaction to rapid rises in housing prices and to help achieve the city's goal of affordable housing development. A coalition of affordable housing developers, for-profit developers, business interests, and advocates mobilized support for mandatory affordable housing requirements (more commonly known as "inclusionary zoning") in exchange for incentives; this was part of a broader set of recommendations to increase housing affordability through the city's Housing Affordability and Livability Agenda, or HALA.

The resulting Mandatory Housing Affordability (MHA)—described as "Seattle's new policy to ensure that growth brings affordability"—was adopted in the university and downtown districts in 2017 and expanded in 2019 to cover all but single-family detached only districts. About 6 percent of the city's single family detached stock was rezoned to allow cottage homes and duplexes.

> **Key elements of Seattle's zoning code:** Seattle separates residential uses into "Low Rise—LR," "High Rise—HR," and other specific zones which allow a range of densities. LR is found in neighborhoods and, with code revisions, now limits height to between 30 and 50 feet. HR is limited to a few areas near downtown with a base of 440 feet. Downtown base heights range from 240 to 550 feet, with some areas of downtown with unlimited height.

Key requirements

- The MHA requirement was coupled with a significant rezoning effort at very small geographic levels—e.g., transit rich areas were given greater densities, lower density neighborhoods had smaller scale changes.
- MHA only applies in areas of the city that were rezoned in 2017 and 2019 to allow greater density; these were mostly focus areas for future job and housing growth. About 6 percent were in single family neighborhoods.
- Rezoning in other parts of the city that are applicant-initiated are also subject to MHA.

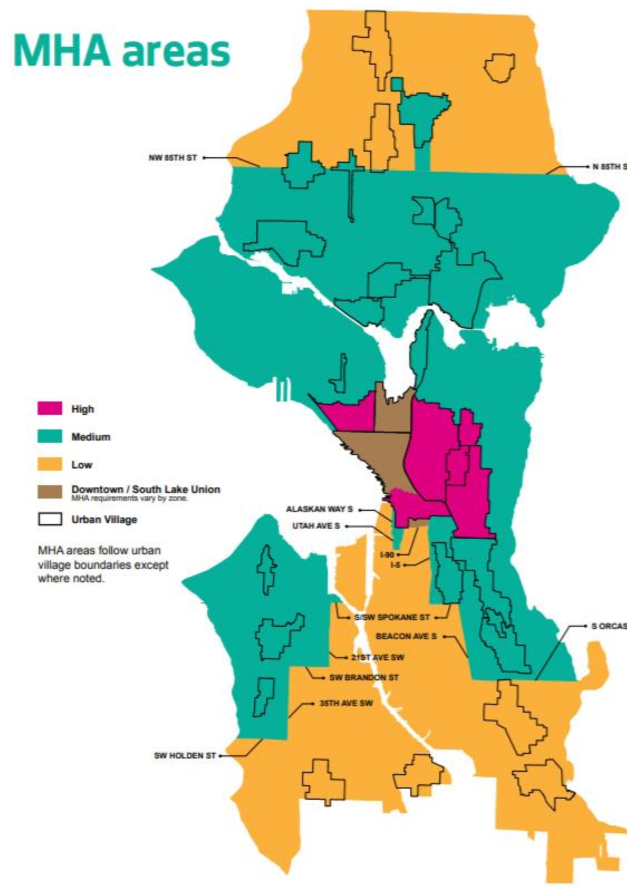
In sum, the city gave property owners greater value through rezoning and, in return, asked for a contribution to affordable housing, through unit development or payment.

- Density bonuses take the form of increasing maximum height, increasing floor area ratios (FAR), or establishing a different zoning designation. Larger zoning changes require a larger number of affordable units to be built or a higher in-lieu fee.
- MHA applies to all units in rezoned areas, including single family homes—for example, if a single-family home is demolished and replaced by a new home, a fee-in-lieu is required, even if the redeveloped home does not take advantage of increased density.

Two factors affect the required affordable housing unit contribution required:

- Market typology (low, medium, or high cost market)
- Benefit derived from the rezone.

MHA areas are designated as High, Medium, or Low depending on market characteristics, as shown in the map below.



Requirements and in-lieu fee

Developers in MHA areas have two options to comply with the inclusionary requirement: 1) "Performance" option, which requires that affordable units be built; and 2) "Payment" option. City staff generally prefer the payment option as they believe they are better able to leverage funds with state subsidy and create more units that would be provided through the payment option.

The following chart shows the requirements for residential and commercial properties located outside of the downtown area, developed in the 2019 application of the MHA. Fee-in-lieu is calculated on a sq. ft. basis.

For residential developments, the MHA requirement is based on the number of total units (e.g., 5% of units must be MHA units); for commercial, it is based on floor area in commercial use, excluding underground areas and 4,000 sq. ft. of "street level commercial usage." The proportion of affordable units required ranges from 5 percent to 11 percent.

AMI levels and affordability periods include:

- Rental units < 400 sq. ft.—40 percent AMI for 75 years
- Rental units > 400 sq. ft.—60 percent AMI at initial income certification and 80 percent at recertification, which allows income increases. Affordability period is 75 years
- Homeownership units—mortgage should be affordable to 65 percent AMI (using 35% of monthly income) with qualifying households up to 80 percent AMI

MHA requirements

***Note:** MHA payment requirements are updated annually using a consumer price index (CPI) adjustment method. The tables below reflect current payment requirements as of **March 2019**. A zoning reviewer at SDCI can confirm the applicable payment calculation amount for a specific project. For more detail, see Tip 257.*

Residential and live-work outside Downtown, SM-SLU, and SM-U 85 zones

		low area		medium area		high area	
		%	$	%	$	%	$
MHA zone suffix	(M)	5%	$7.64	6%	$14.46	7%	$22.65
	(M1)	8%	$12.28	9%	$21.83	10%	$32.47
	(M2)	9%	$13.64	10%	$24.29	11%	$35.75

Commercial outside Downtown, SM-SLU, and SM-U 85 zones

		%	$	%	$	%	$
MHA zone suffix	(M)	5%	$5.58	5%	$7.81	5%	$8.92
	(M1)	8%	$8.92	8%	$12.55	8%	$14.22
	(M2)	9%	$10.04	9%	$13.94	9%	$16.17

Parking requirements

Seattle does not require minimum parking for rental units that are restricted to serve 80 percent AMI. For non-rent restricted rental units, the requirement is 1 space per dwelling unit or 1 for each 2 small efficiency (micro) units.

Additional incentives. Seattle also offers a Multifamily Tax Exemption (MFTE) program that exempts payment of property taxes for units with affordable rents, created as part of market rate multifamily building development or redevelopment. Between 20 and 25 percent of units must be set aside as affordable for a maximum period of 12 years, after which the exemption and affordability of the units expires. The 12-year limit is based on state law, which was revised to allow the MFTE program.

The income restrictions vary by unit size and differ from the MHA:

- For a 20 percent affordable unit contribution, studios rent at 65 percent AMI; 1-bedroom at 75 percent AMI; 2-bedroom at 85 percent AMI; and ownership units range between 100 and 120 percent AMI; and
- Only micro-units are eligible for the 25 percent unit contribution and exemption; these must rent at 40 percent AMI.
- The tax-exempt program is separate from the MHA; MFTE units cannot count toward the MHA obligation. As such, the MFTE program could be used on top of the MHA or as part of a redevelopment that does not have affordable units.
- The Seattle Office of Housing manages the program, sets income eligibility and rents, and also maintains a list of available units for eligible renters.

Program outcomes

Because the program is relatively new—many developments currently being built now received permits prior to implementation of MHA—outcomes of the 2017 or 2019 programs are still unknown.

Preliminary modeling for the project assumed an even split between payment and performance—where payment is paying the in-lieu fee and performance is constructing units—but in reality, most projects are choosing payment. Housing staff welcome payment as it allows them to leverage funds with other funding sources and partners to reach deeper levels of affordability.

Since implementation, smaller projects—with less than 20 units—have all chosen to comply by paying the in-lieu fee. Whereas, three in ten of medium sized projects—between 20 and 50 units—selected the performance option and 8 of the 18 large projects—greater than 50 units—selected the performance option. To date, smaller projects are more likely to pay the in-lieu fee, and larger projects are more likely to construct units.

Seattle Takeaways

- The city's incentive program is unique for its broad geographic application and offsetting the costs of mandatory inclusionary zoning with valued-added base height increases.
- Coordination between private developers, elected officials, and advocates is vital to reaching payment and performance requirements that meet key goals.
- Fee-in-lieu payments reflect market and value-add differences
- Choice between payment and performance is heavily dependent on the size of the project.
- Define a goal and structure payment and performance options to guide development toward your ultimate goal.
- Property tax exemptions are an effective cross-subsidy to the private sector.

