

## **Excerpts from Single Family Inclusionary Zoning Program Administration Review**

**March 13, 2012**

**Assignment** – Identify administrative restrictions imposed upon Voluntary Single Family Inclusionary Zoning Programs. More specifically, “what controls, enforcements and approvals have been put in place for Voluntary Single Family Inclusionary Zoning Programs around the country?”

**Methodology** – Research involved a four-pronged approach to exploring the question. The methodology employed was to 1) review large cities administering Voluntary Single Family Inclusionary Zoning Programs, 2) review Voluntary Single Family Inclusionary Programs in North Carolina, 3) research several Mandatory Inclusionary Zoning Programs, and 4) conduct a literature search to determine best practices around the country for administering inclusionary zoning programs. A detailed review of the proposed Single Family Inclusionary Zoning Policy was undertaken and analysis checks were performed to provide feedback. Research time constraints did not permit an opportunity to receive any feedback from Administrators currently managing Inclusionary Zoning Programs. However, telephone and email inquiries were made to several programs.

**Summary of Findings** – A survey of some large cities based on the Comparative Analysis of Existing Inclusionary Zoning Programs (September 2008) yielded two true Voluntary Inclusionary Zoning Programs (Long Beach and Nashville), a hybrid Mandatory/Voluntary Inclusionary Zoning Program (Denver), and a once voluntary program which is now a Mandatory Inclusionary Zoning program (Phoenix). The controls varied greatly among the programs examined, but all had some type of affordability period. The affordable units were enforced either by developer agreements (contracts) and/or deed restrictions. All programs had other control features addressing the approval process, pricing, selection of applicants, marketing, resale and/or other local requirements. See **Attachment A** for more information.

The review of three Voluntary Inclusionary Programs for larger cities in North Carolina (Asheville, Durham and Winston-Salem) showed some consistency in that all programs required a housing plan, subdivision approval, developer agreements and contracts with 15 year affordability periods and deed restrictions on developed affordable units. There was some variability in regard to additional requirements. See **Attachment B**.

Research also involved in depth reviews of four Mandatory Inclusionary Housing Programs (Chapel Hill, Davidson, Denver and San Francisco). This study was conducted to contrast the type of administrative requirements in mandatory programs against those in voluntary programs. The requirements of the specific programs mentioned have been detailed in an earlier report and do not need to be discussed again in this report. Generally, the mandatory programs were more exact in their administrative requirements than the voluntary programs in terms of approvals, tracking, monitoring and enforcement.

Finally, reviews of several books, articles and zoning ordinances were undertaken to assess the evolution of Inclusionary Zoning and the challenges of administering a program. The conclusion drawn from a number of sources is that the type of inclusionary program (voluntary or mandatory) is not the primary driver of administrative requirements, it is more so the policy goals that the community is trying to achieve. Citations of those readings are included in a bibliography in **Attachment C**.

## Attachment A: Comparison of Large Cities with Voluntary Single Family Inclusionary Zoning Programs

National Single Family Inclusionary Housing Programs			
Major Considerations	Long Beach 1988	Denver <sup>1</sup> (2002)	Nashville 1998
1. Threshold	One acre	For sale development ≤ 30 units	---
2. Density Bonus	Up to 35%; Varies based on percent of very low income (<50%), and low income (<80%) units; or senior units	10% Bonus; 50% - 80% AMI or AMI; or up to 95% Bonus based on building expense. <sup>2</sup>	1:1 Housing Unit Bonus; 80% of AMI
3. Control Period	30 years	15 years	7 years
4. Enforcement	<ul style="list-style-type: none"> <li>Housing Plan</li> <li>Deed Restriction</li> </ul>	<ul style="list-style-type: none"> <li>Housing Plan</li> <li>Deed Restrictions</li> </ul>	<ul style="list-style-type: none"> <li>PUD Approval</li> <li>Deed Restriction</li> </ul>
5. Approvals	<ul style="list-style-type: none"> <li>Planning Department</li> </ul>	<ul style="list-style-type: none"> <li>By Director of Economic Development Office</li> </ul>	<ul style="list-style-type: none"> <li>Approval as part of PUD Overlay</li> </ul>
6. Pricing	Unknown	Resale Guide	Unknown
7. Marketing	Unknown	City Website	Unknown
8. Education	Unknown	Unknown	Unknown
9. Selection & Screening Participants	Unknown	City Pre-Screen Applicants	Unknown
10. Monitoring Units	Not Available	City Monitor's Compliance	Unknown
11. Resale/Foreclosure	Unknown	City Resale Price List	Unknown
12. Other Provisions	<ul style="list-style-type: none"> <li>Exempt from Parks &amp; Recreation and Transportation Developer fees.</li> <li>Potential waiver of parking and other dimensional requirements subject to demonstration of need.</li> </ul>	<ul style="list-style-type: none"> <li>City of Denver will pay a developer a standard subsidy of \$5,000 for each MPDU constructed (or \$10,000 if the MPDU is affordable to households earning no more than 60% AMI), up to a maximum of 50% of the total number of units in a development.</li> <li>No leasing allowed</li> </ul>	<ul style="list-style-type: none"> <li>For single-family, two-family or multifamily units constructed for sale, the zoning administrator shall withhold issuance of a certificate of compliance pending receipt of a property transfer deed verifying compliance with the maximum sales price standards of this article.</li> </ul>

