# Report Contents

| Project Purpose | ................................................................. | 1 |
| Project Process and Timeline | .................................................................................. | 1 |
| Report Purpose | .................................................................................. | 2 |
| Community Participation | .................................................................................. | 3 |
| Planning Context | .................................................................................. | 6 |
| Comprehensive Plan 2040 | .................................................................................. | 6 |
| Blueprint Denver | .................................................................................. | 7 |
| Housing an Inclusive Denver | .................................................................................. | 8 |
| Affordable Housing | .................................................................................. | 9 |
| What is affordable housing? | .................................................................................. | 9 |
| What is the current legal context? | .................................................................................. | 11 |
| Affordable Housing Fund | .................................................................................. | 12 |
| Housing Linkage Fee | .................................................................................. | 12 |
| Inclusionary Housing Ordinance | .................................................................................. | 14 |
| Zoning | .................................................................................. | 15 |
| What is zoning? | .................................................................................. | 15 |
| 38th and Blake Incentive Overlay | .................................................................................. | 16 |
| Other Existing Zoning Incentives | .................................................................................. | 22 |
| Criteria to Evaluate Successful Solutions | .................................................................................. | 23 |
| Peer City Best Practice Research | .................................................................................. | 24 |
| Peer city’s programs | .................................................................................. | 24 |
| Peer Cities Reviewed | .................................................................................. | 24 |
| Top Level Findings from Peer City Research | .................................................................................. | 25 |
| Programs in the Context of State Law | .................................................................................. | 25 |
| Austin, Texas: Affordable Housing Zoning Incentives | .................................................................................. | 27 |
| Atlanta, Georgia: Incentive-Heavy Inclusionary Zoning | .................................................................................. | 29 |
| Los Angeles, California: Affordable Housing Zoning Incentives | .................................................................................. | 31 |
| History | .................................................................................. | 31 |
| Key requirements | .................................................................................. | 31 |
| San Jose, California: Blended Program | .................................................................................. | 33 |
| Seattle, Washington: Blended Program | .................................................................................. | 34 |
| Minneapolis, Minnesota: Inclusionary Zoning | .................................................................................. | 37 |
| Portland, Oregon: Inclusionary Zoning | .................................................................................. | 38 |
| Key requirements | .................................................................................. | 38 |
| Considerations Moving Forward | .................................................................................. | 40 |
| Appendix | .................................................................................. | 1 |
Project Purpose

Since the adoption of Comprehensive Plan 2040 and Blueprint Denver, Community Planning and Development (CPD) focuses on putting into action the bold visions and recommendations asked of us by the community.

The Affordable Housing Zoning Incentive project aims to address many of the key vision elements of Comprehensive Plan, most notably to create an “equitable, affordable and inclusive community with a high quality of life for all residents, regardless of income level, race, ethnicity, gender, ability or age.”

This project seeks to implement key policy recommendations from Blueprint Denver and Comprehensive Plan 2040 by creating a city-wide zoning incentive system for affordable housing especially near transit.

Project Process and Timeline

The project is anticipated to take 18 months. During this time, city planners will work with an advisory committee and the broader community to develop recommended changes to the Denver Zoning Code (DZC) and Denver Revised Municipal Code (DRMC).

The project contains five key phases:

1. Evaluating best practices and programs in other cities: We will research what cities similar to Denver are doing, analyze existing programs and establish criteria for evaluating an incentive system.
2. Evaluating potential alternatives: We will develop and evaluate different approaches to an incentive system, including testing financial feasibility and how well it produces the anticipated community benefit.
3. Confirming our strategy: We will develop a final incentive system based on the review and testing of the alternatives and report out on the final strategy.
4. Drafting: We will create an outline and draft code language of the proposed changes to the DZC and DRMC.
5. Legislative review: The Denver Planning Board will review, hold a public hearing and make a recommendation. Adoption and Implementation

Concurrent to each of these phases, community outreach undertakes a multi-pronged approach to ensure key stakeholders, including traditionally underrepresented populations, are meaningfully engaged and informed throughout the project. Please see the Community Participation process for more details on page 3.
Report Purpose

This Background Report intends to be an interim report to provide readers with a baseline knowledge of information on affordable housing and incentive zoning; document relevant policies; and provide findings from existing incentive systems. The subsequent phases of this report build off one another throughout the process.

A later phase of this report is called an Evaluation Report. In this report, different incentive systems are evaluated against the Evaluation Criteria which includes the financial feasibility and market testing.

The final phase of this report is called the Strategy Report which details the final recommended strategy for the incentive system. It is anticipated this final report serves as the guiding document for the modifications to the Denver Zoning Code (DZC) and Denver Revised Municipal Code (DRMC).
Community Participation

This project intends to implement the key strategies from Blueprint Denver, Comprehensive Plan 2040, and Housing an Inclusive Denver (see specific goals and strategies on page 6). During the development and adoption of Blueprint Denver and Comprehensive Plan, there was an unprecedented level of community engagement with more than 24,000 touch points and pieces of input received from the community. A comprehensive mix of efforts—from small, neighborhood-level events to large-scale community gatherings—digital engagement, traditional meetings, and neighborhood outreach created more than 200 opportunities for Denverites to get involved. Ideas and input collected from the community served as the foundation for the adopted plans and implementation projects. This project leverages the extensive community engagement conducted over the past three years and through related planning efforts such as the neighborhood and small area plans.