Raven Way at providing 30% AMI housing within the larger redevelopment of Yesler Terrace which is directly adjacent to the central business district. Source: ASLA Washington

Boston, Massachusetts: Inclusionary Zoning

History

The City of Boston adopted the Inclusionary Development Policy (IDP) in 2000. Boston's IDP applies to market-rate developments with ten or more units and with any of the following criteria:

- Financed by the city;
- Located on property owned by the city; or
- In need of zoning relief (e.g., conditional use, zoning variance, or nonconforming uses).

Developments can opt to develop income restricted units within their building, develop income restricted units nearby, or contribute to the IDP fund. IDP funds are used by the city to fund the development of affordable housing.

The IDP has since been updated periodically—most recently in 2015. The 2015 update most notably included the introduction of geographic zones dependent on local market conditions, an increase in off-site requirements and in-lieu fee contributions, required on-site income restricted units be comparable to market rate units, and defined vicinity for offsite units.

The city began an update to the IDP in 2019. As part of the update, the Boston Planning and Development Agency is engaging with housing advocates, non-profit housing agencies, private housing developers, and Boston residents to solicit input on IDP requirements and implementation.

Key requirements

Geographic application

IDP requirements are determined by the geographic zone where the development is located. There are three zones in the city, and they are designated based on citywide median real estate sales prices as follows:

- Zone A: Median sales price falls in the top third of sales prices
- Zone B: Median sales price falls in the medium third of sales prices
- Zone C: Median sales price falls in the lower third of sales prices

On-site units

To satisfy the IDP requirements, 13 percent of onsite units are income restricted—regardless of the geographic zone. Under the IDP, rental units are made available to households earning up to 70 percent AMI and for sale units are available for households earning 80 or 100 percent AMI.

Alternative compliance

Developers are permitted to seek alternative compliance by providing units off-site within a half-mile radius of the development, paying into the IDP fund, or a combination. Alternative compliance options vary by geographic zone, as shown in the table below.

IDP Option	Zone A	Zone B	Zone C
On-Site	**13% of total units**	**13% of total units**	**13% of total units**
Off Site	**18% of total in vicinity**	**18% of total in vicinity**	15% of total in vicinity
Cash Out Condo	**18% of total at 50% of price differential ($380,000 minimum)**	18% of total at 50% of price differential ($300,000 minimum)	15% of total at 50% of price differential ($200,000 minimum)
Cash Out Rental	18% of total at $380,00	18% of total at $300,00	15% of total at $200,00

Requirements in Bold Are "As-Of-Right" and Do Not Require Special BPDA Approval

Program outcomes

From the program implementation in 2000 to 2018, developers have constructed 2,599 income restricted units and IDP funds have created 1,414 income restricted units. Prior to the implementation of the IDP, an average of 290 units of income restricted housing were constructed per year. From 2013 to 2018, annual income restricted housing production had increased to an average of 650 units per year. Of all on- and off-site units constructed by developers, 25 percent are homeownership units and 75 percent are rental units.

Boston takeaways

- Income restricted units are concentrated in areas where new, private housing production is most active.
- Market conditions and access to opportunity vary greatly throughout the city. Therefore, a tiered approach to implementation may help achieve more geographic unity—in this case, median sales prices are used to benchmark submarkets in Boston.

Boulder, Colorado: Inclusionary Zoning

History

The City of Boulder first adopted an inclusionary housing program in 2000 to require all new residential development to provide 20 percent of all new homes as permanently affordable to low- and moderate-income households. After considerable success over the years, City Council adopted an update to the inclusionary housing program in the fall of 2017.

The focus of the update was to:

- Add a middle income affordable housing requirement to the inclusionary housing program;
- Evaluate requirements and incentives to achieve more on-site affordable units; and
- Consider requiring a review for all affordable off-site projects to ensure quality design and materials.

Key requirements

Boulder provides four options for meeting the inclusionary housing requirements—for 20 percent of all units as permanently affordable housing.

- On-site permanently affordable units,
- Dedicating off-site existing or newly constructed units as permanently affordable,
- Dedicating vacant land for affordable unit development, or
- Making a cash contribution in lieu of providing units.

For-Sale developments

For-sale affordable units are constructed by a developer and sold with assistance from the city. For-sale developments are encouraged to provide at least half of the required (20 percent) permanently affordable units on site—however, if it is not possible to provide units on-site developers will pay a 50 percent premium on the in-lieu fee for these units. The remaining half of affordable units may be met through provision of the affordable units off-site, a cash-in-lieu contribution, dedicating vacant land or by any combination of options.

Rental developments

Rental developments do not have an on-site requirement and may fulfill their requirements through on-site or off-site rental dwelling units, a fee-in-lieu, dedicating vacant land, or a combination thereof. Permanently affordable rental units must be ultimately owned by a housing authority or similar non-profit accompanied by a deed restricting covenant.

Program outcomes

In 2020, 3,767 (8.4%) units are permanently affordable, over halfway toward the city's goal of 15 percent. Since the inclusionary housing update in 2017, the city has averaged 150 new affordable units per year, compared to an average of 123 from 2000 to 2020.

One in five (21%) of permanently affordable units are owner occupied and the remaining 79 percent are renter occupied.

Boulder Takeaways

- In-lieu fee premiums on a percentage of on-site units may incentivize developers to construct more units on-site.
- Providing flexibility in requirements and alternative compliance can encourage development and meet affordability goals.

Fairfax County, Virginia: Inclusionary Zoning

History

Virginia is a Dillon's Rule state—which means state laws determine the power and authority of local governments. Fairfax County adopted one of the country's first IZ ordinances in 1971, but it was quickly struck down by the Virginia Supreme County as an unconstitutional taking. In 1989 an amendment to the Virginia state code allowed local governments to enact IZ ordinances.

Fairfax County adopted its current IZ ordinance in 1990, and it became known as the Affordable Dwelling Unit (ADU) program. The ADU program was established to serve households earning less than 70 percent of the AMI and required ADUs depending on the type of units (e.g., single family detached, multifamily, or garden style). In return, the county provided a density bonus to developers. In 1998 the ADU program was amended to allow a sliding scale of requirements based on the scale of development.

In 2007, Fairfax County's comprehensive plan recommended 12 percent of all new housing units in mixed use centers be affordable to workforce households—defined as households earning 80, 100, or 120 percent AMI. The Workforce Housing provisions of the comprehensive plan are supported through voluntary proffers in exchange for one bonus unit for each workforce unit provided—with a maximum bonus of 20 percent density.

Key requirements

Affordable Dwelling Unit program (ADU)

The ADU program imposes mandatory inclusionary housing provisions for households earning up to 70 percent AMI. The Affordable Dwelling Unit Advisory Board sets sales and rental prices and has the power to modify the program. New units require a 30-year affordability restriction and must be comparable to market rate units (e.g., number of bedrooms and access to amenities). The ADU set aside is determined by the type of development.

1. Single family detached, single family attached, and low-rise multifamily are required to provide 12.5 percent of units as ADUs and receive a 20 percent density bonus.
2. Midrise multifamily developments with 50 percent or more surface parking are required to provide 6.25 percent of units as ADUs and receive a 17 percent density bonus.
3. Midrise multifamily developments with 50 percent or more structured parking are required to provide 5 percent of units as ADUs and receive a 17 percent density bonus.
4. Highrise multifamily is exempt from the ADU ordinance.

Workforce Housing program

The workforce housing program is voluntary. Developers provide workforce housing units for households earning 80, 100, and 120 percent of AMI in exchange for a density bonus. The goal of the workforce housing program—outlines in the County's comprehensive plan—is that 12 percent of all new homes in mixed use centers should be affordable to the workforce. Developments are permitted one bonus unit for each WDU with a maximum bonus of 20 percent—measured by the floor area ratio.

Program outcomes

As of 2018, the ADU program has produced 2,791 total units affordable to households earning 70 percent or below the AMI. There is a relatively even split between for sale units (1,406 units) and rental units (1,385 units).

The Workforce Housing program has produced a total of 1,199 workforce units. Most workforce units are rental units (1,195 units) with a handful of for sale units (4 units).

Fairfax County takeaways

- Separate programs to reach different levels of affordability can be effective and work in tandem to meet overall housing goals.
- Voluntary programs—like the workforce housing program—can be effective when the AMI levels are economically feasible and developers are incentivized to provide the units.

Longmont, Colorado: Inclusionary Zoning

History

The City of Longmont adopted their Inclusionary Housing Ordinance in the fall of 2018. The ordinance requires the provision of 12 percent of units in new residential developments to be affordable to low- and moderate-income households. Affordability requirements are defined as affordable to households at or below 80 percent AMI for owner occupied units and at or below 60 percent AMI for renter occupied units. Developers can choose from a series of options to fulfill the requirements including on-site, in-lieu fee, off-site, land donation, redemption of credit, a combination of options, or a negotiated voluntary alternative agreement.

Key requirements

Affordable for-sale and rental units must be deed restricted as permanently affordable. Administrative approval is permitted for for-sale projects providing units on-site or paying the in-lieu fee and for rental projects paying the in-lieu fee. All other options require City Council Approval.

