



Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: April 16, 2018

Re: Introduction to Inclusionary Housing Programs (aka Inclusionary Zoning)

## Executive Summary

This report responds to a Council request for information on inclusionary zoning, alternatively known as inclusionary housing. What follows is an introduction to the concept and how it is put into practice. Density bonuses, the practice of increasing the maximum number of housing units allowed as an offset for delivery of public benefits such as affordable housing units, is described in brief as a component of some inclusionary housing programs.

## Discussion

### Definitions:

There are two overlapping, often interchangeable terms. *Inclusionary housing* and *inclusionary zoning*. These terms refer to initiatives, programs, and policies that set aside a percentage of housing units for rent or sale to persons of low- and moderate- income.

Sample definitions from the literature:

*Inclusionary housing programs are local policies that tap the economic gains from rising real estate values to create affordable housing for lower income families. An inclusionary housing program might require developers to sell or rent 10 to 30 percent of new residential units to lower-income residents.* (inclusionaryzoning.org, viewed March 2018)

*Inclusionary housing, also called inclusionary zoning, refers to local land use ordinances that require or encourage developers to include affordable units in new residential developments.* (Lincoln Institute of Land Policy, 2014)

*Inclusionary zoning (IZ) is a land-use policy intended to enable some lower- and moderate income households to live in middle- and upper-income communities. IZ policies either mandate or encourage real estate developers to incorporate into their market-rate developments a proportion of homes that are sold or rented at below-market prices in exchange for development rights or zoning variances.\** (RAND Corporation, 2012)

\*"variance" in this context refers to *flexibility* in zoning regulations that is authorized by the local ordinance, not a variance that is subject to standard "hardship and practical difficulties" criteria.

### Goals

Typically, inclusionary housing is focused on *the creation and equitable distribution of affordable housing units*, for example, location of worker housing close to employers or employment districts, or location of affordable housing for families in high-performing school districts. By focusing on the locations where affordable housing is needed by setting aside a



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percentage of affordable units in popular locations, inclusionary zoning has the potential to mitigate income segregation by areas as well as increase the supply of affordable units.

## Characteristics

Inclusionary zoning programs exist in approximately 400-500 jurisdictions across the United States (Lincoln Institute of Land Policy, "Inclusionary Housing in the United States," 2017). Typically they are found in highly active housing markets where the strength of the market exerts upward pressure on housing prices, leaving significant affordability gaps for wage earners and persons on fixed incomes.

According to studies by the Lincoln Institute of Land Policy and the RAND Corporation,\*\* jurisdictions that have inclusionary housing programs include Davis, Irvine, San Francisco, San Mateo, and Santa Monica, California; Boulder and Denver, Colorado; Stamford, Connecticut; Washington, D.C.; Chicago, Illinois; Montgomery County, Maryland (the first and now longest-running inclusionary housing program); Cambridge, Massachusetts; the State of New Jersey; Santa Fe, New Mexico; Davidson and Chapel Hill, North Carolina; Park City, Utah; Burlington, Vermont; Fairfax County, Virginia; and Redmond, Washington.

\*\* LILP, "Achieving Lasting Affordability through Inclusionary Housing" (2014) profiled the 20 listed programs in a survey of inclusionary zoning programs in the U.S., focusing on the capacity of such programs to achieve long-term affordability; the RAND Technical Report, "Is Inclusionary Zoning Inclusionary?" (2012) featured 11 jurisdictions (all of which are also in the Lincoln Institute Study) and evaluated whether inclusionary zoning policies have succeeded in providing affordable housing units in low-poverty neighborhoods. The study also evaluated specific features of inclusionary zoning policies.

An inclusionary zoning program has the following general characteristics:

- **Mandatory, or voluntary-with incentives, set-aside** of a specified percentage of affordable dwelling units in projects of specified sizes and locations. Typically the set-aside is five to 20 percent of the total units in a project. Chicago's Affordable Requirements Ordinance is an example of a mandatory program and New York City's R10 Program is an example of voluntary inclusionary zoning with incentives. (U.S. Department of Housing and Urban Development, "Inclusionary Zoning and Mixed-Income Communities," 2013)
- In return for the set-aside, developers often receive offsets or indirect subsidies in the form of residential **density bonuses, fee waivers, or expedited permitting**. In a voluntary program, participating developers obtain the bonuses while those that do not participate are limited to the housing densities permitted by the particular zoning district. *(As an aside, note that **density bonuses** are a planning technique that can be used in other contexts, for example off-sets of increased density for developers that set-aside public open space or make extraordinary efforts to conserve sensitive landscape features)*