Continued community engagement is critical to the process in which the community is informed about and invited to contribute to the development of a citywide affordable housing zoning incentive. Additionally, plan policies direct us to “ensure an equitable planning process and include underrepresented residents in plans and plan implementation.” A key component to successful planning and decision-making is through an equitable planning process. This is the practice of using multiple strategies to provide opportunities for all community members – particularly those historically excluded, under-represented, or under-resourced – to be informed and to participate in the planning process and decision-making. Decisions made about housing policies are most effective when made in partnership with the people they affect.

Goals for Community Engagement include…

… Informing the community by distributing accurate, objective, and timely information;
… fostering understanding of zoning and affordable housing systems;
… identifying and addressing questions and concerns;
… soliciting input and feedback to ensure key issues, interests and needs are integrated into the process and project outcomes; and
… building awareness around the project and informing outcomes.

Principles for Community Engagement include…

… tailoring content and discussions to the specific needs and interests of the community;
… leveraging existing community groups and networks;
… being efficient and respectful of the time volunteered by all participants; and
… engaging in diverse representation with a variety of socio-economic backgrounds and perspectives.

Process

Community participation in this project includes an advisory committee, focus groups, office hours, and a public adoption process, among other opportunities. Each phase of the project uses an iterative approach to identify issues and select strategies to develop the incentive system and propose updates to the DZC and DRMC.

- The project team conducts research, develops systems for consideration, and provides initial analysis.
- The advisory committee assists in a review of best practices to identify and refine recommended incentive systems.
- Focus groups provide targeted feedback to refine proposed systems and alternative perspectives to staff and the advisory committee.
- Wider community engagement provides additional feedback to staff and the committee. This includes outreach to existing organizations, boards and commissions, and conducting listening sessions.
Meeting Norms

It is critical to the success of the project to hear from a variety of opinions and perspectives. However, it is important participants feel safe to participate inclusively. The following code of conduct expected for participation at all city led meetings:

1. Help create a space where everyone feels welcome and encouraged to participate
2. Be open-minded and avoid judging ideas prematurely – all ideas and points of view have value
3. Listen to understand and be curious
4. Share your ideas, needs, and concerns
5. Be concise and speak to the point
6. Be respectful – It’s ok to disagree, but don’t be disagreeable; don’t interrupt others; avoid side conversations
7. Be present and actively engaged

Advisory Committee

The advisory committee assists city staff in the development of a citywide affordable housing zoning incentive by helping review best practices to identify and refine recommended incentive systems. To ensure a well-informed and inclusive process- the committee represents a broad cross-section of community members, housing advocates, elected officials, developers, architects, financiers, neighborhood groups, and other stakeholders.

The advisory committee expects to meet eight to ten times starting in 2020 and through to spring of 2021. Each meeting is three-hours in length and includes background content as well as reports sent in advance of the meeting. The committee will provide insights, feedback, and build consensus around key recommendations.

Members should adhere to the following roles and responsibilities:

- Share ideas and feedback throughout the process.
- Come to meetings prepared for discussion by reading meeting materials in advance.
- Constructively engage in discussions with people holding a different viewpoint.
- Commit time and energy to the effort.
- Represent and communicate with a larger constituent group. Share information about the project with their constituent group and obtain their input.
- Provide feedback on community engagement activities and support specific implementation activities, as requested.

Focus Groups

The city gathers focus groups at key decision points in the process to ensure participation from specific communities and experts on specific subjects. At the beginning of the process, the purpose of focus groups is to (1) understand the challenges the affected communities are facing, (2) identify lessons learned from relevant efforts such as 38th and Blake Incentive Overlay, (3) identify current zoning barriers and/ or challenges to affordable housing development in Denver. During the policy evaluation phase of the project, the focus groups will (1) test out and refine different strategies, and (2) explore the potential impacts of policy approaches on vulnerable communities.

Focus groups may include the following:

- Historically underrepresented communities such as renters, immigrant-refugee, young persons, etc.
- People currently living in or in need of affordable housing
- For-Profit Developers
- Non-profit housing developers
- Residents within or near proposed incentive
- Housing and grass roots advocates
- Homeless and housing service providers
- Real Estate and Land Use Lawyers
- Individuals may be invited to participate in a specific focus group or may be able to sign up on the project website to participate in a group as well.

Existing Organizations and Groups

One of the most effective means of reaching diverse representation populations is through existing networks. The following organizations will receive informational updates during key milestones. Additionally, they may provide feedback to the project team and the advisory committee.

