PolicyLink

Expanding Housing Opportunity in Washington, DC

The Case for Inclusionary Zoning

A PolicyLink Report

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About the Report

PolicyLink developed this report at the request of a broad set of neighborhood, civic, community, social service, and labor organizations in Washington, DC. Inclusionary zoning is currently being considered as one strategy to help meet the District's affordable housing needs. This report offers an independent evaluation of the best practices in inclusionary zoning and considers their relevance to DC. Organizations requesting this report are committed to meeting the affordable housing needs of the District. They include:

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Preface

by James O. Gibson

Washington, DC is in the forefront of older cities experiencing a resurgence of economic investment. The city is, in many ways, leading a new era of urban growth that is producing robust central city revitalization across the country after decades of decline. The District's downtown is newly vibrant with nightlife and starting to be repopulated with affluent young professionals and empty nesters. A new state of the art convention center distinguishes Washington, DC among the nation's major meetings venues, and the office vacancy rate is the envy of other cities. In fact, new residential and commercial development and cultural and entertainment offerings are increasing in neighborhoods throughout the city.

I have worked on economic and community development issues in this city for nearly four decades. Experience allows me to attest that we have come ~~if~~ not full circle ~~at~~ least to a point many degrees from the low point of the early sixties when we struggled in the wake of population and job losses that contributed to making our suburbs some of the fastest growing and richest in the nation. This overall regional growth was marked in part by a long period of economic disinvestment in the central city.

The call in this report for adoption of an inclusionary zoning policy in the District of Columbia underscores how far the city has come since that period. A creative private sector has willingly partnered with government in reversing the pattern of disinvestment of that earlier era; dramatic success in recent years now forces a full examination of the question, "Who benefits?"

The dramatic change in Washington's investment situation over the past decades did not occur by accident. The city and the federal government have generated numerous policies and plans, and invested billions of dollars in major public improvements to preserve the District of Columbia's role as the vital center of this region. The subway system was built. The Pennsylvania Avenue Development Corporation catalyzed the revitalization of our Central Business District. Urban renewal funds made possible the vibrant mix of retail, hotel, and office uses at Metro Center; the MCI Center and other new developments along the 7th Street corridor; the Frank Reeves Municipal Center at 14th and U Streets; and the emerging Town Center at 14th Street and Park Road in Columbia Heights, to highlight only a few publicly supported initiatives.

In the 1960s, President Lyndon Johnson appointed me to the National Capital Planning Commission, when NCPC still had responsibility for local planning in the nation's capital. As chair of the Commission's two committees focused on the District of Columbia—Public Improvements and Housing and Urban Renewal ~~I~~ played a role in forging policies that have figured substantially in shaping current investments, including planning track alignments for the Metro system and developing the urban renewal programs designed to re-ignite investment in areas severely damaged in the riots that followed the assassination of Martin Luther King, Jr. Soon after home rule came to the District, I served as Washington's principal municipal official responsible for planning and development policies, during the period when the city's first locally developed comprehensive land use plan was initiated. We gave priority both to developing a "Living Downtown" and to mitigating the conditions of poverty and growing economic and social isolation plaguing so many neighborhoods in the inner city.

Today's resurgence in the city is neither an accident nor a random outcome of private investor enlightenment. It is the product of deliberate public policies and investments made over many years and a testament to their efficacy. And while I feel privileged to have played a role in relation to several of them, like others involved over the years in Washington's planning and development, I now realize that we did not plan fully for how best to guide the city's current level of success.

Currently, I chair the board of The District of Columbia Community Partnership for the Prevention of Homelessness. In this role I see some of the direst consequences of Washington's escalating housing costs: the elderly and working families being forced from their homes and neighborhoods; more and more children forced to live in shelters; adults working full time yet unable to afford housing; essential community support services for our most vulnerable populations scrambling to find adequate facilities.

Yes, investment is returning, but the benefits of investment are not as widely shared by District residents as the city's income realities, quality of life, and vital social needs demand. A broader cross section of our population must have access to the community improvements and asset creation accruing from our past substantial public investments. Through service on the Steering Committee of DC Agenda's Equitable Development Initiative, I am collaborating with leaders from government and the private and nonprofit sectors to try to ensure that the benefits of development are shared more broadly across the income spectrum. As the chair of the board of PolicyLink, which is conducting analyses of equitable development policies, practices, and outcomes across the country, I see an increasing number of communities fostering greater opportunity to ensure that more of their residents reap benefits from the new investments that tax monies have helped to make possible.

This report and the inclusionary zoning strategy it recommends present a key opportunity for the District. By drawing on related experience from around the Washington metropolitan area and elsewhere in the nation, we can more fully realize the goal we have striven for over the years—building a racially diverse, vibrant, mixed income community where quality housing is accessible to the broadest possible cross-section of our community.

I want to thank the insightful leaders in our community who contributed to this report. ACORN members in the city were among the first to recognize that the developments going up in their neighborhoods would ultimately force them out if affordability provisions were not tied to development. The District should act to address their concerns through proactive, equitable development policies, and one such policy inclusionary zoning is the focus of this report.

James O. Gibson
Chair, PolicyLink

Executive Summary

Washington, DC is emerging from a long period of decline, thanks to private and public investments that are reinvigorating the city. This new prosperity, however, is not without a downside. Dramatic investments in once neglected neighborhoods have brought new benefits to some District residents, while others are being priced out of their homes. The challenge facing the nation's capital is how to strike a balance between growth and opportunity.

Connecting the two in a city as racially and economically diverse as the District will require innovation. In the next ten years, Mayor Anthony Williams seeks to attract 100,000 new residents to the District, hoping that the taxes they pay will contribute to the quality of city life. But high housing costs make it difficult for people to move to the District, as well as for current residents to stay. Ways must be found to make housing affordable across the wide range of income levels in Washington, DC.

Inclusionary zoning (IZ) is a tool that can put a good place to live within the reach of a broad cross-section of District residents. IZ requires developers to make a percentage of housing units in new residential developments available to low- and moderate-income households. In return, developers receive non-monetary compensation in the form of density bonuses, zoning variances, and/or expedited permits that reduce construction costs.

DC's Affordable Housing Challenge

Many District families pay too much for housing. Incomes have not kept pace with housing prices; from January 1999–March 2003, the sale price of homes rose four times faster than income, and the price of rentals rose three times faster. A household in DC would need to earn $85,052 to afford to purchase the average home, and $72,160 to afford the average rental. Yet, the median household income is $52,300. More than 35 percent of renters and 24 percent of homeowners are paying more than they can afford for housing.

Where families live can be just as important as how much they pay. Residents in poor neighborhoods typically are isolated from livable wage jobs, quality education, adequate health services, and protection from crime. The 2000 Census revealed an increase in high poverty neighborhoods in the District, partly attributed to lower income residents being displaced from once affordable neighborhoods into poorer ones. Inclusionary zoning has the potential to change this dynamic by producing more affordable housing units in developments throughout the District. With thoughtful planning and administration, inclusionary zoning can result in mixed-income communities that provide access to economic and social opportunity.

Benefits of Inclusionary Zoning to DC

For almost 30 years, cities and jurisdictions throughout the United States have been using inclusionary zoning principles to make affordable housing possible. In the Washington, DC, metropolitan area alone, by July 2003, IZ programs had produced over 15,000 units of affordable housing. IZ can contribute to a housing climate that is attractive to new residents and supportive to existing residents by:

- Creating mixed-income communities;
- Producing affordable housing that attracts a diverse labor force;
- Connecting residents in high poverty neighborhoods to opportunity; and
- Designing consistent regulatory guidelines for developing affordable housing.

Recommendations

This report analyzes the experiences of jurisdictions in the US to offer recommendations for Washington, DC in designing a proactive IZ program that can support growth and ensure affordability.
The recommendations are:

- **Adopt a *mandatory* inclusionary zoning policy.** Evidence from jurisdictions coast to coast makes it clear that mandatory inclusionary zoning programs produce more affordable housing than voluntary ones. Washington, DC, which has been considering a voluntary program, should adopt a mandatory policy given the clear benefits of this approach.

- **Design an IZ program that allows developers to contribute to affordable housing *and* make a profit.** Developers benefit from inclusionary zoning through non-monetary cost-offsets such as density bonuses and fast track permitting. The District of Columbia should plan an IZ program that delivers a "double bottom-line" by creating cost-offsets that allow developers to profit, while developing affordable housing for low- and moderate-income wage earners.

- **Establish income targets for the policy that reflect the affordable housing needs of the community**. Inclusionary zoning can be structured to meet affordable housing needs at various income levels. Since the District has affordable housing needs across a range of income levels, tiered income targets [e.g., half of all units at 50 percent Area Median Income (AMI), half at 80 percent AMI] would help meet these various needs.

- **Reach extremely low-income families by packaging inclusionary units with other affordable housing resources**. The affordable housing created through inclusionary zoning programs can meet the needs of residents with the lowest incomes (30 percent of AMI or less) by linking it with HUD Housing Choice Vouchers Program (formerly known as Section 8). Coupling IZ with homebuyer assistance can put ownership units within reach of low and moderate income households.

- **Deliver the most housing units by applying inclusionary zoning to the majority of residential development**. Approximately 85 percent of the District's residential development is occurring in developments of ten or more units, so regulation should apply to all developments this size or larger.

- **Require long-term affordability**. IZ programs that mandate long-term affordability agreements 30 years is common ensure that housing opportunities are sustained into the future. With housing prices rapidly escalating and limited land available for new development, a District IZ program must include long-term affordability protection.

- **Achieve more equitable distribution of affordable housing by limiting the use of alternatives.** While jurisdictions may offer developers alternatives such as fees in lieu of development or off-site construction, on-site development best develops mixed-income communities and minimizes race and income segregation. Given the increase in high poverty neighborhoods in DC, the District should minimize the use of these alternatives.

- **Maximize IZ impact through clear legislation and consistent administration.** The District's enabling legislation should be clear about the obligations of developers and the administrative agency, appoint the public agency (e.g., Housing and Community Development) best suited to administer IZ, and empower it with the necessary resources.

Many factors make it a critical time to implement a mandatory inclusionary zoning policy in the District. Those factors include: renewed residential investment, an escalating housing market, increasing housing cost burdens on residents and newcomers, increased displacement, and an ambitious mayoral plan to attract 100,000 new residents. The District can make a major stride toward meeting its goals for growth and affordability by committing to one of the most effective tools in the affordable housing toolkit—inclusionary zoning.

Full report available on-line: www.policylink.org

Introduction

Washington, DC stands at a crossroads. After a long period of decline, our nation's capital is undergoing an economic renaissance. Significant public and private investment is flowing into communities and dramatically improving once neglected neighborhoods. While the District is enjoying growing prosperity, it also faces the indisputable challenge that whole segments of its population are being left behind. Many DC residents are not benefiting from the revitalization that is underway, and increasingly find themselves priced out of their homes. The District can build on its recent growth by putting policies in place that tie growth to opportunity for the broadest possible spectrum of residents.

"Development is generating tension and uncertainty about the future among people who fear gentrification of the city will force them out, will be bad for them."
—Alice Rivlin, Brookings Institution[1]

The current administration must implement policies that strike this balance between growth and opportunity. Mayor Anthony Williams has set a goal to attract 100,000 new residents to the District over the next ten years as a way to increase the tax base and strengthen the fiscal health of the District. However, there is broad community recognition that reaching the 100,000 new residents goal must occur simultaneously with efforts to strengthen opportunity for residents currently living in the District who are in danger of being forced out.

"Nothing opens the door to opportunity like the door to a home."
—Mayor Anthony Williams, Inaugural address January 2003

The key to reaching both objectives lies in the creation of a residential growth strategy that includes affordable housing as its centerpiece. A commitment to affordable housing will help the District increase its base of taxpayers without displacing existing residents—a key element of sustained growth.

The District's development dynamics and its residential-growth focus make inclusionary zoning an important affordable housing policy for the nation's capital. Inclusionary zoning (IZ) requires private developers to set aside a percentage of housing units in new residential developments—both ownership and rental units—to be affordable to low and moderate income families. Hundreds of communities across the country have utilized IZ to promote housing affordability and foster mixed-income communities.

This report explores the promise of inclusionary zoning.

Part one considers the relevance of inclusionary zoning for the District. This section:

- Reviews the District's affordable housing need;
- Provides a brief overview of IZ policy and its use nationally;
- Offers some of the potential benefits that could accrue to the District if IZ is adopted; and
- Projects the potential affordable housing production levels that the District may be able to realize through inclusionary zoning.

Part two of the report analyzes the experiences of other jurisdictions and presents recommendations for the District of Columbia to consider as it develops its own inclusionary zoning policy. These recommendations include:

- Adopt a *mandatory* inclusionary zoning policy;
- Design an IZ program that allows developers to contribute to affordable housing *and* make a profit;
- Establish income targets for the policy that reflect the affordable housing needs of the community;
- Reach extremely low-income families by packaging inclusionary units with other affordable housing resources;
- Deliver the most housing units by applying inclusionary zoning to the majority of residential development;
- Require long-term affordability;
- Achieve more equitable distribution of affordable housing by limiting the use of alternatives; and
- Maximize IZ impact through clear legislation and consistent administration.