On-site location

Developments providing on-site permanently affordable units shall dedicate 12 percent of units as affordable. However, affordable homes can be constructed in a different product type than market rate homes (e.g., market rate single family detached paired with affordable townhomes).

In-lieu fee

The in-lieu fee is calculated based on the total finished livable square footage of market rate units and the methodology is approved by City Council every three years. The initial for-sale fee amount is set at $7.90 per square foot. The initial rental fee is set at $1.90 per square foot. The 12 percent affordability requirement is built into the fee per square foot of market rate development.

Off-site location

Development projects which opt for off-site location of affordable housing are subject to the same 12 percent requirement as if they were located on-site. Off-site affordable units can be new construction or can be existing housing that is purchased, deed restricted, and sold at the affordable sales prices. Off-site affordable housing cannot be located in low- and moderate-income areas without prior Council approval.

Land dedication

Land donated to the city in-lieu of providing affordable units must:

- Be approved by Council prior to the approval of the Final Plat or Site Plan;
- Be fully buildable land or lots, (i.e., have all off-site infrastructure to the site, OR agree to build the infrastructure, OR provide sufficient funding to the City to pay for the infrastructure AND have all obligations to neighboring landowners paid);
- Be able to support at least the quantity of AH required without the need for variances or reliance on incentives from the city;
- Not be encumbered in any way (liens, taxes or fees accrued, floodplain that limits development, etc.);
- Be zoned appropriately to provide the AH homes;
- Not be in a Low/Moderate Income designated area (unless prior Council approval is received);
- Be dedicated to the city at time of execution of the final Plat/Site Plan;
- Be compliant with all environmental site assessment code provisions;
- Be in fee simple title and transferred by general warranty deed.

Development incentives

Residential development projects which provide 12 percent permanently affordable units are eligible for the following development incentives:

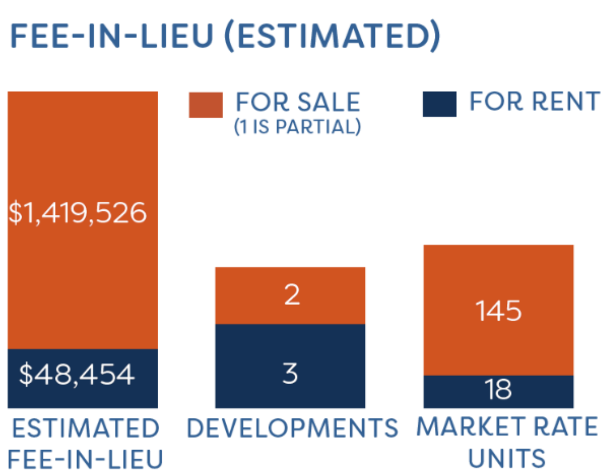
- Expedited development review. The City's Planning and Development Services Department will establish a schedule with the developer.
- Height or density bonuses. Up to 20 percent of increase in density/height over what is allowed per zoning code.
- Fee waivers. A percentage of certain development fees may be waived for qualifying projects. Fee reductions range from 50 to 25 percent for for-sale developments and 20 to 50 percent for rental developments.
- Water and sewer subsidy. Available for projects which provide affordability above the minimum requirements.

Program outcomes

Although many current developments were approved prior to the Inclusionary Housing Ordinance, 20 projects have been subject to the affordability requirements. Of the 20 projects nine will provide affordable housing on-site, five have opted to pay the in-lieu fee, and eight are undecided.

Of the projects providing affordable homes on site, 29 percent (230 affordable units) of rental units will be affordable and 4 percent (52 affordable homes) of for sale units will be affordable. The majority of affordable ownership units are provided in partnership with a nonprofit.

For projects electing to pay the in-lieu fee, there is an estimated $1.4 million in fees for ownership projects and $48,500 for rental projects.



Longmont Takeaways

- Deeper levels of affordability—in this case 60% AMI for renters—can be achieved by allowing for flexibility in meeting inclusionary requirements and providing intuitive incentives.

Minneapolis, Minnesota: Inclusionary Zoning

History

The City of Minneapolis implemented inclusionary zoning requirements for residential and mixed use projects with more than 10 units receiving financial assistance from the city in 2003. However, inclusionary zoning requirements have historically been determined on a case-by-case basis.

In 2018, City Council adopted the Inclusionary Housing Policy Framework and an interim Inclusionary Zoning ordinance based on recommendations from a 2018 study. The permanent Inclusionary Zoning Ordinance was developed throughout 2019 and adopted on December 13, 2019 (effective January 1, 2020).

Key requirements

Rental units

IZ requirements apply to all rental housing projects unless the development is less than 20 units, designated student housing, or provides at least 20 percent affordable units at 60 percent AMI. The city offers six regulatory options for compliance:

- Build on-site at or below 60 percent AMI—8 percent of units at or below 60 percent AMI for 20 years with no incentives.
- Build on-site at or below 30 percent AMI—4 percent of units at or below 30 percent AMI for 20 years with no incentives.
- Build on-site at or below 50 percent AMI—20 percent of units at or below 50 percent AMI for 30 years to receive city assistance (subject to City Council approval) in the form of Inclusionary Zoning TIF.
- Pay cash-in-lieu—$15 per rentable sq. ft. of market-rate residential development if project has 7 or fewer stories; $22 with 8+ stories, based on market-rate residential development. The in-lieu fees are adjusted annually based on the construction cost index for Minneapolis.
- Build off-site—This option is available after June 1, 2020 and subject to the approval of City Council. The developer is allowed to partner with an experienced affordable housing developer or preserve naturally occurring affordable housing.
- Donation of land to the city—This option is available after June 1, 2020 and subject to the approval of the CPED Director. The land is appraised by the city to be greater than or equal to the in-lieu fee, a combination of land donation and in-lieu fee may be utilized; the land must be in an area where there is high need for affordable housing sites (i.e., areas where the city does not control sufficient development sites); and reasonably developable for affordable housing.

Ownership units

The city offers four regulatory options for compliance:

- Build on-site at or below 70 percent AMI—4 percent of units at or below 70 percent AMI for 20 years with no incentives.
- Pay cash-in-lieu—Subject to the same requirements as rental units.
- Build off-site— Subject to the same requirements as rental units.
- Donation of Land to the city— Subject to the same requirements as rental units.

Parking requirements

The city did not modify parking requirements as part of the IZ updates; however, parking requirements are more favorable for transit heavy areas.

Additional incentives

Minneapolis offers property tax reductions for building owners with 20 percent or more units affordable 60 percent AMI or below; the reduction period is 10 years. Eligible properties receive a 40 percent deduction on qualifying units. Qualified building owners can receive additional benefits which include a grant of $100 per affordable unit capped at $1,000 per property, free or low-cost energy efficiency and healthy home assessments, city subsidies and utility rebates for energy upgrades, and solar energy incentives.

Program outcomes

Since implementation, the city has temporarily exempted projects between 20 and 49 units from the IZ regulation as part of a phase in effort. During that time, two projects have been subject to the IZ requirements and one project chose to build units onsite at 60 percent AMI (8% of total units at 60% AMI) and the other project elected to build units offsite. Anecdotally, staff indicate that most projects in the planning stages intend to meet the IZ requirements through onsite compliance.

Minneapolis takeaways

- Structure IZ programs to meet specific goals. For example, if the goal is to create onsite affordable units, incentivize developments to select onsite compliance. In Minneapolis, tax reductions and grants are used to achieve to reach households earning less than 60% AMI.

Montgomery County, Maryland: Inclusionary Zoning

History

Montgomery County adopted the Moderately Priced Dwelling Unit (MPDU) ordinance in 1973—the oldest continuously running IZ program in the nation. From implementation in 1974 to 2010, the MPDU program created 13,133 units—70 percent of units were for sale and the remaining were rentals.

The MPDU program offers first right to purchase or master lease up to 40 percent of IZ homes to the county's public housing authority and other nonprofit entities. As a result, IZ units are generated in income tiers with some units—with additional subsidies through the housing authority or other entities—reaching very low income households.

The original ordinance was updated in 2005 to apply IZ requirements to all developments with 20 units or more—the original ordinance applied to developments with 50 units or more.

Key requirements

Under Montgomery County's MPDU ordinance, new subdivisions with 20 or more units are required to set aside between 12.5 and 15 percent of units as affordable. The share of affordable units required is dependent on whether or not the development takes advantage of a density bonus. The minimum requirements for all projects—regardless of whether or not a density bonus is utilized—is 12.5 percent. Projects can earn up to a 22 percent density bonus in exchange for 15 percent affordability.

Units produced under the MPDU program must maintain affordability for 30 years for ownership and 99 years for rental units. Ownership units sold within the control period require a new 30 year control period. The county has first right of refusal for any MPDU units that are for sale.

Developers are required to disclose all land under its control in the county to discourage methods to circumvent the MPDU requirements by breaking up larger projects into 19 unit developments.

