



Information on Inclusionary Zoning

What is Inclusionary Zoning?

Inclusionary zoning is a mechanism to generate affordable housing through governmental regulation, usually through a community's zoning code. Inclusionary zoning programs either require or offer incentives to housing developers to set aside a portion of the units they build as affordable.

Inclusionary zoning programs are not uniform. They have many different variables that profoundly affect how the programs are run and how effective they are. Variables include:

- Whether the program is voluntary or mandatory (whether developers are required to participate or whether they merely receive incentives for doing so)
- What income levels qualify as "affordable"
- What percentage of units are set aside as affordable
- Whether developers receive any additional subsidies
- How long the units remain affordable
- The size of the developments that qualify
- Whether developers can comply with the program by building units off site or by paying a fee

Inclusionary zoning programs are in use in hundreds of communities throughout the United States. California, Massachusetts and New Jersey have all adopted progressive inclusionary housing programs. Maryland's Montgomery County serves as a national model, having produced about 11,000 affordable units in the program's 25-year history.

Inclusionary zoning programs were first introduced in 1975 and remained popular throughout the late 1970s and the 1980s. Inclusionary zoning programs have recently experienced a resurgence, due to the worsening affordable housing crisis and the continuing luxury housing boom that began in the late 1990s and still has not slowed.

The Benefits of Inclusionary Zoning

Those in favor of inclusionary zoning programs believe that the program is an excellent way to create affordable housing by offering incentives to private developers to build more affordable homes. Inclusionary zoning programs have the potential to be a significant generator of affordable housing units.

Inclusionary zoning programs also foster economic integration by promoting a mix of affordable housing and market-rate housing in the same neighborhood and often in the same building. Inclusionary zoning can prevent or slow the effects of gentrification by promoting the creation of affordable housing in neighborhoods that are undergoing a housing construction boom.

In addition, affordable housing created by inclusionary zoning has two major advantages over many other types of affordable housing programs:

1. Inclusionary zoning creates affordable housing without government subsidies. The housing is produced by the private capital of housing developers, not by public funds.
2. In most cases, inclusionary zoning creates affordable housing that lasts in perpetuity. The affordable units do not expire or transition to market-rate housing after a certain amount of time. This is unique—most government-sponsored affordable housing programs (such as Mitchell-Lama, low-income housing tax credits and Section 8) have time limits built into the program.

Finally, inclusionary housing programs offer a potential win-win situation for developers, community members and the government. Depending on the incentives offered, developers can increase their profits by participating in inclusionary housing programs. Community members receive the benefits of new market-rate construction while adding to the affordable housing stock of a neighborhood and fostering economic integration. Governments see the stock of both market-rate and affordable housing go up without the use of public monies.

The Downsides of Inclusionary Zoning

Inclusionary housing programs have many critics. Some developers believe that inclusionary housing programs deprive them of their right to expend their private capital and make a profit as they see fit. They believe that it is unfair for the government to require private developers to subsidize affordable housing against their will. Many developers also believe that it is counterproductive to build affordable housing on expensive land. They believe that land in hot demand should not be constrained by rent and income limits and instead should generate the profits allowed by the open market.

Some community members are also opposed to inclusionary zoning programs. They believe inclusionary zoning programs, particularly those that offer density bonuses to developers, lead to the creation of bulky, ugly buildings that do not fit into the existing neighborhood fabric. Many community members also do not appreciate the influx of many new households to their neighborhood. They believe that these newcomers, particularly those in the affordable units, place a strain on the existing infrastructure and city services. This complaint is most often focused on schools, as some community members feel the influx of families in affordable housing diminishes the quality of neighborhood schools.

Lastly, critics charge that inclusionary zoning programs are simply not effective. They state the voluntary programs do not produce many affordable units because developers simply choose not to participate. They state that mandatory programs discourage housing development altogether, either market-rate or affordable. Critics state that inclusionary housing programs have the potential to halt all housing development and at best only produce a marginal number of affordable units.

Inclusionary Zoning in New York City

New York City's inclusionary housing program was adopted in 1987. The program is in effect only in Manhattan, not in the outer boroughs. The parameters of New York City's inclusionary zoning program include:

- The program is voluntary, not mandatory.
- The program provides incentives for developers to create affordable housing by offering them a density

bonus. The program allows developers to increase the size of their buildings by up to 20 percent in exchange for creating low-income housing nearby.

- Developers receive up to four square feet of development rights for every one square foot of low-income housing they produce.
- The program allows developers to increase the maximum square footage of their building from 10 times the building's footprint up to 12 times the footprint.
- Developers can include the affordable units as part of their market-rate development, or, more commonly, they can pay for the creation of affordable housing off site.
- If developers choose to build off site, all affordable units they produce must be located within a half-mile of the market-rate development, to prevent gentrification and foster economic integration.
- The apartments created by the program are often large, because the incentives are tied to the square footage of the affordable housing produced, not to the number of units or the number of rooms.
- The affordable units produced remain affordable in perpetuity, as long as the market-rate housing created remains in existence.
- In the past few years, New York's inclusionary zoning program has produced close to 100 apartments per year.

Next Steps for Inclusionary Zoning in New York

Proponents of inclusionary zoning hope to expand the city's inclusionary housing program to the outer boroughs. In particular, they hope to expand the program to rapidly gentrifying areas that are currently being re-zoned from manufacturing to residential, such as Greenpoint, Williamsburg and other areas along Brooklyn's waterfront.

In addition, some proponents of inclusionary zoning want the program to be mandatory, not voluntary, to increase its overall effectiveness.

Proposals to expand the city's inclusionary housing program have not met with a great deal of success. In April 2003, the City Council rejected a bid to include an inclusionary housing program in its re-zoning of Park Slope, instead offering a lump sum for the development of affordable housing. Many of the city's housing activists, however, continue to fight for inclusionary zoning programs.