Part One: Relevance of Inclusionary Zoning to the District

Incomes of DC residents have not kept pace with housing prices: from January 1999-March 2003, the price of homes for sale rose *four times* faster than incomes and the price of rentals rose *three times* faster.[2] A household in DC needs to earn $85,052 to afford to purchase the average home, and $72,160 to afford the average rental.[3] Yet, the median household income is $52,300.[4]

As a result, many District residents—including working families, recent college graduates, civil servants, and low-income wage earners—pay too much for housing. The federal government defines 30 percent of household income as the maximum that a renter or homeowner should spend on housing. By this standard, more than 35 percent of renters and 24 percent of homeowners in Washington, DC, are paying more than they should. Lower-income wage earners are the hardest hit: of DC households earning $20,000 or less year, 67 percent of renters and 65 percent of homeowners pay too much for housing.[5]

There are other indicators of a serious, unmet demand for affordable housing in the District. As of October 1, 2002 there were 26,000 people on the Housing Choice Vouchers Program (HCVP) waiting list (formerly know as Section 8), and roughly half of the 8,000 recipients holding vouchers are unable to find housing before their vouchers expire. The DC Housing Authority attributes the low success rates to the appreciating real estate market and the strong demand for affordable housing.[6] As of January 2003, there were almost 8,000 homeless in the District—indicating that people increasingly have nowhere to turn for housing.[7] Overcrowding is also an issue: almost 17 percent of poor residents (those with income below the poverty limit of $17,000 for a family of four) live in housing with more than one person per room, and 10.2 percent have more than 1.5 persons per room.[8]

In addition to the need for more affordable housing, the District faces the challenge of ensuring that affordable housing is more equitably distributed across the city. There has been an increase in high poverty neighborhoods, many clustered in the southeast section of the city. As of 2000, more than eight out of every ten residents of these high poverty neighborhoods (84 percent) were African American, compared to 60 percent of the city's total population. The Latino share of population living in high poverty neighborhoods is 5.3 percent, Asian is 2.1 percent, and white is 8.7 percent.[9] This income segregation is likely to become more acute as the gentrification of once affordable neighborhoods like Columbia Heights and Shaw proceeds, requiring displaced residents—often people of color—to seek housing in lower-income neighborhoods.

Meeting the housing needs of its residents is an imperative for the District. Housing is more than shelter: it is a critical determinant of opportunity. Living in a decent house in a good neighborhood facilitates access to better schools, jobs, social networks, and public services. Paying an affordable rent or mortgage frees up resources for other important needs such as health insurance, transportation, and investing in the education of one's children.

Public Sector Housing Alone Cannot Solve the Affordable Housing Crisis

Recognizing the importance of affordable housing to resident stability and the long-term health of the District, the city has stepped up its efforts through the Housing Authority, Department of Housing and Community Development, and the Housing Finance Agency. In fiscal year 2002, the District government closed financing on 2,510 new and rehabilitated housing units, with development budgets totaling $241 million. Of these, only 413 units (16.5 percent) were new additions to the affordable housing stock. The remaining 2,097 were rehabilitations of existing units.[10] While this improves the quality of the publicly subsidized affordable housing stock, contribution to the overall supply of affordable housing has not kept up with demand.

Though the public sector is making a significant investment in affordable housing, it cannot resolve all of the related issues alone. To be successful, the effort needs to be a broad-based one that involves the private and nonprofit sectors as well.

Expiring Affordability

There has been a net loss of federally subsidized public housing in Washington, DC. Between 1998 and 2000 the District lost 1,558 subsidized units due to expiring long-term contracts and HOPE VI conversions.
—Housing in the Nation's Capital, 2003 [11]

Inclusionary Zoning: Part of the Solution

National Context and Impact

Inclusionary zoning can help the District build on its public sector commitment to affordable housing by leveraging the dynamism of private housing investment to produce affordable homeownership and rental housing. IZ requires that a percentage of housing units in new residential developments be made affordable to low- and moderate- income households. In exchange for providing affordable housing, developers are granted various forms of compensation (e.g., density bonuses, zoning variances, and/or expedited permitting) that reduce construction costs, and ensure that developers continue to profit. Since inclusionary units are integrated with market rate units, IZ is an effective tool to *produce* affordable units and promote a more *equitable distribution* of units across a jurisdiction.

Inclusionary zoning is a flexible strategy that can be tailored to meet the housing needs of a range of income levels. Some jurisdictions focus on producing workforce housing for moderate-income families who cannot afford housing in the private market. Others target very low wage earners and the extremely poor by packaging inclusionary units with other housing resources. (A more in-depth discussion about setting affordability requirements can be found in part two of the report.)

Impact of Inclusionary Zoning in California

The state of California is home to the most IZ programs: 107 jurisdictions utilize this policy to produce affordable housing. About one-third of known inclusionary programs in the state reported production numbers accounting for 34,000 units of affordable housing.
—Nonprofit Housing Association of Northern California and California Coalition for Rural Housing[12]

Inclusionary Zoning in Montgomery County

Montgomery County requires all housing developments of 35 units or more to make at least 12.5 percent of the units affordable to low-income households. If the developer sets aside more than 12.5 percent as affordable, the county provides a "density bonus" of up to 22 percent. This density bonus allows developers to build more units than allowed under standard zoning rules.

For example, in a 100-unit project, a 15 percent set-aside would allow the developer to build 122 units. Eighteen of these 122 would have to be affordable to families below 65 percent of the Area Median Income (AMI), or $56,550 for a family of four. The developer sells the other 104 units at market rate, which is four more market units than would have been permitted without the bonus.

The county also grants the local Housing Opportunities Commission (HOC) first right of refusal for purchasing up to a third of the project's affordable units (in this case 6 units), so that they may be rented or sold to even lower-income families, and made affordable indefinitely. Otherwise, affordability requirements on the inclusionary units stay in place for 10 years for ownership units and 20 years for rentals.

To date, IZ policies have been most effective in areas experiencing growth and investment in the housing market, since the creation of affordable units is a function of residential development. Therefore, there is a concentration of inclusionary zoning policies in growing metropolitan regions, the Northeast (e.g., Massachusetts, New Jersey, the greater Washington region), the state of California, and cities in other parts of the country that have growing or expensive housing markets (e.g., Denver, Colorado and Santa Fe, New Mexico).

In 1974, the District's neighbor, Montgomery County, Maryland, was the first jurisdiction in the country to establish an inclusionary zoning ordinance. To date the county has produced 11,210 units of affordable housing.[13] Since then, hundreds of communities have utilized IZ to help foster mixed-income neighborhoods that are racially and economically diverse. Several counties in the DC metropolitan area have established IZ programs with impressive results in the production of affordable units. As of July 2003, surrounding jurisdictions produced over 15,000 units of affordable housing as a result of an inclusionary requirement.

Table 1. Production Numbers for DC Metro Area Inclusionary Zoning Programs

Jurisdiction	Year Created	Units Produced (as of 7/03)
Montgomery County	1974	11,210
Fairfax County	1990	1735
Loudoun County	1993	707
Prince George's County	1991[14]	1,600
Total Production for DC Region		**15, 252**

Compiled by PolicyLink based on multiple sources.[15]

Inclusionary Zoning Has Not Dampened Private Development

A common question about inclusionary zoning is: "What impact will it have on developers' willingness to build?" While research on this question shows that housing production has not declined in jurisdictions with inclusionary zoning, no studies have undertaken a comprehensive analysis of changes in developer profit once IZ is adopted. Some jurisdictions conduct economic feasibility studies that look at the real costs of development to determine the parameters of their IZ policy and appropriate cost-offsets for developers. These studies illustrate that developers continue to profit on residential construction, especially when cost-offsets such as density bonuses are offered.

The experience of communities across the country with IZ policies is that private, market-rate development continues along with the production of new affordable units. In fact, after an initial period of adjustment, inclusionary zoning policies *create certainty for developers* by establishing a consistent set of guidelines for development in place of project-by-project parameters established by a city council, zoning board, planning commission, or other public entity.

Housing Production and Affordable Housing: The California Experience

A recent, long-term study of the impact of California inclusionary housing programs on market rate housing production found that not a single program had a negative effect on housing production. In fact, most jurisdictions with inclusionary programs saw an increase in housing production (sometimes dramatically).

The longitudinal analysis examined data on annual housing starts over a twenty-year period (1981–2000) for 28 cities with inclusionary housing programs in Orange, San Diego, San Francisco, Los Angeles, and Sacramento counties, as well as for the state in general. The effect of inclusionary programs was compared to the effects of other variables, namely changes in the prime rate, the 30-year mortgage rate, the unemployment rate, the area median home prices, and the 1986 Tax Reform Act.
–David Paul Rosen and Associates, Los Angeles Inclusionary Housing Study: Final Report, 2002.

How Inclusionary Zoning Could Benefit Washington, DC

Inclusionary zoning can help create the affordable housing climate that can both attract new residents and retain existing residents by:

- Fostering Mixed-Income Communities by Promoting Balanced and Equitable Housing Development
- Ensuring Housing for a Diverse Labor Force
- Providing a Consistent Regulatory Framework to Guide Affordability in the Market
- Increasing Access to Opportunity for Residents Living in High Poverty Neighborhoods

Fostering Mixed Income Communities by Promoting Balanced and Equitable Housing Development

Figure 1 illustrates the distribution of current and planned residential construction in the District based on a Development Activity Database maintained by the DC Office of Planning. The map shows that development is occurring in most parts of the city. However, almost all of the market rate housing development is occurring west of the Anacostia River, while most of the affordable units are located east of the river in Wards 7 and 8. Inclusionary zoning could promote a more equitable distribution of affordable housing and its accompanying opportunities for residents.

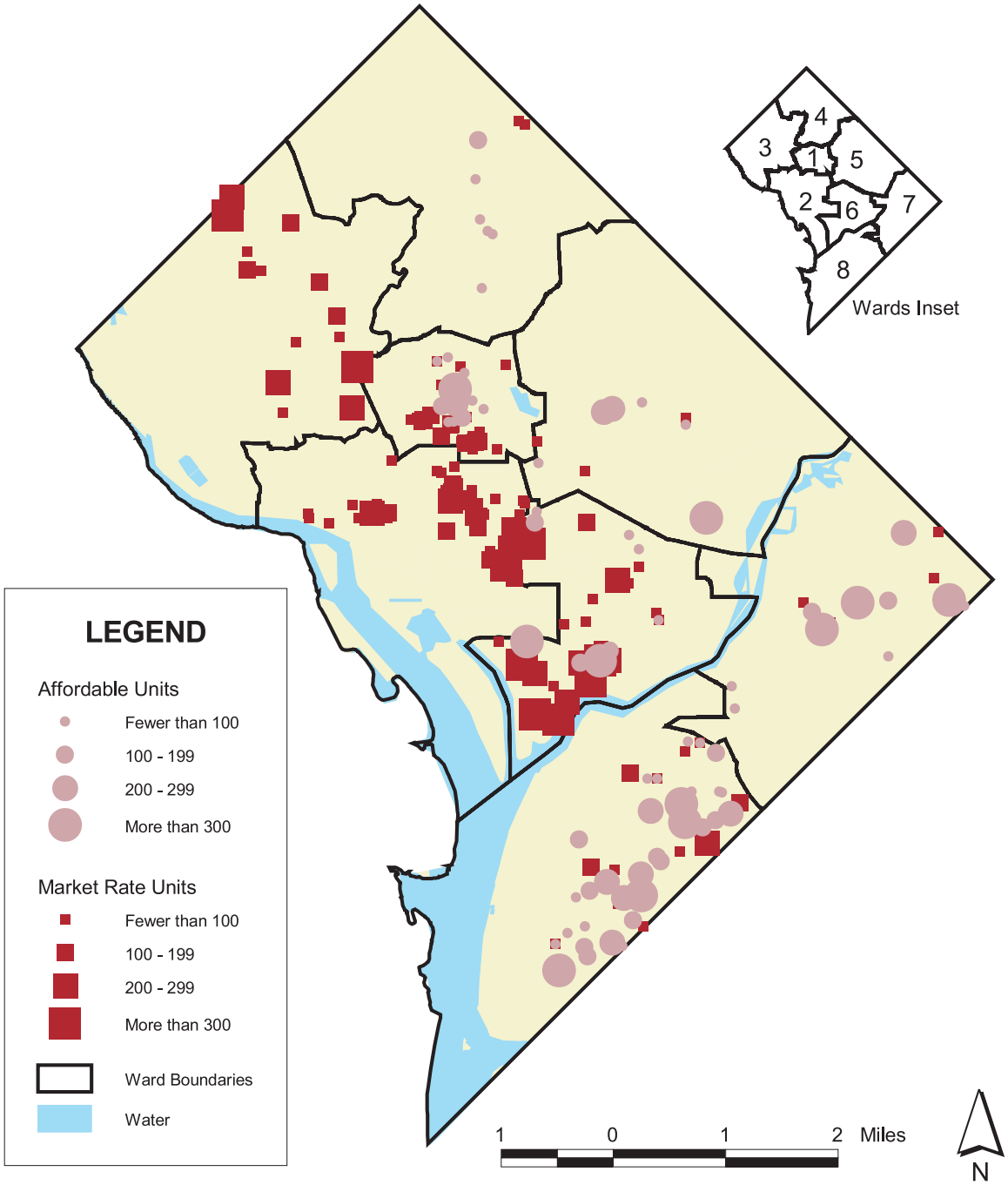
- In gentrifying neighborhoods such as Columbia Heights and Capitol Hill, which have seen renewed investment, an influx of higher income individuals, and rising housing prices affordable units generated by inclusionary zoning can help mitigate the displacement of longtime residents.