The MPDU programs have income limits of 70 percent AMI for ownership programs and 65 percent AMI for rental programs. The MPDU ordinance requires affordable units to have the same unit mix as market rate units. Additionally, for single family developments all affordable units must have at least three bedrooms.

Incentives

Projects can earn up to a 22 percent density bonus in exchange for 15 percent affordability. Additionally, developers can required expedited processing and waivers of some development fees.

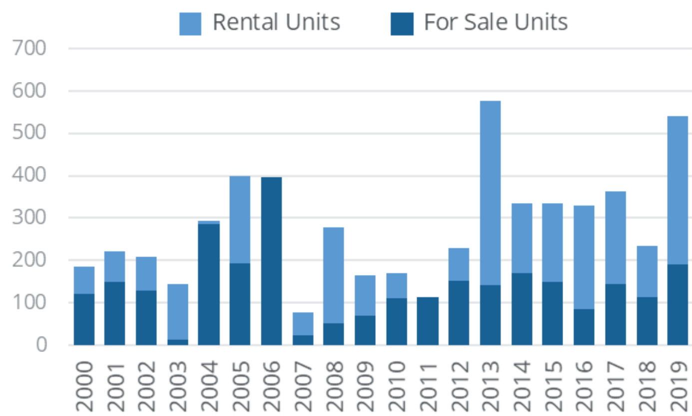
Alternative compliance

Alternatives to constructing affordable units onsite include:

- Land donation
- In-lieu fees—if affordable unit cannot be constructed due to environmental remediation or facility expenses making the unit affordability infeasible
- Offsite units can be provided for multifamily projects, but they must be located within the same planning policy area

Program outcomes

The figure below shows the number of rental and for sale units generated by the MPDU program annually from 2000 to 2019. Since 2010, an average of 137 affordable for sale units and 186 affordable rental units were constructed annually.



Montgomery County takeaways

- Deeper levels of affordability can be achieved using incentives and partnerships with the local housing authority and nonprofits.
- Unit mix and offsite locational requirements are key to ensuring implementation of the program serves the residents it is intended to serve. For example, all single family affordable homes in the MPDU program must have three bedrooms ensuring they are suitable for families.

Portland, Oregon: Inclusionary Zoning

History

The City of Portland implemented its Inclusionary Housing Ordinance on February 1, 2017 along with minor modifications to its existing Multiple-Units Limited Tax Exemption Program (incentive-based affordable program). The ordinance was made possible by a 2016 State of Oregon bill which removed the statewide statutory ban of local inclusionary housing ordinances. Portland's IH ordinance was designed to help produce new affordable housing units for households earning less than 80 percent AMI.

Portland's IH program requires all residential developments with at least 20 units to provide a percentage of those units for households earning less than 80 percent AMI. The city offers several compliance options including a fee-in-lieu that varies by district (discussed under Key requirements below).

Prior to the 2017 IH ordinance the city's MULTE program was used to incentivize affordable development. According to city staff, perception of the program was that it was primarily used by developers that were very familiar with the program and knew how to implement it as part of their development but that the program was not a tool easily access by a broad group of developers.

Key requirements

The IH ordinance applies to residential buildings proposing 20 or more units. The city offers six regulatory options for compliance:

- Build on-site at or below 80 percent AMI—15 percent of units affordable at 80 percent AMI, except in Central City and Gateway Plan Districts where 20 percent must be affordable at 80 percent AMI. Incentives include a 10-year tax exemptions, construction excise tax exemption, parking exemption, and FAR bonus.
- Build on-site at or below 60 percent AMI—8 percent of units affordable at 60 percent AMI, except in Central City and Gateway Plan Districts where 10 percent must be affordable at 60 percent AMI. Incentives include a 10-year tax exemptions, construction excise tax exemption, System Development Charge (SDC) exemption (on affordable units), parking exemption, and FAR bonus.
- Build off-site, new construction—20 percent of units affordable to 60 percent AMI or 10 percent of units affordable to 30 percent AMI. Tax exemptions are reviewed on a case-by-case basis; other incentives include construction excise tax exemption, SDC exemption (on affordable units), parking exemption (sending site), and FAR bonus (sending site).
- Provide off-site, designate existing building—designate affordable units in an existing building (receiving building) separate from the proposed development (sending building). In this case, affordability requirements are equivalent to 25 percent of the sending building's units affordable to 60 percent AMI or 15 percent of the sending building's units affordable to 30 percent AMI. Incentives include parking exemption (sending site) and FAR bonus (sending site).
- Build on-site with reconfiguration of bedrooms—Developers selecting options one or two above (build on-site) can redistribute the total number of affordable unit bedrooms and effectively reduce the number of affordable units while increasing the size of those units (e.g., shift two one-bedroom units into a single two-bedroom unit). The same incentives apply to this option as in options one and two.
- Fee in-lieu—calculated per gross square foot of the proposed development. In the Central City and Gateway Plan Districts the fee is $27.00 per gross square foot; in all other areas the fee is $19.00 per gross square foot though this amount is scheduled to increase to $23 per gross square foot at the end of 2020.

Parking requirements

Parking exemptions are applied to entire development sites within 1,500 feet of a transit station (or 500 feet of a transit street with frequent peak service). For sites outside of that range, parking exemptions are offered for the affordable units only. Developers that pay a fee-in-lieu are not granted any parking exemptions/reductions.

Additional incentives

In addition to the Inclusionary Housing program, Portland offers the following incentives:

System Development Charge (SDC) Exemptions. Portland's SDCs are impact fees paid by new residential development that fund proportional increases to transportation system, parks and recreation facilities, and water works systems. In addition to waiving SDCs under certain IH options (discussed above) PHB also exempts affordable home ownership units from SDCs.

Limited Tax Exemptions (LTEs). The city has three LTE programs: Non-Profit LTE (NPLTE); Multiple-Unite LTE (MULTE); and Homebuyer Opportunity LTE (HOLTE). The MULTE program is administered through the IH program and the benefits are described in the previous figure and discussion. The NPLTE program applies to non-profit organizations with income-restricted housing (either multiple-unit or single-unit) affordable to households earning less than 60 percent AMI. The HOLTE program offers homeowners earning less than 100 percent AMI a tax exemption for 10 years. It is designed to increase affordability for families and therefore only applies to owner-occupied dwellings with three or more bedrooms (or two bedrooms if located near transit).

Program outcomes

To date (3 years since implementation), Portland's inclusionary housing program has permitted, or is in the process to permit, 780 affordable units from 102 development projects. Currently, another 92 projects, with a potential 14,700 units, are in some stage of the pre-permitting/early assistance process.

On average the city is attaining 11 percent affordability from eligible projects (780 affordable units out of 7,309 total units in eligible projects). Of the 780 affordable units permitted, just over half (56%) are affordable at 60 percent AMI and 44 percent are at 80 percent AMI. Three-quarters of the units permitted are studios or one-bedrooms (which is roughly equivalent to the overall distribution of new unit sizes).

There has been some criticism that the inclusionary housing program has discouraged residential development in Portland. Others (including the city) suggest that developers planning projects around the time of inclusionary housing implementation rushed to get building permits and land use review applications submitted before the ordinance which falsely inflated pre-inclusionary housing permitting and lead to an anticipated slow-down immediately following implementation. This is consistent with permitting data during that period, which show a spike in permits just before the inclusionary housing implementation. Subsequent reports indicate market factors unrelated to the implementation of inclusionary housing may be signaling an upcoming slow-down in multifamily development.

Santa Fe, New Mexico: Inclusionary Zoning

History

Santa Fe's first inclusionary zoning program, the Housing Opportunity Program (HOP), was implemented in 1998. The initial program was for qualified homebuyers. All new development had an affordability requirement based on market value. HOP homebuyers must have a household income less than 80 percent AMI, and on average HOP homebuyers earn 65 percent AMI.

The city implemented the Santa Fe Homes Program (SFHP), a more stringent inclusionary zoning program, in 2006 with a standard requirement of 30 percent for homeownership and 15 percent for rental housing. In 2014, an amendment lowered the homeownership requirement under the SFHP to 20 percent. In 2016, amendments were adopted to allow a fee-in-lieu by right for multifamily rental development—due to a stagnant rental market.

The fee-in-lieu regulation encouraged new development with 2,000 units approved since 2016 and roughly 1,000 currently under construction or awaiting permitting. However, none of these new complexes include units that are affordable by definition.

Enhanced policies were enacted in December of 2019 with the following objectives:

- Improve/make transparent certainty of how regulation will be applied
- Make feasible/incentivize providing rent-restricted units on-site in newly developed rental housing projects
- Ensure that development of new market rate units isn't inhibited/discouraged
- Maintain trust fund revenues for development and redevelopment of nonprofit, public and tax credit 100 percent affordable rental units
- Establish capacity/framework for managing on-site affordable units, certifying incomes, leveraging tenant-based subsidy

The new regulations provide three options for meeting the affordability requirements under the SFHP which are detailed under Key Requirements.

