

Inclusionary Zoning Now in 131 Communities (revised 06-Dec-03)

Following Montgomery County, Maryland's lead, at least 130 cities, towns, and counties have enacted inclusionary zoning (IZ) ordinances Table 1). About 13 million people (about 5 percent of the USA's population) live in communities where local government mandates mixed-income housing.

IZ jurisdictions range in population size from giant Fairfax County, Virginia (945,717) to the tiny Town of Isleton, California (818). Some 107 counties and municipalities in California have enacted IZ laws (about one-fifth of all local governments in that state), but there are other clusters of IZ communities in the Washington, DC and Boston regions (also high-cost housing markets). In September 2003, Highland Park, a suburb of Chicago, passed the first IZ law in the Midwest.

Municipal governments have adopted IZ laws in at least 31 counties. The 31 pioneers averaged only 16 percent of their counties' population at the time they adopted their area's first IZ law. However, additional neighbors have followed suit and a dozen county governments have enacted IZ laws covering unincorporated land so that, on average, IZ requirements now cover over half (54 percent) of the 31 counties' populations.

For example, Pleasanton was less than 5 percent of the population in California's Alameda County when it adopted its IZ ordinance in 1978. However, similar laws enacted by San Leandro (1980), Berkeley (1986), Livermore (1986), Emeryville (1990), Dublin (1996), Union City (2001), Fremont (2002) and Alameda County itself (2000) have raised IZ coverage to 55 percent of that East Bay county's population.

Each community tailors its ordinance to its own housing needs and building industry scale. The key issues are minimum project scale ("trigger point"), percentage of inclusionary units required ("set-aside"), maximum income for eligible households, size of density bonus, and length of control period for re-sale prices or rents.

Inclusionary requirements are triggered by housing developments as low as a minimum of five units and as large as a minimum of 50 units (table A). The most common threshold at which IZ is required is ten or more units.

Set-aside percentages for affordable housing range from as low as 5 percent to as high as 35 percent (table B). Almost three-quarters of the communities require setting aside between 10 and 15 percent of the total units in eligible developments as affordable housing.

Maximum eligible income ceilings range from 30% AMI (area median income) to 120% AMI (table C). (The federal Department of Housing and Urban Development provides annual AMI calculations for all metro areas.) Many communities apportion units among different income levels (for example, 25 percent of the units for less than 50% AMI, 50 percent of the units for less than 80% AMI, and 25 percent of the units for less than 120% AMI).

About 40 percent of all jurisdictions target all or a portion of the inclusionary housing for households under 80% AMI. Many of these allocate an additional proportion for households from 81% - 120% AMI. (All these communities are in Northern and Southern California and the Boston area, with their sky-high housing costs.)

One fifth of all jurisdictions target all or a portion of the units for very low income households (50% AMI). Reaching even lower on the income scale typically requires funneling public housing subsidies into the program through actions such as having the public housing authority purchase affordable units outright or using housing vouchers in rental properties.

Density bonuses are utilized by 95 percent of all IZ ordinances as a primary cost-offset for homebuilders, though other cost-offsets are also common. In California, 44 percent of IZ laws offer fast-track processing, 42 percent waive certain fees, 42 percent allow reduction of certain standards (like parking requirements), and 38 percent provide cash subsidies.

Re-sale price and rent control periods generally are quite long in order to maintain a stable, long-term inventory of affordable housing (table D). Only 14 programs have control periods of only 10 or 15 years. Twenty (20) communities require a minimum 20-year control period; 47, a 30-year control period; seven, 40 to 45 years; 20, 50 to 55 years; five, 59 to 60 years; four, 99 years; and 23 require IZ housing to be permanently affordable.

Somewhere in the USA, there is a community whose current IZ policy would match the needs and housing industry scale of any size jurisdiction.