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- Some programs have developer “**opt-outs**” that may include building the affordable units at **a location off-site**; payment of a **fee in-lieu** to a housing fund, or **donations of land** on which housing development organizations may build dwelling units.
- Ordinances and policies designate “affordable housing units” as dwelling units that are priced or leased to be affordable to persons earning below a specified percentage of Area Median Income (AMI); for example, 80 percent of AMI defines low-income. Some jurisdictions may adopt a workforce housing strategy that aims to set-aside a percentage of new housing units at 100 to 120 percent maximum of the area median. The cost of constructing new houses and apartments combined with the capacity of households to pay without cost-burdening themselves (conventionally no more than 35 percent of gross household income should be spent on housing costs) will be used to help determine reasonable income targets.
- Jurisdictions designate areas where the inclusionary zoning requirements apply. For example, jurisdictions may designate mixed-use districts or employment centers as priorities. To promote equity or social inclusion, jurisdictions apply inclusionary zoning rules in residential districts having low poverty rates and high-performing schools so low and moderate income households have access to good schools and valued community services, such as grocery stores selling healthy foods.
- Inclusionary housing/zoning requires an administrative process that qualifies households for the set-aside of dwelling units and provides stewardship to support home purchasers or renters, and performs ongoing monitoring for compliance.

## Benefits of inclusionary housing programs

- By relying on the private sector, inclusionary zoning offers a strategy that is not dependent on a declining stream of federal funds, for example Community Development Block Grants and HOME Investment Partnerships formula funds.
- Some inclusionary housing programs are leaders in the placement of low- to moderate-income family households in neighborhoods that have low-poverty rates and high-performing schools, reducing income segregation by neighborhoods and allowing children access to high-performing schools and community amenities.
- Many inclusionary housing programs are designed to deliver long-term affordability, with terms sometimes lasting a lifetime and beyond. They allow successive low- and moderate-income occupants of homes and apartments access to affordable housing.

## Other considerations

- Depending on the jurisdiction and program design, there may be legal obstacles to set-up and implement programs. For example, there appear to be no inclusionary housing programs in Missouri (Lincoln Institute of Land Policy, “Inclusionary Housing in the United States,” 2017). Legal analysis is needed before proceeding with a program.



The Kansas legislature, for example, considered preemptive legislation over a Lawrence inclusionary housing program discussion, which may be taken as a cautionary note. ("Kansas House Limits Local Authority on Housing, Inclusionary Zoning," *Lawrence Journal-World*, March 21, 2016).

- Inclusionary housing programs tend to focus on moderate-income households and generally reach few households living in poverty. Inclusionary housing programs tend to create more housing units for ownership than rental units, with some exceptions in particular places. It is therefore not a complete affordable housing solution, but merely a component of one. Programs should be evaluated as part of a broader housing strategy to ensure all needs are served.
- There is a considerable administrative burden to set-up and administer inclusionary housing programs. The Washington, D.C. "Inclusionary Zoning Implementation" chapter of its district code is an example of how complex inclusionary zoning can become, with required interventions through the entire life-cycle of development projects, from project planning through sale, leasing, and re-occupancy of the inclusionary units. Partnerships with community land trusts and other housing and community development non-profits may be able to perform some of the services needed to administer the program as an alternative to complete reliance on in-house resources.
- Equitable distribution of low- and moderate income households via inclusionary units should include access to all necessary services, not only high-performance schools. Access to transportation, jobs, and health care services are also important.
- Inclusionary housing programs require adroit management to adapt to economic downturns and changing trends in local development and the local housing market. Housing production rates, competition from existing homes and rental units, and trends in "infill" versus "greenfield" development can affect program success. A 2013 *Center for Housing Policy* study, "After the Downturn," details some of the challenges of the last decade's foreclosure crisis for existing inclusionary housing programs, and ways programs can adapt. A 2016 report by the National Association of Home Builders (NAHB), "Inclusionary Zoning Primer," details some cases of discontinued and retooled inclusionary zoning programs (Longmont, Colorado; St. Cloud, Minnesota; Bozeman, Montana; and Madison, Wisconsin, among others).

## Fiscal Impact

Short-Term Impact: N/A, report

Long-Term Impact: N/A, report



## Vision & Strategic Plan Impact

### Vision Impacts:

Primary Impact: Health, Social Services & Affordable Housing, Secondary Impact: Development, Tertiary Impact: Community Pride and Human Relations

### Strategic Plan Impacts:

Primary Impact: Social Equity, Secondary Impact: Economy, Tertiary Impact: Tertiary

## Legislative History

Date	Action
February 19, 2018 March 19, 2018	Council Requests Report; additional comments of Council at March 19 <sup>th</sup> meeting

## Suggested Council Action

This report is intended to inform discussion on the topics of inclusionary housing and inclusionary zoning. No specific action is requested or required at this time.

Council members indicated an interest in having several boards/commissions/task forces review this topic. Staff will prepare additional materials as directed.