- In new and growing neighborhoods where a lot of new housing investment is planned for the future (e.g., Navy Yard), inclusionary zoning can broadly disperse affordable housing as the area is revitalized, thereby creating mixed-income communities.

- In expensive neighborhoods like the Burleith/Hillandale/Georgetown neighborhood cluster, where the average family income is $208,355[16], IZ can promote housing opportunities for more moderate income, working families.

- In high poverty areas such as Congress Heights, with limited market-rate construction, the inclusionary requirement would have little direct effect. However, inclusionary units produced across the District can provide lower-income residents of Congress Heights and neighborhoods like it, with mobility and greater housing choice.

Figure 1. Housing Production in Washington, DC, 2000-2003



PolicyLink 2003
Source: Development Activity Database, DC Office of Planning, May 2003

Ensuring Housing for a Diverse Labor Force

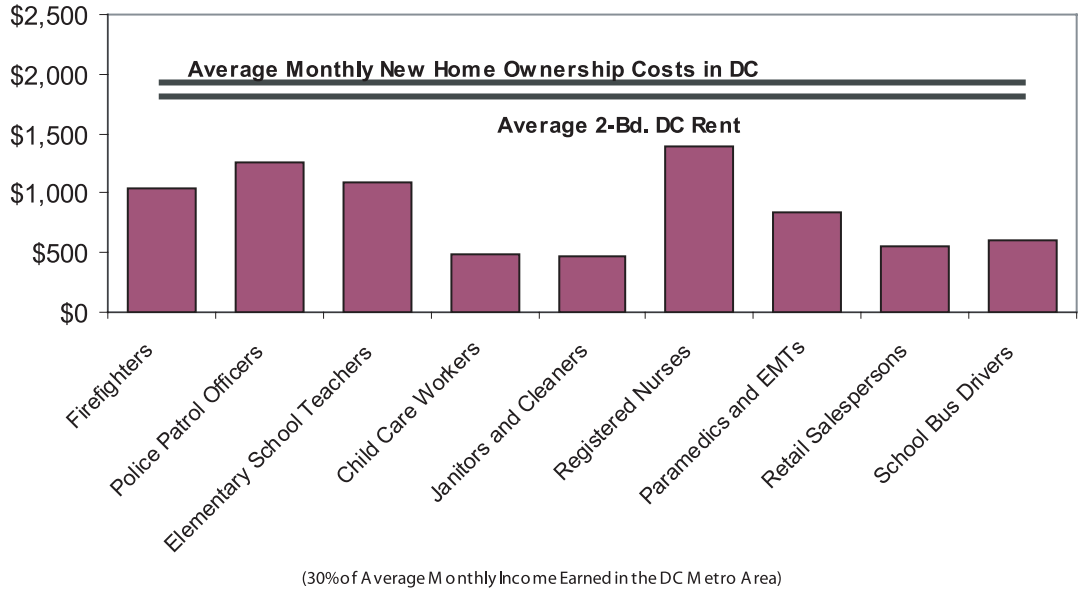
Housing affordability is an issue across diverse income levels and occupation types. Workers in essential city services such as paramedics, firefighters, police patrol officers, and public school teachers face affordable housing challenges, finding themselves priced out of the very neighborhoods that they serve. Residents working in service industry positions—janitors, childcare workers, retail salespersons, and school bus drivers—are the worst off, often unable to afford District housing, even with two salaries. Figure 2 compares the cost of housing in the District to 30 percent of monthly earnings for select occupations. Inclusionary zoning could help meet the housing needs of DC workers, providing them with the chance to live in the communities that they serve. This will help achieve the goal of 100,000 new residents while ensuring a diverse mix of workers who are essential to the District's economy.

Providing a Consistent Regulatory Framework to Guide Affordability in the Market

The DC Office of Planning estimates that over 15,000 units of private market rate housing (with no affordability provisions) have been completed, are under construction, or planned for future development between January 2000 and May 2003.[18] Why, with all this development, are so many District residents paying too much for housing or finding themselves priced out of the market?

The District does not have a mandatory and consistent regulatory framework that leverages private market investment to produce housing for lower-income and working class families. The current Planned Unit Development (PUD) process, whereby developers requesting zoning variances may be asked by the city to provide some kind of public amenity in exchange for development rights, is the only existing opportunity to tie affordability to market production. While the PUD process has contributed amenities from developers in terms of streetscapes or lighting, it has not contributed substantively to the District's

Figure 2. The Cost of DC Housing Compared to 30 Percent of Monthly Earnings in 2001



Sources: PolicyLink 2003, based on multiple data sources.[17]

affordable housing goals. The process includes no systematic guidelines for developer contributions to the affordable housing stock in exchange for development rights, variances, and other forms of flexibility. Inclusionary zoning could provide an ongoing and consistent mechanism for connecting affordability to market rate construction. Without this, the District's ability to engage private developers in affordable housing creation is limited.

Why the Private Market Should Contribute

Communities across the nation that face severe affordable housing challenges are turning to the private sector for expertise in developing housing that meets the needs of workers and residents. The private market increasingly contributes to a community's affordable housing stock by paying impact fees, building affordable units, or taking advantage of tax incentives. There are two rationales for private sector contribution.

One, the development of market rate housing generates the need for affordable housing for janitors, public school teachers, civil servants, childcare workers, and others whose services are needed to support occupants of market rate units. However, these service workers earn too little to afford average priced homes in the community. Two, the public sector invests in the infrastructure that makes private residential development possible. Reciprocally, the private sector should invest in the community through provision of affordable housing.

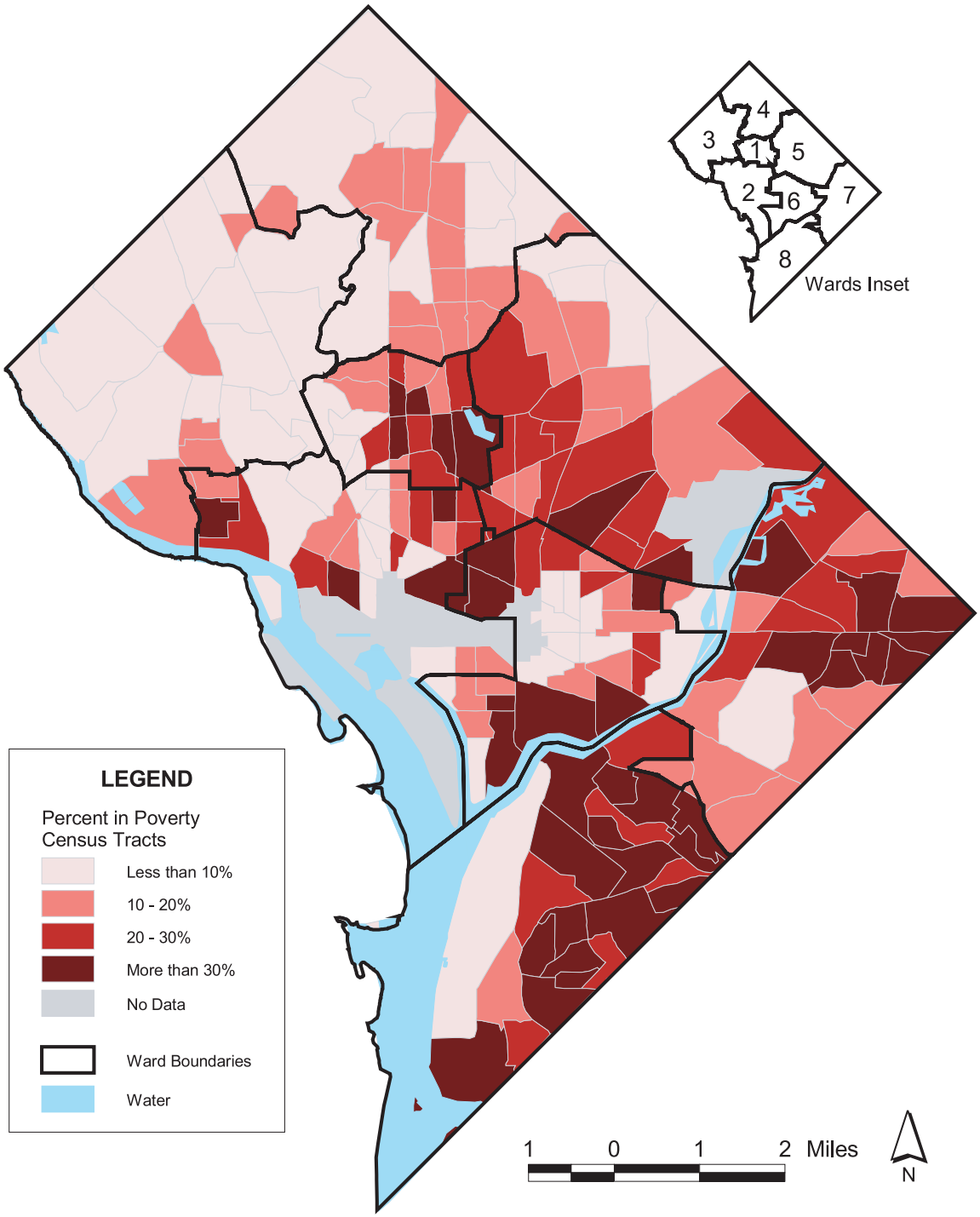
Increasing Access to Opportunity for Residents Living in High Poverty Neighborhoods

Another critical challenge facing the District is the presence of high-poverty neighborhoods: as of 2000, almost one in four census tracts were more than 30 percent poor, and 12 percent of census tracts were more than 40 percent poor. And over 40 percent of poor residents live in high-poverty neighborhoods.[19] This growth in high-poverty neighborhoods occurred during a decade of general economic well being in which many central cities saw a decline in high-poverty neighborhoods. Figure 3 illustrates the location of high poverty neighborhoods and indicates a cluster in the southeast portion of the District, as well as the neighborhoods of Logan Circle, Shaw, and Columbia Heights.

Research has shown the negative effects of living in high poverty neighborhoods that generally lack the economic and civic institutions essential to a healthy community. People in poor neighborhoods are typically isolated from access to livable wage jobs, quality education, adequate health services, and protection from criminal activities. Persistently high unemployment can result in conditions in poor communities that are self-reproducing. When neighbors have no jobs or bad jobs, social networks are less helpful in connecting to available employment.[20]

Inclusionary zoning can help create greater access to opportunity for lower-income people since it can, over the course of many years, promote greater distribution of affordable housing, hence access to opportunity, across the District. With the plan to increase residents by 100,000, the long-term distribution of income levels across neighborhoods can create a very different pattern of city demographics than what currently exists.

Figure 3. High Poverty Neighborhoods in Washington, DC



PolicyLink 2003
Source: 2000 US Census, SF3

How Much Affordable Housing Could the District Anticipate with Inclusionary Zoning?

Current patterns of housing development suggest that the District could generate a significant amount of affordable housing through inclusionary zoning. If the District already had an inclusionary zoning policy in place, anywhere from 1,500–3,000 units of affordable housing would have been completed, under construction, or in the planning stage for the January 2000–May 2003 period.

Table 2 shows this simple "back of the envelope" calculation of what might be produced by applying an inclusionary zoning requirement to the developments currently being tracked by the Office of Planning. The calculation applies a 10, 15, and 20 percent set aside to all projects of 10 or more units, illustrating the notable impact that an IZ requirement could have.

The map on page 22 shows how these affordable housing units would be distributed across the District. It is clear that an inclusionary requirement could be an important vehicle for ensuring that affordable housing is located throughout the District.

In addition, the potential impact of an IZ policy can be considered in light of the District's goal of "creating new neighborhoods." The mayor and the Office of Planning have identified several large sites that offer opportunities to build new communities without displacing or disrupting the stability of existing neighborhoods. These sites include federal lands that hold opportunity for reuse (e.g., closed military bases); city controlled land (e.g., Reservation 13, former site of the DC Jail and General Hospital); and existing areas with vacant and underutilized land (e.g., Mount Vernon Triangle). The city estimates that these sites could potentially create 7,500 units of new housing.[21] Again, applying a simple IZ calculation illustrates that a 10 percent set-aside would yield 750 affordable housing units; a 15 percent set-aside 1,125 units, and a 20 percent set-aside would yield 1500 units. Implementing an inclusionary zoning policy that ties affordability to these large developments will ensure that these neighborhoods are inclusive and supportive of a diverse District.

