

Inclusionary Zoning



Ideas You Can Use

From HUD's
Regulatory
Barriers
Clearinghouse

Problem



- ◆ Tight government financial resources
- ◆ Growing affordable housing need
- ◆ Government non-monetary alternatives

What To Consider When Designing An Inclusionary Zoning Ordinance?



Possible Issues



- ◆ Statutory Authority
- ◆ Voluntary or mandatory
- ◆ Affordable requirements
- ◆ Applicability
- ◆ Targeting
- ◆ Alternatives
- ◆ Compliance period
- ◆ Penalties
- ◆ Compensating incentives

Statutory Authority



- ◆ Assumed by common law
- ◆ Home rule power
- ◆ Authorized by state

Vermont Statute



- ◆ Vermont – Section 4414
 - Conform to housing element
 - Result from a needs analysis
 - Include incentives
 - Long-term availability

Do you want to...



Encourage developers
or ...

Require them

Voluntary Ordinances



- ◆ More easily enacted & implemented
- ◆ Less likely to face legal challenges
- ◆ Winston–Salem
- ◆ Long Beach

Voluntary (cautions)



- ◆ Produces few affordable units
- ◆ Determining the right amount and mix of incentives difficult

Mandatory Ordinances



- ◆ Produce more affordable units
- ◆ Uniform and predictable
- ◆ San Diego

Mandatory (cautions)



- ◆ Development community resistance opposition
- ◆ Increased chance it could be litigated as a “taking”

Hybrid Ordinance



- ◆ Only if developer seeks government aid
- ◆ Arlington County
- ◆ Santa Fe

A screenshot of the RBC Regulatory Barriers Clearinghouse website. The page title is "Regulatory Barriers Clearinghouse". The main content area is titled "Details" and shows the "Title" as "Santa Fe, New Mexico Zoning Ordinance". Under "Highlights", there are two items: a red X icon with the text "There is implicit recognition that the zoning ordinance does not provide incentives to create affordable housing" and a green checkmark icon with the text "The code gives the city authority to create incentives and requirements for inclusionary zoning and a housing opportunity program." Under "Description", there is a paragraph of text starting with "Chapter 14 of the Santa Fe City Code Land Development Laws covers the city's authority to regulate and restrict zoning." The "Publication Date" is listed as "2001".

Poll Question



- ◆ What type of ordinance does your community have or is it considering?
 - Voluntary
 - Mandatory
 - Hybrid
 - None

**What percent
of the project
do you want to
be affordable?**



Affordable Requirements



- ◆ San Diego
 - At least ten percent

- ◆ Burlington
 - Rental – 15 to 25 percent
 - For Sale – 0 to 25 percent

Do you want
the regulations
to apply to *all*
development?



Applicability



- ◆ Burlington
 - Five or more dwellings (new construction or sub rehab)
 - Ten or more dwellings (reuse or conversion)

- ◆ San Diego
 - All residential developments (redevelopment area exceptions)

- ◆ Arlington
 - Residential and commercial

Poll Question



- ◆ Does your inclusionary ordinances apply to:
 - Residential development with exceptions?
 - All residential development?
 - All development?

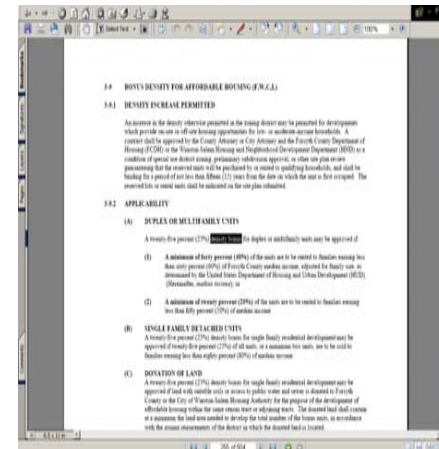
**What target
population
do you want
to serve?**



Targeting Beneficiaries



- ◆ **Winston Salem**
 - Rental – 60 %
 - Homeowner – 80 %
- ◆ **Boulder**
 - Rental – HUD low income limit
 - Homeowner – HUD low income limit plus 10 %



**Do you want
the units to be
comparable to
other units?**



Comparability



◆ Burlington

- Bedroom mix same
- Interior amenities and size can be less
- Differences not visible

**How to meet
the
requirements?**



Meeting the Requirements



- ◆ All units must be on site
- ◆ Units may be developed elsewhere
- ◆ Existing units may be dedicated
- ◆ In lieu fees can be paid
- ◆ A combination of all of the above

Alternatives



- ◆ **Santa Fe**
 - Allows cash, land, labor, or other in-kind
 - Two percent processing fee

- ◆ **Burlington**
 - Allows off-site units
 - Requirement increases by 25 percent



Do you want a long-term compliance period?