Key requirements

In-lieu fee

The in-lieu fee is calculated using the "affordability gap" between HUD's Fair Market Rent (FMR) and the rent affordable for renter households earning no more than 65 percent of AMI. The affordability gap is multiplied by 24 to determine the amount of rental assistance needed by that household for two years. The fee is adjusted based on the developments unit mix and 10 percent is added to the FMR because Santa Fe is a "high cost area" according to HUD.

Low-priced dwelling unit (LPDU)

In this option, 100 percent of units are rent-stabilized at rents that do not exceed 110 percent of HUD's FMR limits for the Section 8 program in place at the time the unit is leased. Units are rented to renters earning no more than 120 percent of the AMI. The term of compliance for these projects is 10 years, at the end of which the units can revert to market rate rents. The owner or operator of the project cannot discriminate on the basis of income source and is required to accept tenants with rental assistance vouchers, if all other residency requirements are met.

On-site set aside

To fulfill this option, 15 percent of the market rate units are set aside for renters earning no more than 65 percent AMI. Rents will be restricted at levels affordable to this income tier. A rental assistance subsidy provider manages tenant income certification, reporting to the City, and other supportive services. The term of compliance for the set aside is five years.

Developer incentives

Developers in compliance with the SFHP rental requirement through any of the options provided are entitled to a 15 percent density bonus. Additionally, development fees—application, impact fees, infrastructure, and building permits—are reduced under LPDU compliance by 15 percent and under on-site set aside compliance by 30 percent. Reductions in development fees are held with a City lien and forgivable at the end of the compliance term. Other land use requirements are waived or reduced as appropriate (e.g., on-site parking and streamlined permitting).

Program outcomes

Since the program's inception, 200 HOP, 27 SFHP, and 397 LPDU units have been created. In the 13 projects under construction, 13 percent of units will be affordable with 161 affordable units and 1,239 total units in the projects. Four of the 13 projects chose to pay the in-lieu fee.

Santa Fe Takeaways

- Offering multiple options for compliance allows developments to move forward with enhanced flexibility.
- Predictable and flexible compliance options generated increased rental market activity.

Toronto, Ontario: Inclusionary Zoning

History

The Province of Ontario enacted legislation in April 2018 to allow municipalities to implement inclusionary zoning (Regulation 232/18). Prior to implementation, the municipality must complete an assessment report, undertake public consultations, and draft official plan policies. The assessment report must be updated every five years and includes housing needs, financial feasibility, and potential impacts of the proposed policy.

Toronto's City Council provided recommendations for increased municipal decision making in the Province Inclusionary Zoning regulations in 2018. In May 2019, the Toronto Planning and Housing Committee endorsed draft regulations to put forward for public consultation.

In September 2019, the More Homes, More Choice Act (Bill 108) was enacted to limit where municipalities can impose inclusionary zoning requirements to protected major transit station areas or areas where a development permit system has been required by the Minister of Municipal Affairs and Housing.

In November 2019, the Toronto Planning and Housing Committee advised staff to further refine the draft Inclusionary Zoning Official plan policies to reflect public consultation and the adoption of Bill 108. Finally, in December 2019 City Council adopted HousingTO 2020-2030 Action Plan which includes an action to implement inclusionary zoning policies. Toronto anticipates adoption of Inclusionary Zoning in the first half of 2021.

Key requirements

Key principles

City's key principles for a successful Inclusionary Zoning framework:

- Predictability;
- Clarity and consistency;
- Flexibility;
- Equitable and needs based, and
- Partnership based.

Affordability

Units must remain affordable for 99 years to households earning 80 percent of the area median income under the proposed inclusionary zoning regulations.

Number of affordable units

The total share of affordable units required in a development varies for ownership and rental projects and based on whether the development is in a strong or moderate market. Condominium developments must have 5 to 10 percent of the total residential gross floor area for affordable units. Rental developments must have 2.5 to 5 percent of the total residential gross floor area for affordable units.

Scale of development

Inclusionary zoning applies to development projects proposing 100 units or more in the downtown area and 140 units or more in other areas of the city. Toronto exempted most midrise developments because they could not feasibly support the affordability requirements.

Geographic application

Requirements apply to developments in to protected major transit station areas (PMTSAs) within strong or moderate market areas. Strong and moderate market areas are evaluated every three years as local market areas change, particularly with transit investments. Strong market areas have experienced:

- The greatest amount of new housing supply,
- Significant price escalation and growth in rental prices,
- Are generally areas with the highest number of renter households paying 50% or more of their income towards rent.

Incentives

Development incentives will be considered where a development proposes to exceed the inclusionary zoning requirements with either more units or deeper levels of affordability.

Toronto takeaways

- Direct inclusionary requirements into strong market areas with the greatest amount of new supply, price escalation, and cost burdened renters.
- Midrise developments are more difficult to execute with affordability requirements.

Appendix:

Table 1: State of California Density Bonus Requirements

STATE OF CALIFORNIA DENSITY BONUS REQUIREMENTS					VALUE CAPTURE OPTION
Affordability Level/Housing Type	Min. % of Affordable Units for Bonus	Bonus received for Min. %	Additional Bonus per 1% increment over Min. %	% of Affordable Units to qualify for Max Density Bonus of 35%	Additional bonus for every 1 percent of additional units
50% AMI rental and for sale	5%	20%	2.50%	11%	2.5%
60% AMI rental and 70% for sale	10%	20%	1.50%	20%	1.5%
110% AMI for sale	10%	5%	1.00%	40%	1%
Senior citizen housing	35 units	20% of senior units	N/A	N/A	
Condo conversions:					
Low income	15%	25%	N/A	N/A	
Mod. income	33%	25%	N/A	N/A	
Land donation (must be sufficient to develop 40 units)	10% of mkt rate units; land must be within ¼ mi of mkt rate dev	15%	1%	30%	
Child care facility onsite	N/A	Based on sq ft			

Table 2: City of Austin Affordable Housing Development Incentive Policy Overview

Program Name/Location	Incentive Policy Type	Date of Program	Applicability	Incentives, Waivers, Modifications	Required Affordable Set-Aside	Maximum Income Limit (% of AMI)		Affordability Period		Fee
						Owner	Rental	Owner	Rental	
Smart Development	Fee waivers and Fast-track	2007	Citywide	Fees: permit, construction, capital recovery	10%	80%	80%	1 yr	5 yrs	None
Planned Unit Development Bonus	Density bonus	Various	PUD exceeding base entitlements	Increased height, FAR, building coverage	10% rental, 5% owner	80%	80%	99 yrs	40 yrs	$7 GSF of bonus
University Neighborhood Overlay	Density bonus	2014	University area	Increased height, FAR, parking flexibility	10%	65-80%	65-80%	15 yrs	15 yrs	$.50 net rentable sq ft
Vertical Mixed Use	Density bonus	2010	VMU and MU districts	Site area, setbacks, parking, FAR	10%	80-100%	60-80%	99 yrs	40 yrs	None
Transit Oriented Development	Density bonus	2009	TOD overlay districts	Increased height, FAR, standards flexibility	10%	80%	50-60%			
Rainey Street (Historic District)	Density bonus	2008	Rainey Street subdistrict	Waiver of max height to 8:1 FAR	5%	80%	80%	None	None	None
North Burnet Gateway (Suburban context)	Density bonus	2005	North Burnet Gateway district	Increased max height and FAR	10% of bonus area	80%	80%	99 yrs	40 yrs	$7 GSF of bonus
East Riverside Corridor	Density bonus	2009	East Riverside/central neighborhood	Increased height, FAR, standards flexibility	25% of bonus area	80%	80%	99 yrs	40 yrs	$1 GSF of bonus (only for buildings > 90 ft)
Downtown Density Bonus	Density bonus	2013	Central business district	Increased max height and FAR	10% of bonus area	120%	80%	99 yrs	40 yrs	$3-$10 sq ft; residential projects only
Micro Unit Density Bonus	Density bonus	2013	TOD districts; units 500 sq ft and less	Waiver of site and parking requirements	10%	80%	50%	99 yrs	40 yrs	None

Source: City of Austin

Table 3: Austin Density Bonus Outcomes

Program Name/Location	No. of Projects	Date of Program	Total Affordable Units	Total Units	% Affordable	Fee-in-Lieu	% < 30% AMI	% 31-50% AMI	% 51-80% AMI
Smart Development	1,646	2007	17,389	45,261	38%	$3,056,705	2%	8%	29%
Planned Unit Development Agreements	36	Various	3,848	28,596	13%	$3,261,917	0%	0%	14%
University Neighborhood Overlay	67	2014	1,477	12,671	12%	$3,235,224	0%	2%	10%
Vertical Mixed Use	81	2010	849	8,366	10%	$-	0%	0%	10%
Transit Oriented Development	35	2009	484	3,079	16%	$4,650,033	0%	5%	11%
Planned Unit Development Bonus	8	2008	264	1,023	26%	$-	0%	0%	26%
Rainey Density Bonus	6	2005	75	1,675	4%	$1,501,975	0%	0%	4%
North Burnet Gateway Bonus	8	2009	72	1,057	7%	$12,727,973	0%	0%	3%
East Riverside Corridor	3	2013	41	982	4%	$8,168	0%	0%	4%
Downtown Density Bonus	9	2013	29	2,473	1%	$10,158,469	0%	0%	1%
Micro Unit Density Bonus	2	2014	5	107	5%	$-	0%	4%	1%
Total	1,901		24,533	105,290	23%	$38,600,464	0%	0%	0%

Source: City of Austin

Table 4: Requirements for Density Bonus exceeding 35% or new Residential Use

Affordability Level/Housing Type	Increase in Residential Density > 35%	Residential Use where not previously Allowed
30% AMI rental + 50% AMI rental	5% @ 30% AMI and 6% at 50% AMI	5% @ 30% AMI and 11% at 50% AMI
30% AMI rental + 80% AMI rental	5% @ 30% AMI and 15% at 80% AMI	5% @ 30% AMI and 20% at 80% AMI
50% AMI for sale	11%	11%
80% AMI for sale	20%	20%
110% AMI for sale	40%	40%

Source: City of Los Angeles Measure JJJ In-Lieu Fee Schedule and LAMC Section 11.5.11 (b) (3).