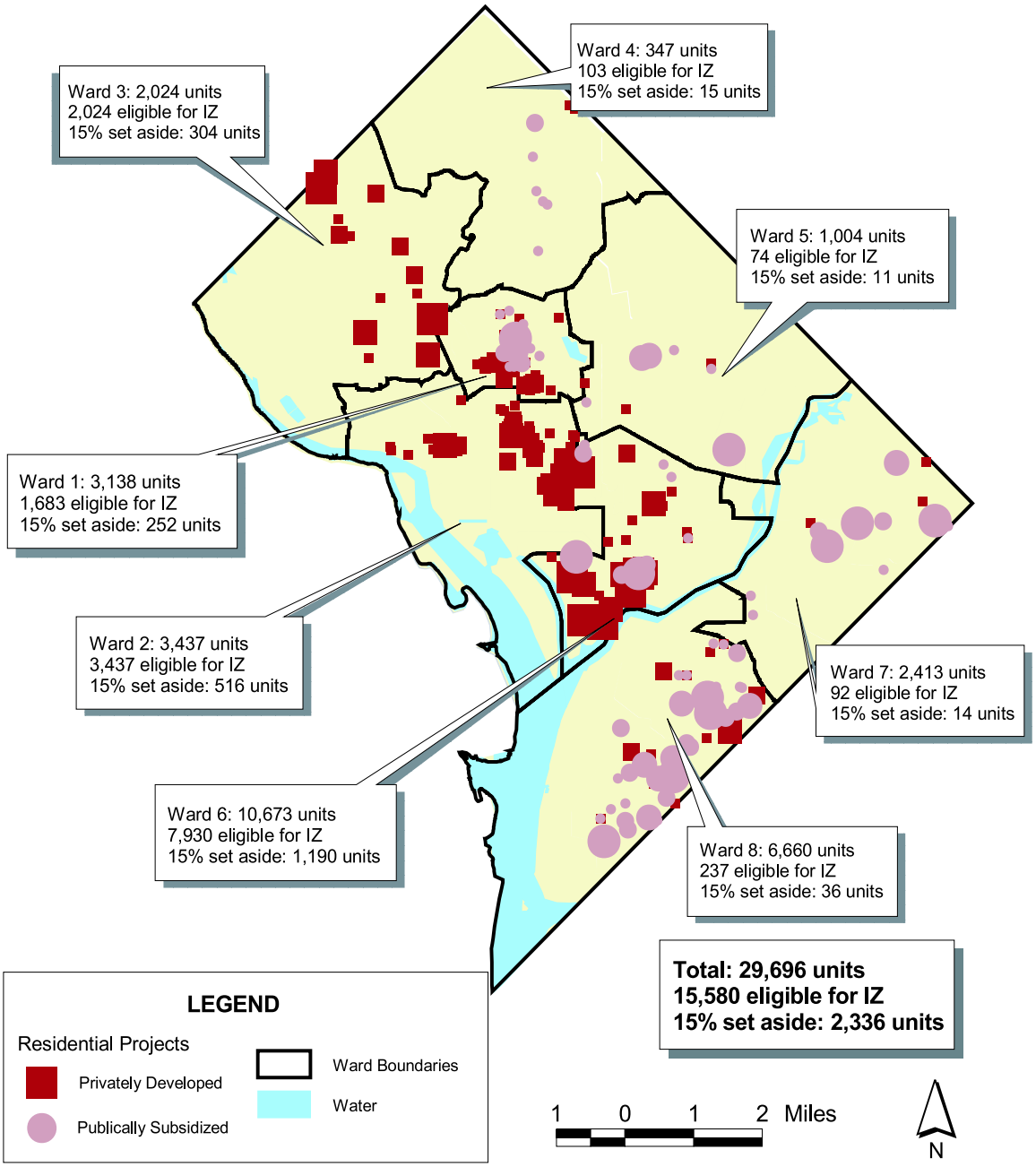
Table 2. Potential Production of Affordable Housing Through Inclusionary Zoning

	Number of Units	10% set aside	15% set aside	20% set aside
Completed, under construction	7,123	712	1,068	1,424
Planned, proposed	8,457	845	1,268	1,690
Total	15,580	1,557	2,336	3,114

Source: Compiled by PolicyLink. Based on data from Office of Planning Development Activity Database, May 2003. FY 2003, Third Quarter Report.

Figure 4. Potential Affordable Housing Production Through Inclusionary Zoning

PolicyLink applied a 15 percent set aside to all residential developments of 10 units or more that have been completed, are under construction, or planned from January 2000–May 2003, to display the potential of an inclusionary zoning policy for the District. This set aside would have produced 2,336 affordable units.



PolicyLink 2003
Source: Development Activity Database, DC Office of Planning, January 2000- May 2003

Part Two: Recommendations for Crafting an Effective Inclusionary Zoning Policy

The experience of other cities with inclusionary zoning programs can be helpful to the District as it develops its IZ policy. The recommendations that follow are the result of a PolicyLink analysis that included an extensive literature review and interviews with 31 program administrators and national experts. While there is tremendous variation in how IZ programs are structured, almost all inclusionary zoning policies include:

- **Set aside requirements.** The percentage of units within a proposed project that a developer is required to price as affordable to low and moderate income people.
- **Income targets.** The income level at which inclusionary units are targeted. Most jurisdictions base income targets on a percentage of the area's median income (AMI).
- **Project triggers.** The number of units at which the inclusionary requirement will apply (e.g., 5, 10, 20 unit buildings, or all projects).
- **Developer compensations/cost-offsets.** The compensation provided to developers that reduces the construction costs of a project that provides affordable units.
- **Off-site construction and in-lieu fees.** Alternatives to building affordable units within the market-rate development, off-site construction allows developers to build the affordable units in another location, while in-lieu fees allow developers to pay a fee in-lieu of constructing units.
- **Terms of affordability.** The length of time an inclusionary unit is required to stay affordable.

The mix of these program elements used in any jurisdiction is determined by development patterns in the community, the affordable housing needs of residents, and political feasibility. There are trade-offs among different components of an IZ policy; and tailoring it to meet local needs is the hallmark of its effectiveness.

It is important for a jurisdiction to be clear about its affordable housing goals, understand which goals can be realized via IZ, and structure the IZ policy accordingly. For example, some locales seeking to reach greater affordability may choose to set lower percentage set-asides (e.g., 10 percent) to reach lower income targets (all units at 50 percent of AMI). The trade-off is that fewer but more affordable units will be generated. Other locales might choose to institute higher set-aside requirements (e.g., 20 percent) but with higher income targets (all units at 80 to 100 percent AMI). This policy would generate more units but at higher income levels. (See Appendix A for examples of jurisdictions with inclusionary zoning and some of the key components of the policy.)

Recommendations for the District

The eight recommendations that follow review key trends in inclusionary zoning based on the experience of other jurisdictions, and offer implications for consideration by the District. The recommendations are:

1. Adopt a *mandatory* inclusionary zoning policy;
2. Design an IZ program that allows developers to contribute to affordable housing *and* make a profit.
3. Establish income targets that reflect the affordable housing needs of the community.
4. Reach extremely low-income families by packaging inclusionary units with other affordable housing resources.
5. Deliver the most housing units by applying inclusionary zoning to the majority of residential development.
6. Require long-term affordability.
7. Achieve more equitable distribution of affordable housing by limiting the use of alternatives.
8. Maximize IZ impact through clear legislation and consistent administration.

Recommendation #1: Adopt a *mandatory* inclusionary zoning policy.

Inclusionary zoning policies can be mandatory—requiring developers to build affordable units in exchange for development rights or voluntary—relying on incentives to encourage developers to "opt-in." An analysis of existing IZ programs nationally reveals the superior delivery power of *mandatory* inclusionary zoning.

Of the 107 jurisdictions in California with inclusionary zoning programs, 101 are mandatory. The six voluntary programs have produced little affordable housing. Two locales, Los Alamitos and Long Beach, "blame the voluntary nature of their programs for stagnant production despite a market rate boom." [22] Three other voluntary programs reported that no units had been built. In sharp contrast, the 15 top producing jurisdictions including Santa Barbara County, Monterey County, and Roseville, have produced over 16,000 units of affordable housing all through mandatory requirements.[23]

Programs in Massachusetts have also produced significantly less affordable housing, due primarily to the voluntary nature of their programs. A 1999 review of inclusionary zoning programs in 105 Massachusetts municipalities by the Massachusetts Housing Partnership (MHP), estimated that these programs generated approximately 1,000 affordable units between 1990 and 1997.[24]

"When you've got limited room for growth, voluntary just doesn't work. The market forces are just too strong developers will choose the higher profits that come from building strictly market-rate units. Incentives can't compete."
Cindy Pieropan, Housing Planner, City of Boulder [25]

The differing outcomes of voluntary and mandatory IZ have steered many jurisdictions away from voluntary programs. Those that have recently adopted inclusionary zoning (e.g., Boston, Massachusetts; Denver, Colorado; and Sacramento, California) have made their requirements mandatory. Jurisdictions with once voluntary programs (e.g., Cambridge, Massachusetts; Boulder, Colorado; and Irvine, California) have found it necessary to amend their ordinances to mandatory requirements in response to low production.

Moving from Voluntary to Mandatory

Cambridge, Massachusetts. *Between 1988 and 1998, Cambridge operated a voluntary program and offered a density bonus for developers choosing to add affordable housing to their projects in select zoning districts. No affordable housing was created. In 1999 the city shifted to a mandatory policy. Since then, 131 affordable units have been produced, with another 130 in the pipeline.*[26]

Boulder, Colorado*. Since IZ was first implemented in 1980, Boulder has experimented with both mandatory and voluntary requirements. In the five year period that the program was voluntary, only one private developer contributed affordable units. Since 2000, when the city changed to a mandatory policy, private developers have built 150 on-site affordable units, and another 150 affordable units through in-lieu fees.*[27]

Considerations for DC

- The experience of numerous jurisdictions in the country with voluntary and mandatory inclusionary zoning programs explains the national trend toward mandatory programs. The data describing these experiences leads to the recommendation that the District should adopt a mandatory policy. Urban communities like Washington, DC, that have a limited amount of land suitable for development, find mandatory IZ an important vehicle for ensuring long-term affordability in the housing market.

Recommendation #2: Design an IZ program that allows developers to contribute to affordable housing *and* make a profit.

Inclusionary zoning can engage the participation of the private market in the development of affordable housing through non-monetary cost-offsets that reduce construction costs and allow developers to realize profits.

Jurisdictions typically conduct an economic feasibility analysis to determine how to best structure an IZ policy that will reach both goals: the production of affordable housing and developer profit. The analysis looks at various aspects of development-e.g., cost of land, profit margin, construction costs, and fees-and the jurisdiction's housing needs and goals. The analysis can be applied to different scenarios assessing the balance between offsets and IZ requirements with the goal of ensuring a normal *overall* profit margin for the developer. Jurisdictions that structure their programs in this way include: Sacramento, San Francisco, South San Francisco, Boulder, Fairfax County, Santa Fe, and New Jersey.[28] Some jurisdictions provide no cost offset, assuming the developer, the development itself, or an adjustment of the market will absorb the costs. (See Appendix C for excerpts from economic feasibility studies.)

The types of cost-offsets jurisdictions used to significantly reduce costs to developers on inclusionary projects include: adjustments to zoning and building requirements, streamlining of administrative procedures, and deferral and waiver of development fees. Historically, inclusionary zoning policies relied heavily on density bonuses to compensate developers. As urban jurisdictions increasingly adopt this strategy, a broader set of tools have been utilized to deliver further cost reductions to developers or to offer offsets for smaller projects where density bonuses are less feasible. Like density bonuses, many of these cost-offset tools encourage more efficient use of land or an improvement of development processes.

The chart below describes some of these offsets and provides examples of how they have been applied by jurisdictions.

Considerations for DC

- By utilizing the range of cost-offsets described in Table 3, the District can craft a policy that allows developers to deliver units at deeper levels of affordability.