A screenshot of the RBC Regulatory Barriers Clearinghouse website. The page has a blue header with the RBC logo and navigation links. The main content area is white with a blue sidebar on the left. The sidebar contains links for "What's New", "About Us", "Search Database", "Newsletter", "Subscribe to RBC Listserve", "Relevant Publications", "Announcements", "Brochure", "Submit Experiences", and "Contact Us". The main content area features a welcome message, a "Regulatory Barriers Content" box with a link to a comprehensive list, and a "Regulatory Barrier Category Definitions" table. The table lists various categories such as Administrative Processes & Streamlining, Fees and Assessments, Rent Controls, Tax Policies, Building & Housing Codes, Planning & Growth Restrictions, State and Local Environmental and Historic Preservation, Zoning, Land Use, and Environmental Construction and Subdivision Regulations, Fair Housing and Neighborhood Dispersal, Redevelopment/Refill, and Rent Enforcement Process. Below the table are three boxes: "Features" (listing an electronic database, searchable database, toll-free number, and listserve), "News" (listing a web-based training on inventory criteria for reducing regulatory barriers and new records added to the database), and a "MT DRAB" logo. A disclaimer at the bottom states: "Notice: The contents of the records contained on this site reflect the views of the authors and/or promulgating agencies and should not be construed as representing the views or actions of the U.S. Department of Housing and Urban Development."/>

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Regulatory Barriers Clearinghouse

Welcome to HUD's Regulatory Barriers Clearinghouse (RBC). This site is hosted by HUD's Office of Policy Development and Research and is part of the HUD USER Research Information Service and Clearinghouse. RBC was created to support state and local governments and local organizations seeking information about laws, regulations, and policies affecting the development, maintenance, availability, and cost of affordable housing. This site is built around a searchable database that contains literally thousands of regulatory reform strategies from around the country. Our [newsletter](#) features what we regard as some of the best affordable housing strategies currently in play. To keep up with new developments in affordable housing and regulatory reform, [sign up for our monthly listserve](#). You can also call us at 1-800-245-2691, option 4 for additional assistance.

[View a comprehensive list and outline of all regulatory barriers and solutions identified so far.](#)

Regulatory Barrier Category Definitions

Administrative Processes & Streamlining	Fees and Assessments	Rent Controls	Tax Policies
Building & Housing Codes	Planning & Growth Restrictions	State and Local Environmental and Historic Preservation	Zoning, Land Use, and Environmental Construction and Subdivision Regulations
Fair Housing and Neighborhood Dispersal	Redevelopment/Refill	Rent Enforcement Process	

Features

- An electronic database
- A searchable database
- A toll-free number
- A listserve

News

- Web-Based Training on Inventory Criteria for Reducing Regulatory Barriers
- New Records added to the database

MT DRAB
Multi-Tiered Database of Regulatory Barriers

Notice: The contents of the records contained on this site reflect the views of the authors and/or promulgating agencies and should not be construed as representing the views or actions of the U.S. Department of Housing and Urban Development.

Compliance Periods



- ◆ Winston-Salem – 15 years
- ◆ San Diego – Not less than 55 years
- ◆ Boulder – Permanent

You want your
monitoring to be
simple and easy,
don't you?



Compliance Mechanisms



- ◆ **Boulder**
 - Restrictive covenants and other written agreements

- ◆ **Burlington**
 - Deed restrictions and/or agreements



Making the Developer Whole: Compensating Incentives

- ◆ Avoid creating a barrier
- ◆ Increase developer support
- ◆ Reduce chance for a successful court challenge

What Package of Incentives do You Want to Make Available?



Compensating Incentives



- ◆ Bonus densities
- ◆ Streamlined processing
- ◆ Exempt increase in value of property from assessment for property tax purposes

Additional Compensating Incentives



- ◆ Fee waivers or deferrals
- ◆ Reduced parking requirements
- ◆ Variances to Setbacks
- ◆ Design Flexibility



**What Type of
Density
Bonus is
Most
Appropriate?**

Amount of Bonus



- ◆ **Santa Fe**
 - One for one up to a 50 percent increase
- ◆ **Burlington**
 - Up to 25 percent depending on zoning district

Poll Question



- ◆ Is neighborhood opposition growing to density bonuses?
 - No
 - Little
 - Moderate
 - Strong



Inclusionary Zoning Conclusion

- ◆ Relatively new tool
- ◆ Somewhat complicated with many options
- ◆ Regulatory Barriers Clearinghouse ready to assist

Inclusionary Zoning



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How can you benefit?



- ◆ Join the listserv
- ◆ Visit our site
- ◆ Read our newsletter
- ◆ Call 800-245-2691, option 4

How can you help others benefit?



- ◆ Electronic announcement
- ◆ Brochures
- ◆ Provide link
- ◆ Create your own announcement
- ◆ Submit information

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