Table 5: TOC Density Bonuses and Requirements

TOC Tiers	Type of Transit Stop	Distance from Transit Stop	Maximum Density Bonus Above Base Height*	% ELI Affordable	or % for VLI	or % for LI
1 – Low Transit Access	Metro Link Rail Stations	1500- 2640 feet	50%	8%	11%	20%
	Regular plus Rapid Bus	1500 – 2640 feet				
	Two Regular Busses	750 – 2640 feet				
2 – Medium Transit Access	Metro Link Rail Stations	750 - < 1500 feet	60%	9%	12%	21%
	Two Rapid Buses	1500 – 2640 feet				
	Regular plus Rapid Bus	750 - <1500 feet				
	Two Regular Busses	<750 Feet				
3 – High Transit Access	Metro Rail Station	< 2640 feet	70%	10%	14%	23%
	Metro Link Rail Stations	<750 feet				
	Two Rapid Buses	<1500 feet				
	Regular plus Rapid Bus	<750 Feet				
4 – Regional Transit Access	Metro Rail Stations	<750 feet	80%	11%	15%	25%
Source LA TOC Guidelines: https://planning.lacity.org/ordinances/docs/toc/TOCGuidelines.pdf						

Table 6: Peer City Program Summary

	Austin, Texas	Atlanta, Georgia	Los Angeles, California	San Jose, California
Population, 2019	979,263	506,804	3,979,537	1,021,786
Housing units, 2019	442,388	253,597	1,532,364	343,234
# growth 2010-2019	87,400	28,394	110,426	30,693
Avg. annual % growth 2010-2019	2%	1%	1%	1%
% growth 2010-2019	25%	13%	8%	10%
Median rent ($), 2019	$1,334	$1,257	$1,554	$2,223
Avg. annual % growth 2010-2019	4%	4%	4%	6%
% growth 2010-2019	48%	41%	39%	62%
Name	Multiple	Beltline and Westside inclusionary housing	Transit Oriented Communities Affordable Housing Incentive Program	Inclusionary Housing Ordinance
Type of program	Affordable housing incentives	Blended	Blended	Blended
Year adopted	2004	2018		2010
Year updated			2016	
Geography	Certain zones, neighborhoods, or districts	Certain zones, neighborhoods, or districts	Certain zones, neighborhoods, or districts	Entire jurisdiction
Mandatory vs. voluntary	Voluntary	Mandatory	Voluntary	Mandatory
Ownership vs. rental	Rental only	Rental only	Ownership and rental	Ownership and rental
Project minimum	Varies considerably	10 units	N/A	20 units
Affordability requirement	10% of all units	10-15% of all units	8% of all units	15% of all units
Compliance options	On-site, in-lieu fee	On-site, in-lieu fee	On-site units	On-site units, off-site units, renovate unregulated units, in-lieu fee, donate land
Affordability term	Varies considerably	20 years	55 years	55 years rental; 40 years ownership; proposed change to 99 years
AMI Level	60-120% AMI	60-80% AMI	30-80% AMI	50-120% AMI
Incentives	Density bonus, other zoning variance, expedited permitting, park reduction	Density bonus, other zoning variance, expedited permitting, fee reduction/waiver, tax relief/abatement	Density bonus, other zoning variance	Density bonus, other zoning variance
Outcomes	N/A	Units constructed in the Beltline overlay: 2,369 Affordable: 731 units Percent: 31%	2020: 20% of all residential units approved were affordable 2015: 7% affordable	All but one project have chosen the in-lieu fee. Update to ordinance is in the works.

	Seattle, Washington	Boston, Massachusetts	Boulder, Colorado	Fairfax County, Virginia
Population, 2019	753,655	694,295	105,670	1,147,532
Housing units, 2019	372,011	303,791	45,954	416,073
# growth 2010-2019	69,497	25,842	3,479	7,994
Avg. annual % growth 2010-2019	2%	1%	1%	0%
% growth 2010-2019	23%	9%	8%	2%
Median rent ($), 2019	$1,744	$1,735	$1,658	$1,900
Avg. annual % growth 2010-2019	6%	4%	5%	3%
% growth 2010-2019	76%	41%	53%	26%
Name	Mandatory Housing Affordability - Residential (MHA-R)	Inclusionary Development Policy	Inclusionary Housing	Affordable Dwelling Unit Ordinance
Type of program	Blended	Inclusionary housing	Inclusionary housing	Inclusionary housing
Year adopted	1970	2000	2000	1990
Year updated	2017/2019	2015	2017	2007
Geography	Certain zones, neighborhoods, or districts	Entire jurisdiction	Entire jurisdiction	Entire jurisdiction
Mandatory vs. voluntary	Mandatory	Mandatory	Mandatory	Mandatory
Ownership vs. rental	Ownership and rental	Ownership and rental	Ownership and rental	Ownership and rental
Project minimum	N/A	10 units	N/A	50 units; highrise multifamily is exempt
Affordability requirement	5-11% of all units	13% of all units	20% of all units	5-12.5% of all units
Compliance options	On-site units, off-site units, in-lieu fee	On-site units, off-site units, rehab regulated units, renovate unregulated units, in-lieu fee	On-site units, off-site units, rehab regulated units, in-lieu fee, donate land	On-site units, in-lieu fee
Affordability term	75 years rental; 50 years ownership	30 years	In perpetuity	30 years
AMI Level	40-80% AMI	70-100% AMI	60-120% AMI	65-70% AMI
Incentives	Reduced parking requirements, multifamily tax exemption	Density bonus, other zoning variance	Density bonus, unit concessions	Density bonus
Outcomes	2017-2019 processed 40 MHA units 2020 processed 200 MHA units	Average of 290 affordable units per year before IDP 2013-2018 average of 650 affordable units per year	Since 2017 update average of 150 affordable units per year 2000-2020 average of 123 per year	2,791 total units produced for households earning less than 70% AMI

Source: 2010, 2019 1-year ACS, jurisdiction webpages, Grounded Solutions IZ database

	Longmont, Colorado	Minneapolis, Minnesota	Montgomery County, Maryland
Population, 2019	96,672	429,605	1,050,688
Housing units, 2019	41,696	192,708	391,024
# growth 2010-2019	6,621	7,894	15,001
Avg. annual % growth 2010-2019	2%	0%	0%
% growth 2010-2019	19%	4%	4%
Median rent ($), 2019	$1,546	$1,068	$1,788
Avg. annual % growth 2010-2019	6%	3%	2%
% growth 2010-2019	70%	36%	22%
Name	Inclusionary Housing Program	Inclusionary Zoning	Moderately Priced Dwelling Unit Program
Type of program	Inclusionary housing	Inclusionary housing	Inclusionary housing
Year adopted		2003	1973
Year updated	2018	2018/2019	2005
Geography	Entire jurisdiction	Certain zones, neighborhoods, or districts	Entire jurisdiction but requirements vary by zones, neighborhood, or districts
Mandatory vs. voluntary	Mandatory	Mandatory	Mandatory
Ownership vs. rental	Ownership and rental	Ownership and rental	Ownership and rental
Project minimum	N/A	20 units	20 units
Affordability requirement	12% of all units	8% of all units	12.5-15% of all units
Compliance options	On-site units, off-site units, renovate unregulated units, in-lieu fee, donate land	On-site units, off-site units, rehab regulated units, in-lieu fee, donate land	On-site units, off-site units, in-lieu fee
Affordability term	In perpetuity	20 years	99 years rental; 30 years ownership
AMI Level	60-80% AMI	60-80% AMI	65-70% AMI
Incentives	Density bonus, other zoning variance, fee reduction/waiver, unit concessions, water and sewer subsidy	Direct subsidy/TIF, property tax reductions	Density bonus, unit concessions
Outcomes	Rental projects build units-230 affordable units to date (29% of all new units) For sale projects pay the fee	Projects are still vesting under ordinance. Phase in exempts mid sized projects.	2010-2019 average of 137 affordable for sale and 186 affordable rental units annually