Table 3: Select Examples of Cost-Offsets Utilized by Jurisdictions with Inclusionary Zoning Policies

Type of Cost-offsets	What It Does and Why It Helps Developers	Example
Density bonus	Allows developers to build at a greater density than residential zones typically permit. This allows developers to build additional market rate units without having to acquire more land.	Most jurisdictions offer density bonuses. Typically they are equivalent to the required set-aside percentage. For example, **Santa Fe, New Mexico,** varies its set-aside from 11 to 16 percent depending on the type of development and matches its density bonus accordingly.[29]
Unit size reduction	Allows developers to build smaller or differently configured inclusionary units, relative to market rate units, reducing construction and land costs.	Many programs allow unit size reduction while establishing minimum sizes. **Burlington, Vermont,** requires that inclusionary units be no smaller than 750 sq ft. (1-bedroom), 1,000 sq ft. (2-bedroom), 1,100 (3-bedroom), or 1,250 sq ft. (4-bedroom).[30]
Relaxed parking requirements	Allows parking space efficiency in higher density developments with underground or structured parking: reducing the number or size of spaces, or allowing tandem parking.	**Denver, Colorado,** waives 10 required parking spaces for each additional affordable unit, up to a total of 20 percent of the original parking requirement.[31]
Design flexibility	Grants flexibility in design guidelines such as reduced setbacks from the street or property line, or waived minimum lot size requirement—utilizing land more efficiently.	**Boston, Massachusetts,** grants inclusionary housing projects greater floor-to-area ratio allowances.[32] **Sacramento, California,** permits modifications of road width, lot coverage, and minimum lot size in relation to design and infrastructure needs.[33]
Fee waivers or reductions	Reduces costs by waiving the impact and/or permit fees that support infrastructure development and municipal services. A jurisdiction must budget for this since it will mean a loss of revenue.	**Longmont, California,** waives up to 14 fees if more affordable units (or units at deeper levels of affordability) are provided. Average fees waived are $3,250 per single family home, $2,283 per apartment unit.[34]
Fee deferrals	Allows delayed payment of impact and/or permit fees. One approach allows developers to pay fees upon receipt of certificate of occupancy, rather than upon application for a building permit, reducing carrying costs.	**San Diego, California,** allows deferral of Development Impact Fees and Facility Benefit Assessments.[35]
Fast track permitting	Streamlines the permitting process for development projects, reducing developers' carrying costs (e.g., interest payments on predevelopment loans and other land and property taxes).	**Sacramento, California,** expedites the permitting of inclusionary zoning projects to 90 days from the usual time frame of 9–12 months. The city estimates an average savings of $250,000 per project.[36]

Compiled by PolicyLink based on interviews and literature review

Recommendation #3: Establish income targets that reflect the affordable housing needs of the community.

There are two ways in which an IZ policy ultimately achieves affordable housing. First, the policy defines the income target(s) at which the developer must produce housing. Second, it identifies the programs that will allow the municipality to subsidize those units to reach even deeper affordability needs. Montgomery County, for example, asks developers to produce units at 65 percent of AMI and then authorizes its housing authority to purchase up to a third of those units to serve even lower-income families. (Packaging other affordable housing resources with IZ will be discussed in the next recommendation.)

Where the income target is set determines who benefits from the inclusionary zoning policy. For example, a jurisdiction that wants to provide housing for moderate-income households, such as public sector employees, might set an income target at 80 percent of the AMI. Jurisdictions seeking to create affordable units for lower-income wage earners might choose an income target of 50 percent of AMI. Jurisdictions with affordability challenges across income categories often tier their income target to serve diverse needs (e.g., half the units at 50 percent of AMI, half the units at 80 percent of AMI).

Target income levels should be guided by housing needs and goals in the jurisdiction, but must be balanced with maintaining developer profit. Nationally, inclusionary zoning has demonstrated success when requiring developers to deliver affordable housing units at 50–120 percent of the AMI, and when in combination with public resources, those units can be made available to households between 0-50 percent of AMI.

Setting Income Targets

The majority of IZ jurisdictions set their income target in accordance with the US Department of Housing and Urban Development. On a yearly basis, HUD releases standard area median income (AMI) levels for different regions throughout the country.

The AMI for the DC Metro region is $84,800.[37] *If the District established an IZ program with an income target of 50 percent of the AMI, the policy would serve families earning $42,400. A policy targeting 80 percent of AMI would serve families earning $67,840.*

Income Targets Function as Ceilings

In reality, the income target functions as the *ceiling* at which affordable units are produced. Developers will rarely ~~if~~ ever ~~p~~roduce units at a lower income level than what is outlined by a jurisdiction. Therefore, jurisdictions should set their income level *as low as possible*.

Many communities have asked developers to meet an income target at 50 percent of the AMI. In New Jersey, most programs have a 20 percent set aside and require that half of all inclusionary units be for households below 50 percent AMI.[38] In California, 48 percent of the state's inclusionary programs (46 jurisdictions) require that some portion of inclusionary units be affordable to households at or below the 50 percent AMI threshold.[39]

Locales are increasingly pushing the envelope to get lower than 50 percent of the AMI through strategic use of cost-offsets. As this is written, the city of Los Angeles is proposing an inclusionary program that would target renters earning 45 percent of AMI.[40] The city-commissioned economic feasibility study found that a 10 percent set-aside for renters at 45 percent AMI would be financially feasible for nearly all forms of development that occur in Los Angeles.[41] (Forty-five percent AMI in Los Angeles translates into a family of four earning $25,300.[42])

The current income targets that inclusionary zoning policies achieve must be analyzed within the political context of their jurisdictions. The income targets of IZ programs reflect the makeup and preferences of local organized constituencies.[43] Since IZ policies began in a suburban context where very low-income residents are a small and poorly organized segment of the population, it is not surprising that programs there were targeted more to moderate-income levels.

Considerations for DC

- Because housing need is acute for households across income levels that are extremely low to moderate, the District should structure a tiered policy, with half the units developed for 50 percent of AMI and half the units developed for 80 percent of AMI.

Recommendation #4: Reach extremely low-income families by packaging inclusionary units with other affordable housing resources.

Few jurisdictions with IZ policies ask developers to target incomes below 50 percent of the AMI, but many achieve deeper levels of affordability by packaging IZ units with other public sector resources. This effectively bridges the gap between the most acute affordable housing need and the affordability levels at which a developer is asked to build. This section explores innovative practices used by jurisdictions to link inclusionary requirements for private developers with public assistance for homeowners and renters. Jurisdictions can:

- Mandate that some proportion of inclusionary units go to housing choice voucher holders;

Housing Choice Vouchers Make Deep Affordability Impact

Cambridge, Massachusetts *helps some of their lowest income renters find affordable housing by requiring that half of all rental units generated via IZ go to housing choice voucher holders. The city does this by managing the tenant selection process. The Community Development Department and Cambridge Housing Authority provide managers of inclusionary units with their prospective tenants. The onsite manager performs a credit check and landlord history review before selection is finalized. Assuming these are in order, the manager must select and accept one of the qualified tenants. As half of all units go to housing choice voucher holders, Cambridge's IZ program regularly reaches families earning between 10 and 30 percent of AMI, their intended goal, due to great need among families at these lower-income tiers.* [44]

The Cambridge Community Development Department fills the other half from a waiting list of income-verified households. The department gives priority to families that already live in Cambridge, have children, and face an emergency housing need (e.g., no-fault eviction, living in overcrowded housing, or paying more than 50 percent of income on housing). For example, Cambridge requires developers to set the average price of inclusionary units at a level affordable to 65 percent of the AMI. (This would serve a family earning up to $52,520 and allow them to pay $1,313 a month for rent.[45]*) By referring a family that earns $26,000 a year and is holding a housing choice voucher, Cambridge pays the difference between the $650 a month the family can afford (30 percent of its income) and the $1,313 per month the landlord is charging for the IZ unit, or $663. If the same family were occupying a market rate unit, Cambridge would instead pay $827 to cover the gap between the family income and 110 percent of fair market value. Because the city's IZ policy requires landlords to accept housing authority referrals, assuming adequate credit and tenant history, it assures nondiscrimination of voucher holders—a persistent problem in the private market.*[46]

- Offer home buyer assistance to purchasers of IZ homeownership units; and
- Enable public agencies or nonprofit organizations to purchase and further subsidize inclusionary units.

Mandate That Some Portion of Inclusionary Units Go to Housing Choice Voucher Holders

The Housing Choice Voucher Program (HCVP, formerly known as Section 8) is a rental assistance program that increases affordable housing choices for very low- and extremely low-income households by allowing families to choose privately owned rental housing. Local public housing authorities, under contract with the federal government, administer HCVP. Participants generally contribute 30 percent of their monthly income toward housing costs with the housing choice voucher program making up the difference up to a locally defined "payment standard." HCVP is the major federal support to low-income renters 1.4 million households nationwide. This program, much like inclusionary zoning, reduces the probability that families will live in the most economically and socially distressed areas.

Requiring that a portion of inclusionary units go to housing choice voucher holders is one effective mechanism for achieving deep affordability. Cambridge, Massachusetts, a leading example of how this can be accomplished, requires that 50 percent of all IZ-produced rental units go to voucher holders.[47] Packaging inclusionary zoning with housing choice vouchers is a strategic way to make scarce resources for affordable housing go farther. Typically, the local housing authority pays the gap between what the housing choice voucher-holder can afford (30 percent of household income) and the cost of the private market rent (up to 110 percent of fair market rate). By placing HCVP holders in inclusionary units priced lower than market rents, HCVP saves money that in turn allows it to serve more families. It also addresses key challenges for the HCVP program: sufficient units available for the number of voucher holders and discriminatory screening out of voucher holders by landlords.

Montgomery County also makes many of its inclusionary units available to households with housing choice vouchers. The Housing Opportunities Commission implements this by acquiring up to 40 percent of a developer's IZ units and reserving a portion for voucher-eligible renters (a practice known as "project-basing").

Offer Homebuyer Assistance for Purchasers of Inclusionary Units

Many cities and counties offer assistance to homebuyers who are income-qualified for the inclusionary units. The additional assistance of the programs allows households earning less than the AMI target to be eligible for IZ units.

Couple Inclusionary Zoning with Homebuyer Assistance

Fairfax County, Virginia *aggressively encourages households on its homebuyer waiting list to utilize First Time Homebuyer mortgage assistance from the state Housing Development Authority. For households that meet minimum credit criteria and make less than 70 percent of AMI, the authority offers 3.5 percent interest rate mortgages covering 100 percent of housing costs (i.e., no down payment is required). Combined with the county's construction cost-based price target, Fairfax County makes homeownership inclusionary units accessible for very low and even extremely low-income households. Thirty percent of Fairfax County inclusionary homebuyers earned less than 40 percent AMI, and 5 percent earned less than 30 percent AMI.*[48]

South San Francisco, California *has created a shared-appreciation, revolving-loan fund to extend below-market-rate loans to all its inclusionary homebuyers. Households can qualify for loans up to $150,000. If the homebuyer sells in the future, she shares the profit made on the sale of the house with the city. For instance, if the city lends 20 percent of the purchase price, the city gets 20 percent of the capital gains. This generates revenue for the city to continue loans to new homebuyers. This revolving loan fund allows households with lower than AMI-linked incomes to qualify for IZ units.*[49]

Enable Public Agencies or Nonprofits to Purchase and Further Subsidize Inclusionary Units

Allowing public agencies or nonprofits to purchase and manage inclusionary units is another way to achieve deeper affordability. The designated entities can further subsidize the unit below the affordability level at which it was produced and can target it to special needs populations. Montgomery County and Fairfax County help local housing authorities obtain inclusionary housing units so that they may be in turn rented or sold to households that otherwise could not afford them. This direct purchase method is an important way for local housing authorities to build their affordable housing stock over the long term. In Montgomery County nonprofit purchasers of the units provide clients with disabilities and clients escaping domestic violence with safe, affordable housing options.

Considerations for DC

- Coupling inclusionary zoning with the HCVP could help wait-listed households. DC Housing Authority currently has a serious problem finding placements for voucher holders with only roughly half finding housing before their voucher expires.[54] Making inclusionary units accessible to voucher households, allows the housing authority to extend vouchers to more families on its 26,000-person waiting list.
- The District should consider managing the homeowner selection process so that inclusionary homebuyers come off the city's homebuyer waitlist ensuring fair access for a broad spectrum of households. The District could also offer first time homebuyer assistance.
- The District should assess the capacity of District public agencies, community development corporations, and other nonprofit service agencies to purchase or manage IZ units and structure opportunities that reflect that capacity into the policy.

Montgomery and Fairfax Counties Purchase Units

Montgomery County, Maryland *grants their local public housing authority the Housing Opportunities Commission (HOC) first right of refusal for purchasing up to a third of a project's inclusionary units, with the understanding that they will be rented or sold to very-low income households. HOC-approved nonprofits have second right of refusal on an additional seven percent of inclusionary units. This has enabled the County's Moderately Priced Dwelling Unit (MPDU) program to benefit households earning much less than 65 percent of AMI (the income ceiling set by the program).*

Using State Housing Partnership Program financing, bond-linked low-income tax credits, funds from the County Housing Initiative Fund, and housing choice vouchers, HOC is able to offer most of their MPDUs to families earning below 50 percent AMI and a substantial number below 40 percent AMI.[50]

In total, HOC has made approximately 1,500 inclusionary units available to very low-income renters since the program's inception in 1974.[51] *HOC also helps very low-income households buy inclusionary units that would be unaffordable without additional assistance. HOC offers roughly a third of its purchased units to households on HOC's homeownership waiting list.*[52]

Fairfax County, Virginia *also grants its public housing authority and nonprofits first rights of refusal to deepen the affordability of inclusionary units. The Fairfax County Redevelopment and Housing Authority (FCRHA) is given exclusive right to purchase up to one third of inclusionary units during the first 90 days they are marketed. But after 60 days, any units not claimed may be purchased by nonprofits. Over the first 10 years of the program, FCRHA had only purchased 40 units while nonprofits had not purchased any. However, as of 2001, the County Department of Housing and Community Development had requested $1 million to acquire inclusionary units independently of FCRHA.*[53]

Recommendation #5: Deliver the most housing units by applying inclusionary zoning to the majority of residential development.

Inclusionary zoning policies that cover the majority of residential construction and reflect development patterns and trends in the community are most effective in generating affordable housing units. Policies that are inconsistently applied and/or have exemptions and loopholes are seriously compromised.