1. Denver has both a mandatory and voluntary portion of the Moderate Price Dwelling Unit Program. Since 2002, produced 1,177 housing units with 77 units generated through the voluntary program. Same administrative rules apply to both programs.

2. In Denver, building over 3 stories and have an elevator are given a 95% bonus to offset higher construction cost.

## Attachment B: Major Cities in North Carolina Inclusionary Housing Program

Major North Carolina Voluntary Inclusionary Zoning Programs			
Major Considerations	Asheville 2008	Durham 1997	Winston-Salem 1991
1. Threshold	5 Units		2 units
2. Density Bonus	20% to 100% based on percent of affordable Units	Up to 15% for 50% - 60% of AMI; and up to 20% for < 50% of AMI	25%; if 25% are of units are Affordable Units
3. Control Period	15 Years	15 Years	15 years
4. Enforcement	<ul style="list-style-type: none"> <li>Deed Restricted</li> <li>Right of First Refusal</li> </ul>	Deed Restricted	Deed Restricted
5. Approvals	<ul style="list-style-type: none"> <li>Developer's Agreement; approved by Planning Director</li> <li>Subdivision/Site Plan Approval</li> </ul>	<ul style="list-style-type: none"> <li>Developer's Agreement</li> <li>Subdivision Approval</li> </ul>	<ul style="list-style-type: none"> <li>Developer's Agreement</li> <li>Subdivision Approval</li> </ul>
6. Pricing	Based on 80% - 120% of AMI	Based on Percent of AMI	< 80% of AMI
7. Marketing	Openly marketed, with restricted sales to employees and relatives.	Unknown	Unknown
8. Education	Homebuyer Education	Unknown	Unknown
9. Selection & Screening Participants	Developer Responsibility	Unknown	Unknown
10. Monitoring Units	Responsibility of City	Unknown	Responsibility of the County
11. Resale/Foreclosure	Prices may increase by 4% per annum or annual increase in the Consumer Price Index, whichever is lower	For sale units shall be required to be adhered to sale price only at the initial sale.	The resale price of any reserved housing unit shall not, at any time during the life of the contract, exceed the maximum amount affordable to the purchasing low or moderate-income household. Requires approval of the County.
12. Other Provisions		Requires annual report on units and sales to County.	Must live in the County for 12 months.

## Attachment C: Bibliography

### Bibliography

1. DC Planning Office, *Zoning Best Practices*, Washington DC, 2008
2. Nicholas Brunick, Lauren Goldberg, and Susannah Levine, *Voluntary or Mandatory Inclusionary Housing? Production, Predictability, and Enforcement*, August 2004
3. *Inclusionary Zoning? Tools You Can Use*, HUD Regulatory Barrier Clearinghouse, Washington, DC, Date Unknown
4. Rick Jacobus, *Delivering on the Promise of Inclusionary Zoning: Best Practices in Administration and Monitoring*, Policy Link, Oakland, CA, 2007
5. *Inclusionary Zoning: Policy Considerations and Best Practices*, California Affordable Housing Law Project of the Public Interest Law Project and Western Center on Law & Poverty, December 2002
6. Nico Calavata and Allan Malach, “Inclusionary Housing, Incentives and Land Value Recapture”, *Land Lines*, Lincoln Policy Institute, 2009
7. City of Charlotte Zoning Ordinance (Web)
8. City of Ashville Zoning Ordinance (Web)
9. City of Winston-Salam Zoning Ordinance (Web)
10. Metropolitan Government of Nashville and Davidson County Zoning Ordinance (Web)
11. San Francisco Zoning Ordinance (Web)
12. City of Durham Zoning Ordinance (Web)
13. City of Denver Zoning Ordinance (Web)
14. Long Beach Zoning Ordiance (Web)
15. Boston Neighborhood Housing Department (Web)
16. HouseCharlotte Program (Web)
17. Town of Davidson Zoning Ordinance (Web)
18. Town of Chapel Hill Zoning Ordinance (Web)