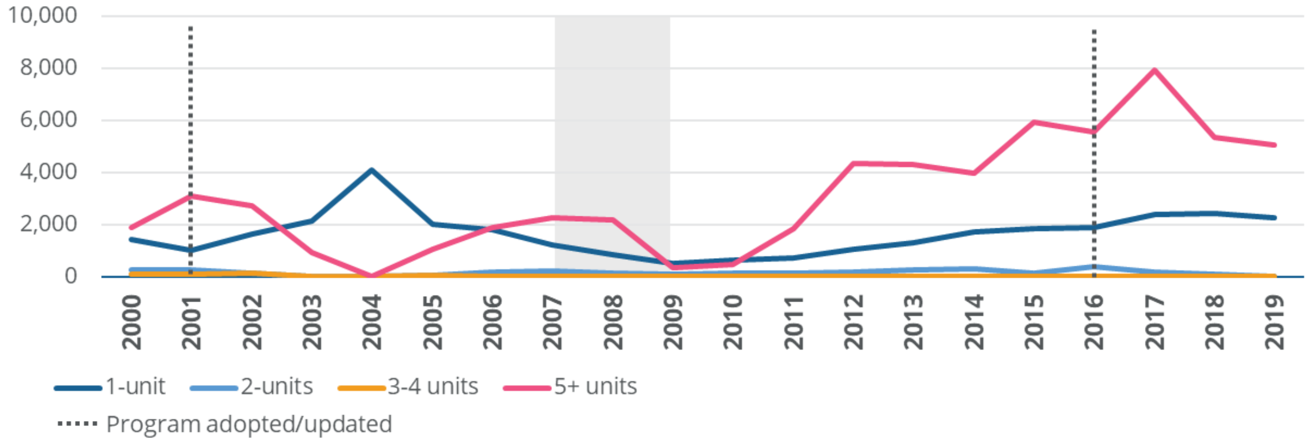
Source: 2010, 2019 1-year ACS, jurisdiction webpages, Grounded Solutions IZ database

	Portland, Oregon	Santa Fe, New Mexico	Toronto, Ontario*
Population, 2019	653,467	84,700	2,731,571
Housing units, 2019	298,837	41,881	1,179,057
# growth 2010-2019	34,947	5,206	71,206
Avg. annual % growth 2010-2019	1%	1%	1%
% growth 2010-2019	13%	14%	6%
Median rent ($), 2019	$1,312	$1,091	1,201
Avg. annual % growth 2010-2019	5%	3%	N/A
% growth 2010-2019	57%	27%	N/A
Name	Inclusionary Zoning Program	Santa Fe Homes Program	Inclusionary Zoning
Type of program	Inclusionary housing	Inclusionary housing	Inclusionary housing
Year adopted		1998	
Year updated	2017	2016/2019	2021
Geography	Entire jurisdiction but requirements vary by zones, neighborhood, or districts	Entire jurisdiction	Certain zones, neighborhoods, or districts
Mandatory vs. voluntary	Mandatory	Mandatory	Mandatory
Ownership vs. rental	Ownership and rental	Ownership and rental	Ownership and rental
Project minimum	20 units	10 units	100 units
Affordability requirement	8-20% of all units	15-20% of all units	2.5-10% of all units
Compliance options	On-site units, off-site units, rehab regulated units, renovate unregulated units, in-lieu fee, donate land	On-site units, off-site units, in-lieu fee, donate land	On-site, in-lieu fee
Affordability term	99 years	10 years rental; in perpetuity ownership	99 years
AMI Level	80% AMI	65-120% AMI	80% AMI
Incentives	Density bonus, fee reduction/waiver, tax relief/abatement, parking reductions, system development charge exemptions	Density bonus, expedited permitting, fee reduction/waiver, unit concessions	Considered if exceeding affordability requirements
Outcomes	11% affordability from eligible projects (780 affordable units out of 7,309 total units in eligible projects).	200 for sale units under Housing Opportunity, 27 units under Santa Fe Homes Program, and 397 low priced dwelling units (120% AMI)	N/A

Source: 2010, 2019 1-year ACS, jurisdiction webpages, Grounded Solutions IZ database
*Census data for Toronto, Ontario is based on the 2016 Census profile for Toronto from Statistics Canada. The years included are 2011 and 2016.

Charts: New Residential Permits and Year IZ Program Adopted/ Updated

Denver



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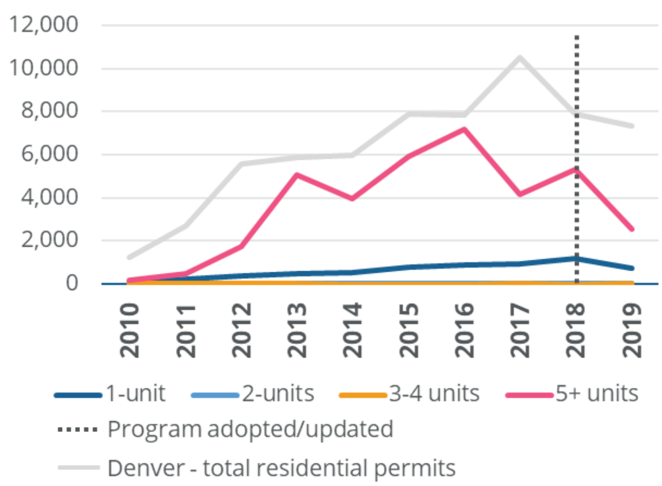
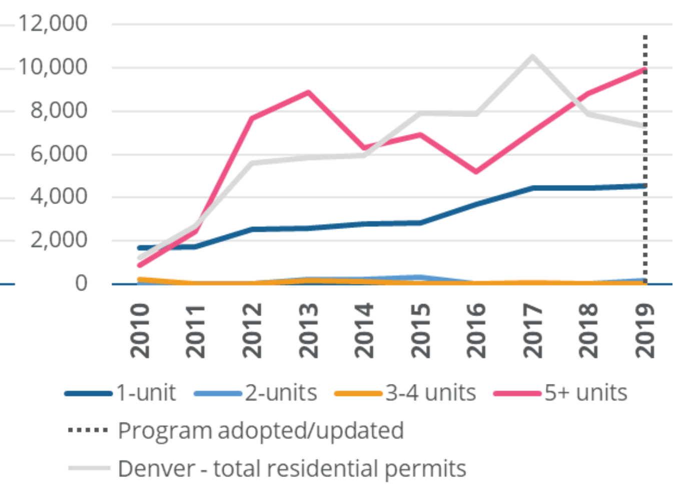


Austin



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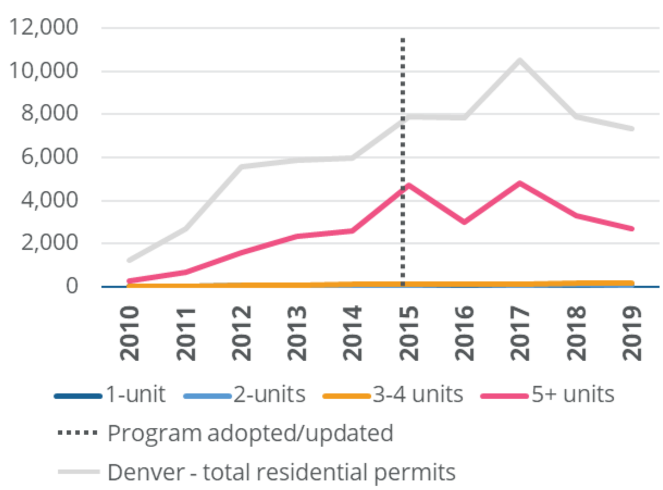

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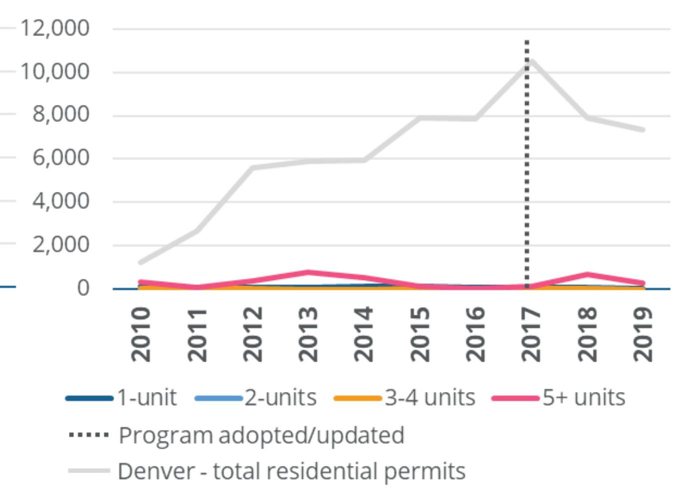