Establish a Threshold That Captures the Majority of Development

Inclusionary zoning policies define a threshold of units (or "project trigger") at which the affordability requirement applies. Many municipalities exempt very small developments to increase the feasibility of such projects. Some jurisdictions apply inclusionary zoning policies to all development with larger developments required to build units and smaller developments allowed to pay an in-lieu fee.

Understanding development patterns is critical in determining the size of developments that will fall under the inclusionary requirement. For example, if 90 percent of residential construction is occurring in projects of 15 or more units, it would be reasonable to set a trigger of 15 units. However, if half of all residential developments were less than 15 units, it would be prudent for a jurisdiction to set its inclusionary zoning policy at a lower trigger level.

There is a trend towards lower project triggers. Older and more suburban IZ policies tend to have higher project triggers (e.g., Montgomery County, Maryland), while newer and more urban policies (e.g., Boston, Massachusetts) have lower triggers. During the life of a policy, jurisdictions can adjust the project trigger to reflect shifts in development patterns. For example, Montgomery County responded to changes in development patterns in 2002 by lowering its trigger from 50 to 35 units.

Apply to All Residential Development

Jurisdictions that apply an inclusionary zoning requirement to all residential developments produce significantly more affordable units. San Francisco is an instructive example: from 1992–2000, its IZ policy exempted live-work lofts—the major type of development happening at the time. As a result, the policy only applied to 16 percent of new residential construction (that which was not live-work lofts) and produced little affordable housing.[55]

The vast majority of inclusionary zoning programs apply the affordability requirement to both rental and owner occupied units, effectively linking growth to affordability in both markets and not privileging one type of development over another.

San Francisco: Closing Loopholes in Their IZ Policy to Maximize Effectiveness

San Francisco's inclusionary housing ordinance was adopted in 1992; as of 2000 only 128 affordable housing units and $150,000 in fees had been generated. A major reason for such limited outcomes in a locale that experienced rapid growth in its residential market is that San Francisco's 10 percent set aside policy did not apply to live-work developments—the majority of new units constructed during the 1992–2000 period. In San Francisco between 1992 and 2000, total new housing production reached 8,487 units. Of those, only 16 percent (1,356) of new market rate units were subject to the inclusionary requirement. As a result, only 128 affordable housing units were generated through the inclusionary zoning policy. The ordinance was recently revised (effective May 5, 2002) and has eliminated the exemption on live-work developments. The weak parameters of the first policy forfeited an opportunity to generate an additional 713 affordable housing units.

Urban communities experiencing a reinvestment in their housing stock often see substantial rehabilitation and conversion of rental units to owner-occupied condos. In response, some locales e.g., Denver, Colorado, and Somerville, Massachusetts apply their inclusionary requirement to major rehab projects while others, such as Fairfax County, Virginia, apply to condo conversions as well.

Considerations for DC

- The District should assess residential construction patterns and establish an inclusionary zoning policy that captures the majority of residential development. Analyzing the Office of Planning's Database of Development Activity indicates that approximately 85 percent of residential construction in DC involves projects with 10 or more units. Therefore, it would be efficacious to set a project trigger of 10 units.
- Significant luxury rehabs and condo conversions are occurring in the District. Given this pattern, the District should consider applying inclusionary zoning to these types of developments.

Preserving Affordability: A Cautionary Tale from Montgomery County, Maryland

Montgomery County created its Moderately Priced Dwelling Unit program (MPDU) in 1974. Until 1981, the affordability term was set at five years. In 1981, it was increased to 10 years, and in 1989, extended to 20 years.[56] Although over 11,000 inclusionary units have been built, about 7,000 have been "lost" due to expiring affordability control periods.[57] Many of the roughly 4,000 remaining affordable units would have expired as well, had the county Housing Opportunities Commission and local nonprofits not purchased them and made them permanently affordable.[58] The county's experience during the 1990s illustrates how it lost ground. Between 1992 and 1999, 2,135 owner-occupied units fell out of affordability. During that same period, only 1,598 were created. In the next ten years, it is projected that more than 2,000 additional units will be lost.[59]

Recommendation #6: Require long-term affordability.

While the length of time an inclusionary unit stays affordable ranges from five years to perpetuity, the trend is towards longer affordability periods to preserve the community benefits generated by inclusionary zoning. For ownership units, 30 years is becoming the standard reflecting the length of most conventional mortgages; for rentals the affordability term can be even longer.

Long-term affordability provisions are important for several reasons. The development of inclusionary units requires substantial commitment from the private and public sectors: private developers offer units at below-market rates, and the public sector contributes various cost-offsets. Provisions for long-term affordability guarantee that these investments provide maximum community benefit, and do not bestow windfall profits on individual buyers.

Long-term affordability requirements also allow jurisdictions to build up their affordable housing stock over time. A review of jurisdictions with shorter affordability requirements shows that units can fall out of affordability as quickly as new ones are added. In escalating housing markets, short affordability provisions can fuel displacement since lower-income families could be priced out of inclusionary units as affordability requirements expire.

Long-term affordability measures are particularly important in places with limited land available for development. These communities need to be strategic about land use to ensure stability in the housing market.

Balancing the Goals of Affordability and Equity

The homeownership opportunities created by inclusionary zoning policies balance the goal of preserving affordability for the community with wealth-building opportunities for lower-income families. IZ jurisdictions typically allow households to gain equity even while they set long control periods. Nearly all inclusionary programs allow households to

sell their properties at a price that is upwardly adjusted from the price at which they bought it. Additionally, households acquire wealth because owning a home results in federal mortgage tax deductions.

Most jurisdictions have shared appreciation formulas that allow the locale and the inclusionary homeowner to share resale profits. For example, though Montgomery County has lost many units due to short affordability terms, its profit sharing formula has captured half of the profit made from sales of MPDUs into the county's Housing Initiative Fund.[60]

Mechanisms for Preserving Affordability

Jurisdictions that preserve the affordability of inclusionary units do so through resale restrictions. Resale restrictions can take many forms such as deed restrictions, contractual agreements, covenants that run with the land, and land trust agreements. Price control guidelines are written into the resale restrictions. For example, a jurisdiction can write into the deed of affordable units the income limits, how they are calculated, price formulas, and how affordability terms will be enforced. Some jurisdictions also include a "right of first refusal" on resale units allowing a public entity or an organization that it designates to purchase an affordable unit before the owner places the unit on the market.[61]

Long-term affordability provisions require administrative oversight. Jurisdictions designate staff from the housing authority, housing finance agency, housing and community development department, or contract with a local nonprofit agency to monitor and enforce affordability provisions over time.

Considerations for DC

- Because the District is seeing a rapid escalation in housing costs that is causing displacement of lower-income families, and because land is limited in the District for development, an IZ policy with long affordability periods will help promote affordability in the housing market and create greater stability. The affordability terms set by the District's Housing Production Trust Fund can provide consistent guidance to IZ terms as well.

Recommendation #7: Achieve more equitable distribution of affordable housing by limiting the use of alternatives.

Most jurisdictions allow developers some alternatives to constructing the inclusionary units within the larger market rate project. Alternatives generally include: paying a fee in-lieu of building the affordable unit; constructing units in an off-site location, or dedicating land on which affordable units could be built. The most effective way to ensure that housing affordability follows the geographic distribution of market rate development is to avoid, or minimize the use of, these alternatives. An inclusionary zoning policy that requires on-site construction within the larger development, promotes greater distribution of affordable housing and more consistently fosters mixed income community development.

Align Use of Alternatives with Broader Affordable Housing Goals

The use of off-site construction options and in-lieu fees should be aligned with the broader affordable housing goals that a community is trying to achieve. When a jurisdiction establishes a policy, it should assess the trade-offs between affordable housing production and distribution. For example, allowing off-site construction could result in a greater number of affordable units in a different neighborhood; or in-lieu fees could be used to produce housing for deeper income levels than would be possible through an inclusionary zoning policy. On the other hand, off-site construction can further concentrate affordable housing into high-poverty neighborhoods.

The bottom-line principle for allowing alternatives should be that off-site options generate *more* affordable housing than on-site construction. In Boston, in-lieu fees and off-site construction are allowed in the downtown area, but set at levels that produce more affordable housing than if the units were built on-site.[62]

Utilize Alternatives to On-site Construction in an Established Context

Alternatives to on-site construction should be utilized in an established context with guidelines that are clearly articulated. Allowing alternatives to be used in an ad hoc manner by program administrators and developers compromises the effectiveness of inclusionary zoning.

Some locales only allow in-lieu fees for developments that fall below an established project trigger. For example, Boulder, Colorado, requires on-site construction for projects of five or more units, and allows an in-lieu fee on projects that are four units or smaller.

Considerations for DC

- The District has seen both an increase in high poverty neighborhoods, and the escalation of housing prices in once affordable neighborhoods that are displacing lower-income residents. Given these trends, the District should minimize use of in-lieu fees and off-site construction. This will help promote a more equitable distribution of affordable housing.
- If the District chooses to allow alternatives, it should be done in a limited and established context. For example, requiring on-site construction for projects of 10 or more units and the payment of in-lieu fees for smaller projects; or, allowing alternatives in a limited geographic area (e.g., in the downtown area such as Boston does).

Recommendation #8: Maximize IZ impact through clear legislation and consistent administration.

In order for jurisdictions to realize the benefits of IZ, serve the intended beneficiaries, and generate long-term results, a commitment to implementation and administration is needed.

Utilize Specific Language

Inclusionary zoning policies are implemented by the public entity that has land use and zoning authority—in most cities this is usually the city council or zoning commission. The enabling legislation should be clear and concrete about the various aspects of the policy, the obligations of developers, and the responsibilities of the public agency that will administer the program. Well articulated regulatory guidelines diminish the possibility of loopholes that can undermine the effectiveness of the policy. Clear procedural policies help developers plan for their projects with knowledge of what is expected and provides guidance to the administrative agency on how they should manage an IZ policy. Once codified in zoning law, however, IZ requirements should allow the administrative agency some discretion for determining when circumstances warrant an adjustment of inclusionary requirements.

Strategically Utilizing Alternatives to On-Site Construction

Cambridge, Massachusetts *permits neither in-lieu fees nor off-site construction, except in cases where developers face economic hardship in providing affordable units. In practice, no developers have applied for these alternatives. Cambridge has chosen this route since land is prohibitively expensive and private developers consistently over-bid nonprofits for land. After watching neighboring jurisdictions struggle to spend any of their in-lieu fee-generated dollars, Cambridge opted for on-site construction.*[63]

Sacramento, California *allows off-site construction and land dedication but not in-lieu fees. The city chose this route because they did not want the task of acquiring land and constructing units themselves. However, these alternatives are allowed only if they provide a more cost-effective way to generate affordable units; the site is more accessible to public transit; and they do not contribute to the further concentration of affordable housing.*[64]

Davis, California *utilizes the alternative of land dedication in an effective way. The city works with nonprofit developers to construct quality affordable housing on parcels dedicated by private developers in the same neighborhoods as their market rate developments. Since 1987, Davis has used its IZ program to produce more than 1,500 affordable housing units. Most of these are very low-income rental units.*[65]

In addition to the enabling legislation, jurisdictions may adopt supporting regulations or administrative policies for certain aspects of the policy. For example, if a jurisdiction wants to package inclusionary units with the Housing Choice Vouchers Program, an added resolution by the city council or mayor may be necessary to mandate that developers and the housing authority participate.

Administration Matters

When an IZ policy is established, a public agency is designated to administer the program, usually the city's departments of housing and/or community development. Having a good policy on the books is meaningless unless a jurisdiction has a deep commitment to administering the policy in a clear and consistent manner.

The administrative agency manages the day-to-day operations of the policy, working with developers through the process of building and selling inclusionary units, interfacing with landlords who rent inclusionary units, collaborating with public agencies such as the housing authority or housing finance agencies, and monitoring resales and tenant eligibility. Administrative agencies are assigned key roles to:

- **Verify income eligibility.** When IZ units are first rented or sold either the administrative agency or the developer verifies the income eligibility of applicants. When the jurisdiction manages this process, it usually verifies income eligibility and then creates a waiting list of approved renters or homebuyers from which developers can find prospective tenants or buyers. Boulder and Denver are jurisdictions that operate in this way.

- **Manage tenant selection process.** In addition to verifying income eligibility, some jurisdictions manage the tenant selection process. This can enable a program to package other forms of housing assistance with IZ units to reach extremely low-income families (e.g., Cambridge).

- **Oversee/monitor the resale process.** A jurisdiction must monitor the initial sale and every resale of IZ units to ensure units are sold or rented at the required prices and occupied by income-eligible households. This oversight and monitoring is critical to reach the intended beneficiaries of an IZ policy.

- **Provide on-going support and technical assistance and guidance to developers.** Another important function of the administrative agency is to provide guidance and support to developers who are constructing inclusionary units. As discussed earlier in the report, IZ is a policy that generates affordable housing while maintaining developer profit. Through technical assistance jurisdictions can help developers meet their requirements.

