

CITY LIMITS' GUIDE TO INCLUSIONARY ZONING

By Alyssa Katz

Decoding Rezoning

All you really need to know is that inclusionary zoning, done right, will produce a significant amount of new affordable housing. But if you feel like you need a degree in urban planning to understand the proposals being fiercely debated by community boards, the City Planning Commission and the City Council—well, it wouldn't hurt. As a shortcut, here's a guide to what the city, and affordable housing advocates, are proposing to do.

WHERE	EXISTING INCLUSIONARY ZONING	BLOOMBERG ADMINISTRATION PROPOSALS		COMMUNITY ADVOCATE PROPOSALS	
	Manhattan areas zoned for high-rise residential development.	Hudson Yards: 30th to 43rd streets, 7th to 12th avenues, Manhattan	Greenpoint/Williamsburg: waterfront and select "upland" areas.	Manhattan: 28th to 42nd streets, west of Eighth Avenue	Greenpoint/Williamsburg: Community District 1
WHO	Department of City Planning	Departments of City Planning and Housing Preservation and Development		Hell's Kitchen/Hudson Yards Alliance (includes Housing Conservation Coordinators, Clinton Housing Development Company, block and tenant associations)	Mobilization Against Displacement (includes Brooklyn Legal Services Corporation A, St. Nicholas Community Development Corp., Los Sures)
WHAT	<p>Incentives: Developers who include housing can build larger buildings than zoning would otherwise allow. City Planning says the average bonus is about 20 percent more square footage.</p> <p>Apartments are managed by nonprofit organizations.</p>	<p>Incentives: The standard height of residential buildings developers can erect in the area will be limited. Those who include a certain percent of affordable units can then build to maximum height. The extra stories equal up to 33 percent of the total floor area.</p> <p>Unlike current Manhattan program, developers would be able to access HPD and Housing Development Corporation financing.</p> <p>Affordable housing can be produced in the same building as market-rate units or offsite. Or developers can preserve an existing apartment in the area.</p>	<p>Incentives: New waterfront high-rises can range from 150 to 350 feet. But to reach those full heights, developers will have to make 15 to 25 percent affordable—or deliver an equivalent number of affordable apartments in the area.</p> <p>Inland, developers will be eligible for square footage bonuses of 10 to 20 percent if they commit to making half that extra space affordable housing.</p> <p>The less expensive the housing is to rent, the less of it a developer has to build.</p>	<p>Mandatory, plus incentives: All developments in Hudson Yards with more than 20 units must devote 20 percent of floor area to affordable housing.</p> <p>Deepen existing inclusionary zoning incentives by shrinking the base size of new buildings and increasing the number of bonus floors.</p> <p>Expand area covered by existing protection against tenant harassment and demolition of existing building.</p> <p>Set aside publicly owned sites and acquire private property for affordable housing development.</p> <p>Priority for current area residents.</p>	<p>Mandatory: No less than 40 percent of new apartments must be affordable to low- and moderate-income occupants.</p> <p>Priority for current area residents.</p> <p>Affordable housing in the same locations as market-rate apartments.</p> <p>Regulations to prevent harassment of tenants.</p> <p>Tax credit to landlords of existing housing who rent below market rates.</p>
WHAT DOES "AFFORDABLE" MEAN? (Median income in New York City is \$51,900 for a family of four.)	Renters must earn less than 80 percent of median income.	For new units, below 80 percent of median income. For preserved apartments, up to 125 percent of median income. Permanently affordable.	Incomes of occupants can range from 80 to 175 percent of median income, or \$41,600 to \$91,000 annually. Permanently affordable.	One in five units for tenants at less than 80 percent of median income; 50 percent for between 80 and 125 percent of median income, and 30 percent for between 125 and 165 percent of median income. Permanently affordable.	One-third of affordable units targeted for incomes up to \$17,000 a year; one-third up to \$25,000, and one-third up to \$55,000.
NUMBER OF AFFORDABLE UNITS	About 600.	City predicts 2,600 new affordable units, out of 13,600 total.	City predicts 1,650 to 2,500 new affordable units, out of 10,300 total.	At least 30 percent of all new housing units.	At least 40 percent of all new housing units.
TIMELINE	Originated in 1987.	City Council will hear rezoning plan in January.	City Council will hear rezoning plan this spring.		

The Tract Record

Nationwide, an estimated 350 to 400 local governments require residential real estate developers to include affordable housing in their projects. Here are four of the biggest—each with a lot to teach New York about how to make inclusionary zoning work.

San Francisco

Rank of metro area's housing among nation's least affordable: 2

Year inclusionary zoning launched: 2001

An informal policy has been in place since the late 1980s, requiring developers who seek "conditional use" permits—which allow them to bend zoning rules—to make 10 percent of their units affordable. In 2001, a coalition of politicians, housing advocates and builders amended the policy and turned it into law.

Ground rules:

Under the new law, developers constructing buildings with 10 or more units must make 12 percent affordable, or 17 percent if they build them off-site. Or they can pay an in lieu fee (currently \$194,905 for a 2-bedroom). Housing stays affordable for 50 years. As an enforcement tool, the city maintains a lien on the property representing the difference between the restricted price of the property and its fair market value.

What do they mean by "affordable"?

San Francisco's "area median income" is \$95,000 for a family of four. Units for sale must be affordable to households earning no more than that amount. Apartments for rent must be accessible to a family earning 60 percent.

Number of units produced:

The city has not yet taken a comprehensive look at construction under the new law but estimates that 300 affordable housing units were completed under the policy since the 1980s, with another 100 in the pipeline. Most of the units were built on-site, but a full breakdown is unavailable.