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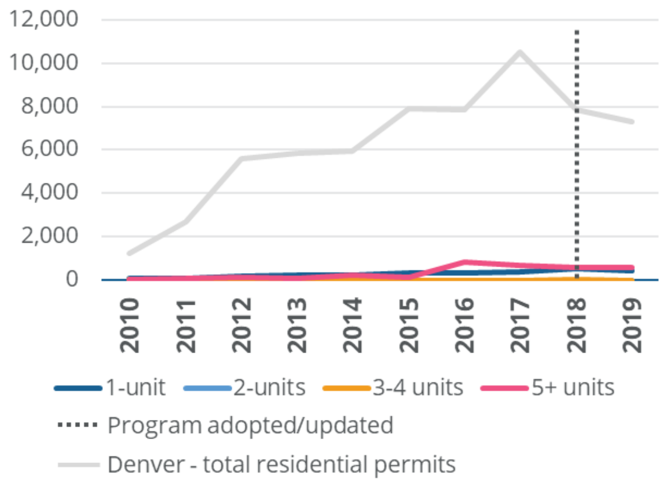
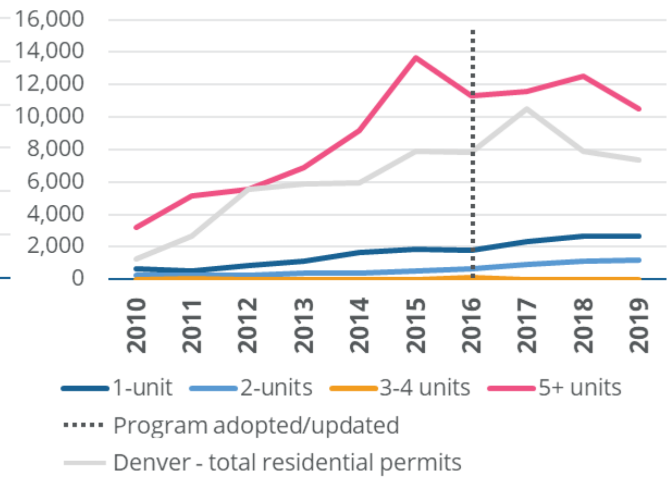


Los Angeles



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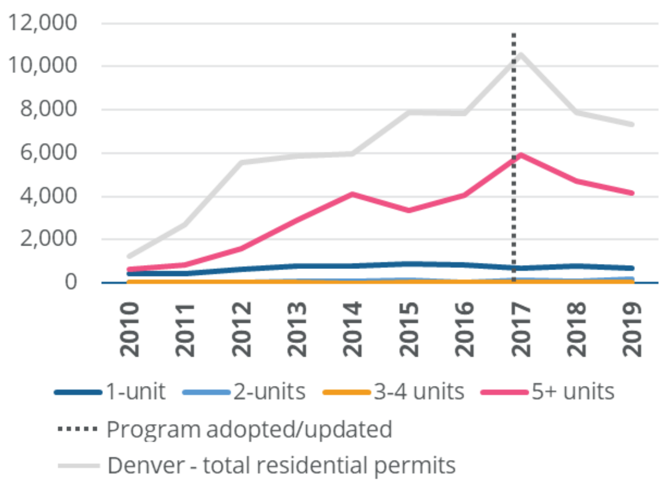

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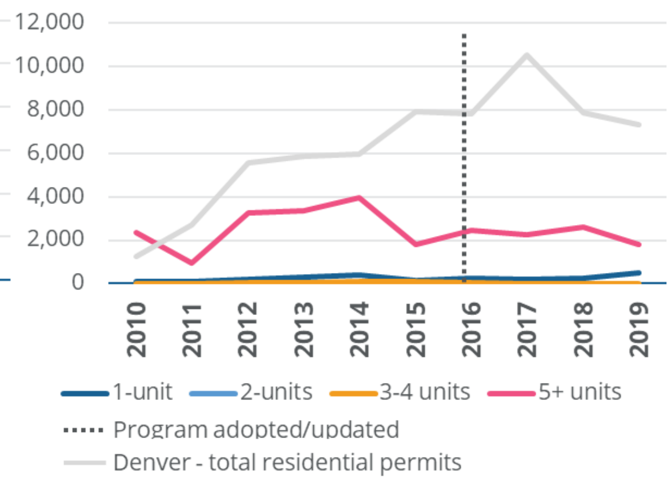

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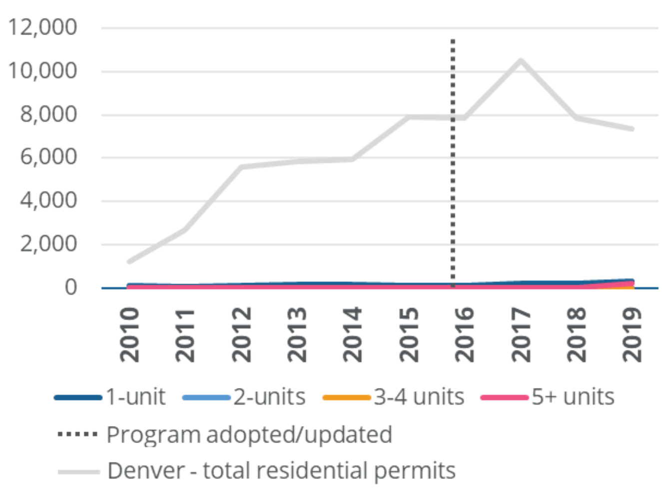

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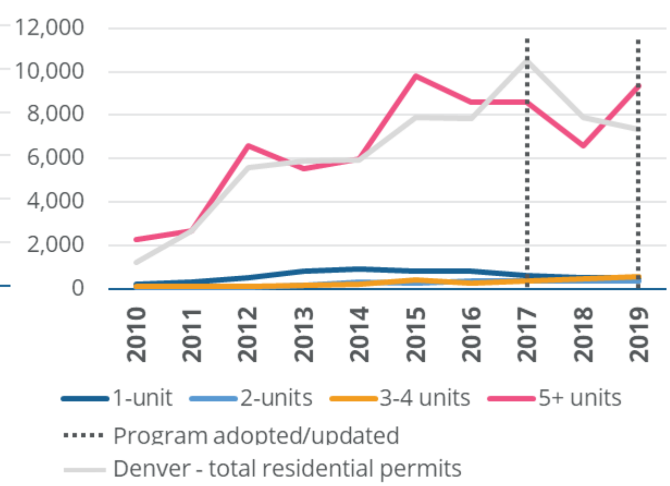
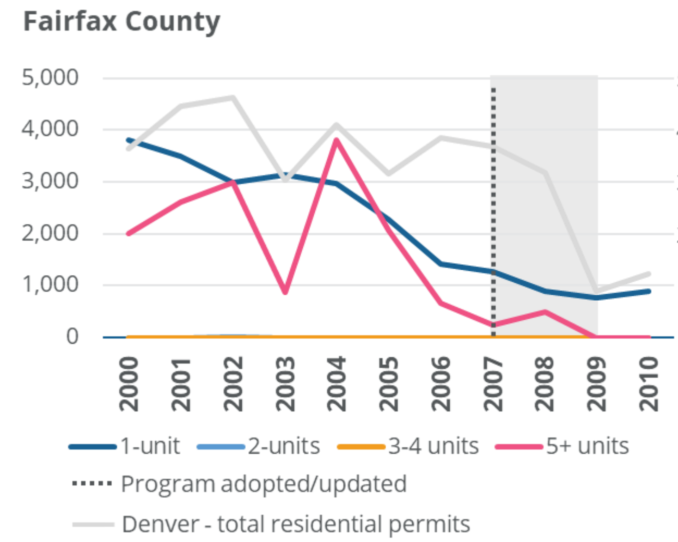
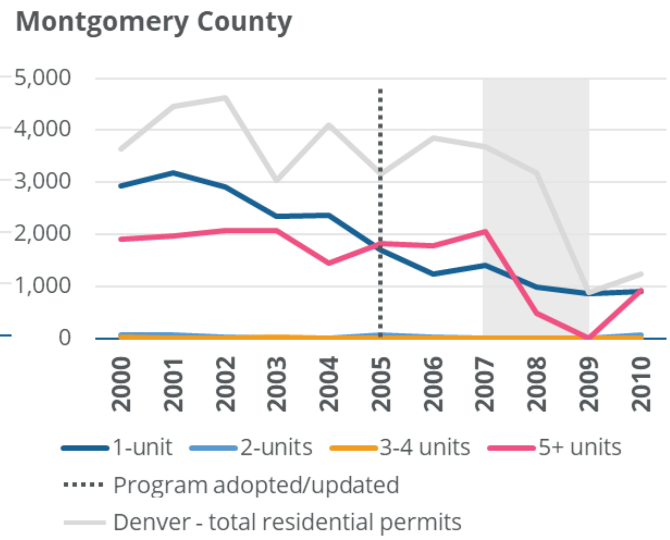


Source: U.S. Census Building Permits Survey





Source: U.S. Census Building Permits Survey