- **Determine alternatives when developers face economic hardship.** Jurisdictions should provide clear standards by which a developer can request a full or partial waiver from the inclusionary requirement. Waivers should only be given if the developer can prove economic hardship. Relief can take the form of a reduction in the requirement, alternatives to the requirement, or a waiver of the requirement. The administrative agency—not the developer—should determine what the alternative will be.

Commit Resources to Administration

The agency administering an IZ policy should be adequately resourced to manage the operations of the policy. Some locales utilize in-lieu fees to administer the program while others allocate administrative resources. The resources required to effectively administer an IZ program vary with the size and age of the program. A 2002 case study of IZ programs in small-to-mid-sized Bay Area cities found annual administrative costs varied from $40,000 to $110,000.[66] Monitoring and verifying incomes for Cambridge's IZ program requires the attention of one full-time staff person.[67] Montgomery County's program, with roughly 4,000 units subject to IZ requirements, is administered by three staff people.[68]

Some cities have found they can save administrative costs by sub-contracting out monitoring and enforcement responsibilities to a nonprofit organization. Palo Alto subcontracts with the nonprofit Palo Alto Housing Corporation to monitor units and qualify household income. The cities of Livermore,

Pleasanton, San Ramon, Dublin, and Danville are jointly developing a non-profit that would serve as a one-stop clearinghouse for information on IZ rental and for-sale opportunities, as well as homeowner assistance programs, for each city's inclusionary zoning program.[69]

Considerations for DC

- The District should establish inclusionary zoning by adopting enabling legislation that is clear about the parameters of the policy and the obligations of developers and the administrative agency. However, without proper administrative oversight the best policy on the books can be undone. Therefore the District should assess which public agency (e.g., Housing and Community Development) is best suited to administer IZ, and then empower it with the necessary resources.

Conclusion

Many factors in Washington, DC make this a critical time to implement a mandatory inclusionary zoning policy in the District. Those factors include: renewed residential investment, an escalating housing market, increasing housing cost burdens on District residents and newcomers, increased displacement of residents, and an ambitious mayoral plan to develop new neighborhoods and attract 100,000 new residents to the city. A comprehensive housing strategy that can provide a blueprint for both market rate and affordable housing is warranted. Experience has shown that inclusionary zoning is an effective policy for tying affordable housing development to market rate production, and ensuring that affordable housing is distributed across a jurisdiction. While the District has shown increased commitment to affordable housing investment, it can strengthen that commitment by employing one of the most effective tools in the affordable housing toolkit. The success of inclusionary zoning has been demonstrated in hundreds of jurisdictions across the country. The nation's capitol and its residents deserve the benefits of a strong inclusionary policy.

Notes

[1] See Alice Rivlin, Transcript of remarks at the Brookings/Potomac Conference Forum titled "The Future of the Core of the Washington DC Region" held June 14, 2001 at the Brookings Institution (Washington, DC: Brookings Institution), 2001.
[2] For income figures, see US Department of Housing and Urban Development, *FY 2003 Income Limits* and *FY 1999 Income Limits*, retrieved from http://www.huduser.org/datasets/il.html. For home purchase prices, see Metropolitan Washington Council of Governments and Washington Area Housing Partnership, *Quarterly Housing News vol. 7*, no. 1 (May 2003), p. 2; and, Metropolitan Washington Council of Governments and Washington Area Housing Partnership, *Metropolitan Washington Annual Regional Housing Report vol. 6*, no. 5 (May 2003), p. 3. Rental prices based on "Fair Market Rents (FMR)" from US Department of Housing and Urban Development, retrieved from http://www.huduser.org/datasets/fmr.html, 2003.
[3] The US Department of Housing and Urban Development defines thirty percent as the maximum that a renter or homeowner should spend on housing. The figure on income needed to purchase the average price home is calculated by summing monthly mortgage payments, local taxes, and insurance. Mortgage terms (30-year, 7 percent fixed-interest mortgage with a 20 percent down payment) are based on consultation with local housing developers. Local taxes are calculated at $0.96 per $100 of property value, with a $30,000 homestead exemption. Insurance is calculated as $3.60 per $1,000 of home value. No homeowner association or condo fees are included. The figure used on income need to afford the average rental was a 30 percent calculation of income based a rental price of $1,804 for a two-bedroom rental. For average rental price in 2002 see Margery Turner et al., *Housing in the Nation's Capital 2002* (Washington, DC: Urban Institute, 2002), p. 35.
[4] See US Department of Housing and Urban Development, "FY 2003 Income Limits."
[5] See US Census Bureau, "Summary File 3," 2000 Census, retrieved from http://www.census.gov/.
[6] See DC Housing Authority, *Moving to Work Annual Plan Fiscal Year 2002: Appendix A*. Washington, DC, 2002.
[7] See Metropolitan Washington Council of Governments and Washington Area Housing Partnership, *Metropolitan Washington Annual Regional Housing Report vol. 6*, no. 5, p. 1.
[8] See Margery Turner et al., *Housing in the Nation's Capital 2003*, draft manuscript (Washington, DC: Urban Institute, 2003) Ch.6, p. 5.
[9] Ibid., Ch. 6, p. 3.
[10] District of Columbia Office of the Deputy Mayor for Planning and Economic Development, *District of Columbia Housing Pipeline, Summary of FY 2003, Third Quarter Report*, retrieved from http://dcbiz.dc.gov/services/housing_initiative_data1.shtm.
[11] See Turner et al., *Housing in the Nation's Capital 2003*, draft manuscript, pp. 6-8.
[12] This figure was compiled by the Nonprofit Housing Association of Northern California based on a survey of California jurisdictions. The production data represents affordable housing units that were generated through inclusionary zoning policies. The average date of IZ adoption was 1992, with the first of the policies being implemented in 1973. See Non-Profit Housing Association of Northern California and the Coalition for Rural Housing, *Inclusionary Housing in California: 30 Years of Innovation* (San Francisco, CA: Non-Profit Housing Association of Northern California and the California Coalition for Rural Housing, 2003), p. 7.
[13] Eric Larsen, Moderately Priced Dwelling Unit program coordinator, Montgomery County, MD. Interviewed by PolicyLink, June 2003.
[14] County officials repealed the county's inclusionary ordinance in 1996.
[15] Based on interviews conducted by PolicyLink with: Larsen, interview, June 2003; Bonnie Conrad, homeownership program manager, Fairfax County, VA, July 2003; Lenny Goldberg, housing counselor, Loudoun County, MD, August 2003. See also, Karen D. Brown, *Expanding Affordable Housing Through Inclusionary Zoning: Lessons from the Washington Metropolitan Area* (Washington, DC: Brookings Institution, 2001), p. 11.
[16] See Mark Rubin, *100,000 New Taxpayers Does Not Have to Mean 100,000 New Residents for the District of Columbia* (Washington, DC: DC Agenda, 2003), p. 38.
[17] See Metropolitan Washington Council of Governments and the Washington Area Housing Partnership, *Metropolitan Washington Annual Regional Housing Report vol.7*, no. 1, May 2003, p. 2; Margery Turner et al., *Housing in the Nation's Capital 2002*, pp. 21-37; US Bureau of Labor Statistics, "DC MSA Occupational Employment and Wage Estimates, 2001," retrieved from http://www.bls.gov/oes/2001/oes_dc.htm#b41-0000.
[18] See District of Columbia Office of Planning, "Development Activity Database," May 2003.
[19] See Turner et al., *Housing in the Nation's Capital 2003*, draft manuscript, Ch. 6, p. 2.
[20] See William Julius Wilson, *When Work Disappears: The World of the New Urban Poor* (New York, NY: Knopf, 1996).
[21] See the District of Columbia Office of Planning, *Ten Strategies for A Stronger Washington* (Washington, DC: District of Columbia Office of Planning, 2003), p. 4.
[22] See the Non-Profit Housing Association of Northern California and the California Coalition for Rural Housing, *Inclusionary Housing in California: 30 Years of Innovation*, p. 8.
[23] Ibid. The 15 top producers were identified by annual production numbers.

[24] See Phillip B. Herr, "Zoning for Affordability in Massachusetts: An Overview," in Inclusionary Zoning: Lessons Learned in Massachusetts, *National Housing Conference Affordable Housing Policy Review vol. 2*, no. 1 (January 2002), p. 4.
[25] Cindy Pieropan, housing planner, City of Boulder, CO, interviewed by PolicyLink, August 2003.
[26] Chris Cotter, housing project planner, City of Cambridge, MA. Interviewed by PolicyLink, June 2003.
[27] Pieropan, interview, August 2003.
[28] Based on interviews conducted by PolicyLink with: Emily Hottle, housing finance analyst, City of Sacramento, interviewed June 2003; Sue Exline, planner, City of San Francisco, CA, interviewed June 2003; Armando Sanchez, program consultant, City of South San Francisco, CA, interviewed June 2003; Pieropan, interview, August 2003; Conrad, interview, July 2003; Linda Hall, Housing Opportunity Program coordinator, City of Santa Fe, NM, interviewed July 2003. For New Jersey, see Allan Mallach, *Inclusionary Housing Programs: Policies and Practices* (New Brunswick, NJ: Center for Urban Policy Research, 1984).
[29] Hall, interview, July 2003.
[30] See "Article 14" of the Burlington Zoning Ordinance: Inclusionary Zoning/Density Bonus. City of Burlington, VT.
[31] See Business and Professional People in the Public Interest, *Opening the Door to Inclusionary Housing* (Chicago, IL: Business and Professional People in the Public Interest, 2003) p. 78.
[32] Ibid. p. 62.
[33] See "Title 17, Chapter 17.190" of the Sacramento City Code.
[34] Cindy Fedler, CDBG and Affordable Housing Programs coordinator, City of Longmont, CO. Interviewed by PolicyLink, July 2003.
[35] See San Diego Housing Commission, *Report CCR 02002 – Attachment 3: Menu of Potential Incentives*, June 2002. Retrieved from http://www.housingsandiego.org/Attach3.pdf.
[36] Beverly Fretz-Brown, director of policy and planning, Sacramento Housing and Redevelopment Agency, City of Sacramento, CA. Interviewed by PolicyLink, July 2003.
[37] See US Department of Housing and Urban Development, "FY 2003 Income Limits."
[38] See Nico Calavita et al., "Inclusionary Housing in California and New Jersey," *Housing Policy Debate vol. 8*, no. 1 (1997).
[39] See Non-Profit Housing Association of Northern California and the California Coalition for Rural Housing, *Inclusionary Housing in California: 30 Years of Innovation*, p. 10.
[40] Steven Brady, housing planning and economic analyst, City of Los Angeles, CA. Interviewed by PolicyLink, July 2003.
[41] See David Paul Rosen and Associates, *Los Angeles Inclusionary Housing Study: Final Report* (Los Angeles, CA: Prepared for the Los Angeles Housing Department, 2002).
[42] See US Department of Housing and Urban Development, "FY 2003 Income Limits."
[43] See Nico Calavita et al., "Inclusionary Housing in California and New Jersey."
[44] Mike Johnston, director of leasing and occupancy, Cambridge Housing Authority, Cambridge, MA. Interviewed by PolicyLink, August 2003; and, Cotter, interview, June 2003.
[45] See US Department of Housing and Urban Development, "FY 2003 Income Limits."
[46] Cotter, interview, June 2003.
[47] Ibid.
[48] Conrad, interview, July 2003.
[49] Sanchez, interview, June 2003.
[50] Bill Murphy, Montgomery, MD, Interview.
[51] Ibid.
[52] Sharon Marbley, homeownership coordinator, Housing Opportunities Commission, Montgomery County, MD. Interviewed by PolicyLink, July 2003.
[53] See Brown, *Expanding Affordable Housing Through Inclusionary Zoning*, pp. 9, 23.
[54] See Bread for the City and the Washington Legal Clinic for the Homeless, *Borger Management v Michael Sindram*, Amicus Brief. (Washington, DC: District of Columbia Court of Appeals, 2003).
[55] Sue Exline, City of San Francisco, CA, interview.
[56] See Karen D. Brown, *Expanding Affordable Housing Through Inclusionary Zoning: Lessons from the Washington Metropolitan Area*, p. 29.
[57] Larsen, interview, June 2003.
[58] Murphy, interview.
[59] See Brown, *Expanding Affordable Housing Through Inclusionary Zoning*, p. 17.
[60] Ibid., p. 30.
[61] See Business and Professional People for the Public Interest, *Opening the Door to Inclusionary Housing*, p. 40.
[62] Ibid. p. 63.
[63] Cotter, interview, June 2003.
[64] Fretz-Brown, interview, July 2003.
[65] Katherine Hess, City Planning and Redevelopment administrator, City of Davis, CA. Interviewed by PolicyLink, July 2003.
[66] See Bay Area Economics, *San Jose Inclusionary Housing Study*, p. 13.
[67] Cotter, interview, June 2003.
[68] Larsen, interview, June 2003.
[69] Milly Siebel, Housing and Human Services Division, City of Livermore, CA. Interviewed by PolicyLink, August 2003.

