



Inclusionary Zoning 101

What is inclusionary zoning?

Inclusionary zoning requires that a certain portion of units within a housing development be set aside as affordable to low- or moderate- income households. In effect, it relies on the private market to generate affordable housing by tying the production of affordable housing to the production of market-rate housing. From a legal perspective, it relies on a municipality's power to govern land use for a legitimate public purpose (in this case, increasing the supply of affordable housing); at the state level, Massachusetts is one of about a dozen states that has passed legislation enabling local inclusionary zoning. Though it was first introduced in the 1970s, most inclusionary zoning policies have been adopted within the past 20 years in response to rising housing costs and, in Massachusetts, in response to the end of rent control. Inclusionary zoning requirements are often paired with bonus measures, such as increased density or expedited permitting, to offset the cost of the affordable units.

Benefits and Challenges

Inclusionary zoning has become a popular tool for municipalities to generate affordable housing; in 2017, nearly 900 jurisdictions across the country had inclusionary zoning policies, including over 100 cities and towns in Massachusetts. Benefits include:

- It requires virtually no public subsidy (though the municipality must have the capacity to effectively administer the program).
- If affordable units are required on-site, it creates integrated, economically diverse communities and provides access to housing options in locations that might otherwise be or become unavailable to lower-income households.
- It offers a way to address the needs of moderate-income residents that may not be served by other programs.
- It offers clarity and consistency in the permitting process.

However, despite widespread popularity, inclusionary zoning is not universally supported, nor will it single-handedly solve the housing affordability crisis. Challenges include:

- Many developers and economists argue that inclusionary zoning effectively increases the cost of market-rate units because each project must internally cross-subsidize the affordable units. If the cost of the affordable units is too great, developers may simply choose to not build at all, resulting in fewer overall units.
- The cost of an inclusionary policy is most typically passed on to landowners, because the cost of land is one of the few development variables that is not dictated by the market. This could potentially result in decreased land values.
- It does not serve the neediest households. Inclusionary policies are typically most effective when they target moderately-low or even middle-income households. Lower-income units



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require a deeper level of subsidy, making them more likely to render a project financially infeasible.

- It is a long-term strategy. In any given year, the number of units produced may be relatively small; its greatest benefits are cumulative.

There isn't universal agreement on how inclusionary zoning policies affect housing production and market-rate housing prices. However, experts generally recommend that, to minimize the risk of dampening the local housing market, a policy be carefully aligned with local market conditions and provide meaningful and realistic cost offsets (for example, a density bonus is meaningless if community opposition to increased heights means a developer can't take advantage of it).

Elements of Inclusionary Zoning

Although the details vary widely in response to local housing goals and market constraints, most inclusionary zoning policies contain the following elements:

- Whether the program is voluntary or mandatory. Mandatory programs are generally more effective in producing affordable units.
- Requirement threshold, or size of the development that triggers the inclusionary policy.
- Requirement for the percentage of units (or floor area) that must be affordable.
- Income levels targeted, for both rental and ownership units. Some cities have tiered programs that target more than one income level. In Massachusetts, many policies are designed so that affordable units can be included on the state's Subsidized Housing Inventory.
- Alternatives for unit location, or whether the units are provided on-site, off-site, or in the form of an in-lieu payment. On-site is preferred for equity reasons; if units are provided off-site, they should have a similar level of access to amenity and opportunity. If an in-lieu fee is permitted, it should be sufficient to cover the actual costs to construct a unit.
- Incentives or cost offsets available to the developer. Policies are most effective when incentives are included.
- Length of affordability requirement and resale restrictions for ownership units; best practice is to require affordability in perpetuity.
- Whether the affordable units must be comparable to the market-rate units.
- Geographic area. Although some cities limit inclusionary policies to certain neighborhoods, citywide policies are preferable for consistency and to maximize the number of affordable units.

Each of these items comes with a cost, and balancing specific requirements will depend on a city's housing goals. For example, one city may emphasize a greater number of affordable units at a higher income level, while another might emphasize fewer units that provide deeper affordability.