Strengths:

Because the law was based on a longstanding policy and drafted with input from all sides, it eased developers into the idea of mandates. It makes sense that San Francisco, one of the tightest housing markets in the country, would also have one of the strongest inclusionary zoning laws.

Weaknesses:

Affordable housing advocates are in an uproar over what they see as exploitation of loopholes. Of particular concern are developers constructing nine-unit buildings and building off-site housing in undesirable locations.

Lesson for New York:

Allowing affordable housing to be built far off site limits the economic diversity of neighborhoods and dumps low-income tenants in new pockets of poverty. Under New York City's current plans, affordable units for new Brooklyn waterfront high-rises could be built near the industrial park on the other end of the neighborhood.

Boston

Rank of metro area's housing among nation's least affordable: 5

Year inclusionary zoning launched: 2000

Ground rules:

Developers who seek zoning changes for a site on which they'll be building 10 or more units of housing must make 13 percent of those units affordable. (Until last year, the requirement was 10 percent.) Those units can be in the same building, or on another in lieu site. Or the developer can pay into an affordable housing fund. Homes must remain affordable for 99 years.

What do they mean by "affordable"?

Boston's median income is \$80,800 for a family of four. Half of all apartments must go to households earning less than 80 percent of that, or \$64,640. The rest may make up to nearly \$97,000.

Number of units created:

339, plus \$6.8 million secured for off-site development.

Strengths:

Zoning variances give developers and the city opportunities to craft site-by-site development plans that keep housing production and profits at mutually acceptable levels—typically by allowing the building to be larger than zoning would normally permit. Some housing advocates also say they like that developers have the option to build affordable units offsite, because many longtime Bostonians prefer not to live in the downtown redevelopment area where much of the new market-rate housing is being built.

Weaknesses:

Dealmaking risks shredding the city's zoning code. Option to build off-site exacerbates segregation.

Lesson for New York:

Even in a tight real estate market, mandatory inclusionary zoning does not necessarily deter development. In Boston, 3,127 new units were built in fiscal year 2004 alone, compared with just over 1,000 during the entire 1990s. The key is creating individual arrangements for each project—a planner's nightmare and developer's dream. Some New York builders who are wary of inclusionary zoning mandates say they may be willing to support them if they knew they could strike compromises with city planners on the size and scale of individual projects.

San Diego

Rank of metro area's housing among nation's least affordable: 12

Year introduced: 2003

Ground rules:

In developments of two or more units, 10 percent must be affordable; the affordable units may be built onsite or nearby. In a developing northern suburban area, where development costs are lower, 20 percent must be affordable. Developers can, instead, pay an in lieu fee into an affordable housing trust fund. There's an exemption for developments where all units are affordable to middle-income owners. Price controls hold for 55 years. If homes are sold, the city gets some of the money back.

What do they mean by "affordable"?

Rental units are restricted to those earning less than 65 percent of area median income, which is \$59,900 for a family of four. Homebuyers must make less than the median. "Middle income" is defined as up to 150 percent of median income.

Number of units produced:

No units yet, but \$1.2 million collected in fees as of July. Based on construction permits issued, the city housing commission reports that there are 2,295 affordable units in the pipeline.

Strengths:

Much as in New York, community development and religious groups successfully mobilized to push inclusionary housing as a political agenda, while CDCs worked with the City Council to help formulate the legislation. California state law requires each region of the state to demonstrate that communities are providing their fair share of affordable housing, giving San Diego an extra incentive to make inclusionary zoning work. To introduce new mandates into the housing market without disrupting production, in lieu fees for developers who decline to build affordable housing are low for the first few years, after which they will rise sharply.

Weaknesses:

Property values are rising so quickly that developers don't want to commit to middle-income developments, which limit their profit. Inclusionary housing has had problems elsewhere in San Diego county; hemmed in by strict zoning, the nearby beach city of Carlsbad has virtually ceased to produce affordable housing under its program.

Lesson for New York:

Rezoning underdeveloped areas for new housing provides a precious opportunity. In San Diego, a 1992 pilot program was tied to the new development of a largely unbuild suburban area on the north end of the city. The new zoning created a windfall for property owners and thus an opportunity to spin off a crop of affordable homes.

Montgomery County, Maryland (Suburban D.C.)

Rank of metro area's housing among nation's least affordable: 10

Year inclusionary zoning launched: 1974

Ground rules:

Under the county's Moderately Priced Dwelling Unit Program, new residential development of 35 or more units must make up to 15 percent of them affordable. Builders also get fee waivers and fast-tracked permits. There's an exemption for builders who demonstrate that including affordable housing would cause them financial hardship. The period during which the housing must remain affordable is limited: 10 years for purchased homes and 20 years for rentals.

What do they mean by "affordable"?

Applicants must earn less than 65 percent of the county's median income, which is \$84,800 for a family of four.

Number of units created:

11,482 through end of 2003 (8,109 homeownership units and 3,373 rentals)

Strengths:

A long and productive track record. A 2001 Brookings Institution analysis found that inclusionary zoning created more affordable housing in Montgomery County than all federal subsidies combined. A number of apartments are owned by nonprofits, committed to maintaining their housing as permanently affordable.

Weaknesses:

Production has decreased sharply since the late 1980s. As developable land has become scarce, more and more developers are opting to pay into a fund instead of including affordable units in their new buildings. Meanwhile, the program's time limits are pushing prices up to market rate faster than new affordable homes are being built: More than two-thirds of the housing built is already eligible to sell at market prices.

Lesson for New York:

A successful program navigates a fine line between squeezing developers too much and asking them to do too little. When builders of high-rise condos started balking at including affordable housing, the county let them buy their way out of their obligations—often for far less than what it would cost to build a new housing unit. The County Council is now proposing to increase the amount condos have to pay in, while allowing developers to build bigger, more lucrative towers. It would also extend the duration of price controls.