Appendix A. Examples of Mandatory Programs

Table 1. Examples of Mandatory Inclusionary Zoning Programs

Jurisdiction	Set Aside	Trigger	Income Targets	Compensation
Boston, MA	10%	10 units	< 80% AMI (½) 80-120% AMI (½)	• Tax break • Increased height/FAR allowance
Boulder, CO	20%	1 unit	< 80% AMI	• NONE
Cambridge, MA	15%	10 units	Avg. of 65% AMI 10-30% AMI[1] (reached by packaging with other affordable housing resources)	• 30% density bonus (15% for market units, 15% for affordable units)
Davis, CA	25-35%	5 units	<50% AMI (2/7) 50-80% AMI (5/7)	• 25% Density Bonus
Denver, CO[2]	10%	30 for-sale units	< 80% AMI (<3 stories) < 95% AMI (4+ stories) < 65% AMI (rental)	• 10% density bonus • $5,000/unit cash subsidy • Reduced parking requirements • Expedited review
Fairfax County, VA	6.25-12.5%	50 units	< 70% AMI 25-40% AMI[3] (reached by packaging with other affordable housing resources)	• 10-20% density bonus
Montgomery County, MD	12.5-15%	35 units	< 65% AMI < 30% AMI[4] (reached by packaging with other affordable housing resources)	• Up to 22% density bonus • Fee waivers • Lower min. lot area requirements • Reduced property taxes in high-rises
Sacramento, CA	15%	10 units (greenfield areas)	< 50% AMI (2/3) 50-80% AMI (1/3)	• 25% density bonus • Fee waivers or deferrals • Expedited review • Reduced land use limits • Less expensive finishes allowed • Gap financing
San Diego, CA	10%	2 units	65% AMI (rental) 100% AMI (for-sale)	• Expedited review • Reduced water and sewer fees
San Francisco, CA	12%	10 units	60% AMI (rental units) 100% AMI (for-sale)	• Fee waivers
Santa Fe, NM	11-16%	1 unit	Avg. of 65% AMI	• 11-16% density bonus
South San Francisco, CA	20%	5 units	80-120% AMI (3/5) 50-80% AMI (2/5)	• NONE

[1] Interview with Mike Johnston, Director of Leasing and Occupancy, Cambridge Housing Authority, August 2003.
[2] Denver's program is mandatory for ownership units but voluntary for rentals.
[3] Interview with Bonnie Conrad, Homeownership Program Manager, Fairfax County, July 2003.
[4] Interview with Bobbie Costa, Scattered Sites Manager, Rental Assistance Division, Housing Opportunities Commission, September 2003.

Appendix B. Key Components of Policy

Table 1. Key Components of an Inclusionary Zoning Policy

Component	Description/Best Practices
Voluntary vs. Mandatory	• Inclusionary zoning can be mandatory, requiring developers to build affordable units in exchange for building permits, or incentive-based, allowing developers to voluntarily "opt-in." • Mandatory policies have produced far more affordable units than voluntary programs.
Set Aside	• The percentage of units within a proposed development that must be earmarked as affordable. Cities have set-aside requirements that range from as low as 5 percent to as high as 35 percent. The higher the set-aside, the more affordable units will be generated. • Set asides are rarely less than 10 percent.
Income Target	• The income level to which inclusionary units are targeted. Most jurisdictions set the income target of their programs based upon a percentage of the area's median income (AMI). • Some jurisdictions chose to tier their income target, for example, building half of the units at 50 percent of AMI, and the other half of units at 80 percent of AMI. This allows jurisdictions to meet affordable housing needs at several income levels. • IZ policies are most effective when income targets are set at levels where housing need is most acute.
Size of Development ("project trigger")	• The project threshold to which the inclusionary zoning policy will apply (e.g., projects of 5, 10, 20 units). • Some jurisdictions apply inclusionary zoning policies to all development that is happening in the community, with larger projects required to construct units and smaller projects paying an in-lieu fee. • The rule of thumb is to ensure that the inclusionary zoning policy is applicable to the majority of the residential market and reflective of housing development patterns.
For Sale/Rental	• The inclusionary requirement can apply to owner-occupied and/or rental units. The vast majority of policies apply to both.
Developer Compensation	• Jurisdictions typically offer developers compensation ~~or~~ cost-offsets ~~to~~ decrease the developer's cost of construction in exchange for production of affordable units. • One of the most popular forms of cost-offsets or developer compensation is the density bonus, where the developer is allowed to construct additional market rate units beyond what is allowed under zoning law. Other cost-offsets utilized by jurisdictions include: expedited permitting, reduced parking requirements, and waivers or deferrals of certain municipal fees.
Off-site Construction and In-lieu Fees	• Some programs allow alternatives to constructing affordable units on-site, within the larger market rate development. The two most common alternatives are allowing affordable units to be constructed in an off-site location, or the payment of a fee in-lieu of building the units. • If in-lieu fees are part of an IZ policy, they should be set at a level comparable to the costs associated with producing affordable housing units. Otherwise, the IZ policy is seriously weakened. • On-site construction leads to greater economic and racial integration.

Table 1. Key Components of an Inclusionary Zoning Policy (con't.)

Component	Description/Best Practices
Apply to Rehab Units, Condo Conversions, and Adaptive Re-use	• Some programs apply an inclusionary requirement to rehab, condo conversions, and adaptive re-use. However, the practice is not widespread.
Similarity/ Compatibility of Inclusionary and Market Rate Units	• Many IZ policies require developers to construct affordable units that are similar or compatible in outward appearance to market rate units. This requirement contributes to cohesiveness in the physical appearance of a neighborhood helping to overcome negative perceptions of what constitutes "low income" housing. • Developers have a vested interest in adhering to this requirement since units that are disparate in outward appearance can lower the market value of the development.
Production of Inclusionary and Market Rate Units	• Jurisdictions can require that inclusionary units should be constructed prior to, simultaneous with, or after market rate units. • Nearly all jurisdictions with IZ policies now require prior or simultaneous construction of affordable units to ensure they are produced.
Dispersal of Affordable Units	• Nearly all IZ policies today require inclusionary units to be dispersed throughout a development. This helps affordable units blend in so that they can be truly integrated with market-rate units, and escape the usual stigma attached to affordable housing. • Dispersal is particularly important for projects with multiple, detached units.
Terms of Affordability	• The length of time an inclusionary unit stays affordable ranges from five years to perpetuity; these requirements are included as deed restrictions. • Longer affordability terms (30 years or longer) ensure that inclusionary units stay affordable for future generations. • Programs often have a limited equity component that allow homebuyers to sell their properties at a price that is upwardly adjusted from the price at which they bought it; but the resale price is capped to preserve affordability.
Administration and Enforcement	• Departments of community development and/or housing typically administer IZ programs. The administrative agency manages the day-to-day operations of the program, monitors compliances, and tracks effectiveness. • The designated public agency should be appropriately resourced to carry out these tasks.
Getting to Deeper Affordability	• Once inclusionary units are constructed, jurisdictions can utilize other affordable housing resources (e.g., housing choice voucher dollars) or purchase IZ units to reach very low-income families.

Appendix C. Excerpts from IZ Economic Feasibility Studies

Some jurisdictions conduct economic feasibility studies to determine the parameters of their inclusionary zoning policy (e.g., set-aside requirement, income target), and what cost offsets (if any) will be provided to ensure a normal overall profit margin for developers. These studies are based on extensive conversations with developers about various costs (land, construction, financing) and market conditions to project the impact of inclusionary requirements on a range of development scenarios. Feasibility studies model how various cost offsets could reduce the overall construction costs of inclusionary zoning projects. Two such analyses for Los Angeles and San Diego are shown below.

Table 1. Projected Impacts of IZ Cost-Offsets (Los Angeles)

	Savings per Affordable Unit (assuming 15 percent set aside)							
	Low-Density Rental[1]	*Medium-Density Rental*[2]	*High-Density Rental*[3]	*High-Density Rental (Type III)*[4]	*Owner Single-Family*[5]	*Owner Attached*[6]	*Owner Condos*[7]	*Condos (Type I)*[8]
Cost-Offset								
Reduce size[a]	$18,644	$19,533	$21,026	$24,565	$56,707	$35,151	$32,520	$62,472
Reduce bathrooms[b]	3,805	4,357	4,690	5,634	2,729	9,696	9,034	15,025
Modest interior finish[c]	9,278	8,333	8,333	8,517	16,000	13,611	9,650	10,033
Reduce parking[d]	5,833	5,444	54,444	76,667	NA	NA	NA	NA
Defer fees[e]	3,842	3,876	5,318	5,318	8,446	6,960	6,887	11,238
Allow tandem parking[f]	520	909	9,094	12,718	NA	NA	NA	NA
TOTALS	$41,922	$42,453	$102,905	$133,418	$83,882	$65,419	$58,091	$98,767

Source: David Paul Rosen and Associates, City of Los Angeles Inclusionary Housing Study, September 2002.

[a] Inclusionary units allowed to be reduced as follows: 540 sf (from 625 sf) for one-bedrooms; 725 sf (from 850 sf) for two-bedrooms; 1000 sf (from 1,100) for three-bedrooms.
[b] Number of bathrooms reduced from two to one bath for two bedroom and three bedroom inclusionary units.
[c] Assumes $10.00 per square foot reduction in interior finish costs.
[d] Parking requirement reduced by 0.25 spaces per unit.
[e] Building permit, water, sewer, school, and park fees deferred from paying at start of construction to certificate of occupancy. This then assumes a 12-month deferral for "renter low" and "renter medium," a 15-month deferral for renter high and renter high Type III, and an 18-month deferral for owner condos and Type I condos.
[f] Two spaces share one means of egress for units with two or more parking spaces.

[1] Two story apts., 25 units per acre, covered (at grade) parking.
[2] Three story apts., 35 units per acre, 1-level podium parking.
[3] Four story apts., 85 units per acre, 2 levels of underground parking.
[4] Five story apts., 100 units per acre, 2 levels of underground parking, Type III construction.
[5] Detached single-family homes, 15 units per acre, garage parking.
[6] Attached townhomes, 20 units per acre, covered at grade parking, pool or spa.
[7] Four story stacked condos, 80 units per acre, 2 levels of underground parking, pool or spa.
[8] Six-story stacked condos, 150 units per acre, 3 levels of underground parking, pool or spa and community room.

Table 2. Projected Impacts of IZ Cost-Offsets (San Diego)

	Savings per Affordable Unit (assuming 10 percent set aside)					
	Garden Apartments	*In-Fill Apartments*	*Townhomes*	*Stacked Flat/Rental*	*Stacked Flat/Condo*	*Type III/Condo*
Cost-Offset						
25 Percent Density Bonus	$30,000	$30,000	$60,000	$35,000	$45,000	$40,000
Permitting Expedited by 12 Months[1]	33,000	33,200	66,000	38,500	50,000	44,000
12 Month Fee Deferral[2]	8,500	8,200	10,000	8,500	9,000	9,500
TOTALS	$71,500	$71,400	$136,000	$82,000	$104,000	$93,500

Source: San Diego Housing Commission, Report CCR 02002 and Attachments, 2003

[1] Cost of funds @ 10.0 percent and property tax rate @ 1.0%
[2] Cost of funds @ 10.0 percent

Appendix D. Research Interviewees

Lisa Aozasa, Planner
Planning and Building Division, San Mateo County, CA

Steven Brady, Housing, Planning, and Economic Analyst
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Nico Calavita, Professor
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Bonnie Conrad, Homeownership Program Manager
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Chris Cotter, Housing Project Planner
Community Development Department,
City of Cambridge, MA

Sue Exline, Planner
Planning Department, City of San Francisco, CA

Kathy Fedler, CDBG and Affordable Housing Programs Coordinator
City of Longmont, CA

Karin Foley, Project Manager
Manna Inc., Washington, DC

Beverly Fretz-Brown, Director of Policy and Planning
Sacramento Housing and Redevelopment Agency,
City of Sacramento, CA

Lenny Goldberg, Housing Counselor, Loudoun County, MD

Gordon Goodlett, Development Officer
ADU Program, Department of Housing and Community Development, Fairfax County, VA

Fred Goodrich, Assistant Director of Planning
Building and Planning Department, San Benito County, CA

Trisha Guditz, Housing Development Planner
Housing Office, City of Newton, MA

Linda Hall, Housing Opportunity Program Coordinator
Community Development Division, City of Santa Fe, NM

Katherine Hess, Planning and Redevelopment Administrator
Planning and Building Department, City of Davis, CA

Linda Hill-Blakley, Housing Planner
Department of Housing and Human Services, City of Boulder, CO

Emily Hottle, Housing Finance Analyst
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John Pollak, Director
Department of Housing and Human Services, City of Boulder, CO

Mike Rawson, Director
California Affordable Housing Law Project, Sacramento, CA

Armando Sanchez, Consultant
Economic and Community Development Department,
City of South San Francisco, CA

Doug Shoemaker, Director of Policy and Programs
Non-Profit Housing Association of Northern California,
San Francisco, CA

Milly Siebel, Administrative Technician
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Catherine Siegel, Housing Coordinator
Planning Department, City of Palo Alto, CA

Susan Tinsky, Senior Program Analyst
Housing Commission, City of San Diego, CA

Amy Urcis, Associate Planner
City of Irvine, CA

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