- American Institute of Architects (AIA) Denver
- Apartment Association of Metro Denver
- American Planning Association Colorado
- Anti-Displacement Policy Network (ADPN)
- Business Improvement Districts (BIDs)
- Commercial Real Estate
- Financiers - Community Reinvestment Act
- Housing Colorado
- Home Builders Association
- Human Rights and Community Partnerships (HRCP)
Boards and Commissions
Boards and Commissions are a vital part of our community and provide opportunities for direct citizen involvement in city projects and policies. There are a range of boards and commissions that provide direct feedback on housing and zoning related issues. The Denver Planning Board and Denver Urban Renewal Authority will receive updates at key milestones throughout the process. Additionally, they can provide feedback to the project team and advisory committee. These boards and commissions will receive two to three informational updates and feedback opportunities.

Council Committees
The Land Use, Transportation and Infrastructure (LUTI) committee; Finance and Governance (FINGOV) committee; Safety Housing, Education and Homelessness committee; and the Housing and Homeless working group will receive informational updates on the project during key milestones and before the formal adoption process.

RNOs
The city has over 220 Registered Neighborhood Organizations (RNOs). While these groups serve as an effective means of engaging invested organizations, in some cases, RNO members may not be representative of the neighborhood or area they cover. Due to the citywide-scale of this project, RNOs will receive informational updates throughout the project via email. Inter-Neighborhood Cooperation (INC) is represented on the Advisory Committee and updates will be provided to the INC Zoning and Planning Committee (ZAP). Local RNO’s are encouraged to participate in the INC ZAP meetings and other citywide RNO meetings. Therefore, city staff will not focus resources to attend individual RNO meetings. Exceptions may exist when the RNO will help to reach and engage underrepresented populations.

Listening Sessions
At times, one-on-one or small-group conversations with staff and community members can provide an effective structure for discussing sensitive topics. Listening sessions are scheduled time in the community at a school or library where community members can sign up for a time to talk to CPD staff. This is an opportunity for community members to share feedback or ask questions. Listening sessions may occur during the early phases as well as later in the process during policy refinement. Feedback received is shared with the advisory committee and used to inform the development and considerations for different incentive systems.

Project Website
The dedicated project website serves as a centralized location for project information. The project website will include an overview and regular updates, opportunities for public input, a project timeline, information about the advisory committee and its meetings, and proposed changes to the DZC and DRMC.
Planning Context

This project seeks to implement key policy recommendations of our adopted plans. Citywide and neighborhood-specific plans articulate the vision and objectives for neighborhood development throughout Denver. Each plan is based on an extensive public process that seeks to balance a variety of stakeholder interests. The city uses plan guidance to inform implementation efforts, like regulatory updates such as this project. The adopted plans summarized below provide guidance relevant to this affordable housing zoning incentive project.

Comprehensive Plan 2040

Comprehensive Plan 2040 provides the 20-year vision for Denver and its people and reflects the voice of thousands who have shared their hopes, concerns and dreams for the future. The City will use its recommendations to guide the decisions that will shape our city over the next 20 years. Comprehensive Plan is organized by six vision elements to inform the long-term goals that will guide our future.

1. A city that’s equitable, affordable and inclusive.
2. A Denver made up of strong and authentic neighborhoods....
3. With connected, safe and accessible places that are easy to get to, no matter how we want to travel.
4. We want a community that is economically diverse and vibrant...
5. While being environmentally resilient in the face of climate change.
6. And we want a healthy and active city with access to the types of amenities and experiences that make Denver uniquely Denver.

While all vision elements are equally important, this plan focuses on implementing recommendations to support an equitable, affordable and inclusive Denver.

This plan outlines six goals and associated strategies to achieve our vision of an equitable city. The specific strategies guiding this regulatory implementation project are provided below.

Goal 1: Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities.

- Strategy A: Increase development of housing units close to transit and mixed-use developments.

Goal 2: Build housing as a continuum to serve residents across a range of incomes, ages and needs.

- Strategy A: Create a greater mix of housing options in every neighborhood for all individuals and families.
- Strategy B. Ensure city policies and regulations encourage every neighborhood to provide a complete range of housing options.
- Strategy C. Foster communities of opportunity by aligning housing strategies and investments to improve economic mobility and access to transit and services.
- Strategy D. Increase the development of senior-friendly and family friendly housing, including units with multiple bedrooms in multifamily developments.

Goal 3: Develop housing that is affordable to residents of all income levels.

- Strategies B: Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit.

Goal 5: Reduce the involuntary displacement of residents and businesses.

- Strategy C: Evaluate city plans, projects and major regulatory changes for the potential to contribute to involuntary displacement; identify and implement strategies to mitigate anticipated impacts to residents and businesses.

Other related goals and strategies can be found in the Comprehensive Plan. All other citywide (e.g. Blueprint, Game Plan) and neighborhood plans are adopted as supplements to Comprehensive Plan 2040.
Blueprint Denver

Blueprint Denver builds upon Comprehensive Plan 2040 as a citywide land use and transportation plan for the next 20 years. Blueprint calls for growing an inclusive city through:

- complete neighborhoods and complete transportation networks;
- a measured, common-sense approach to growth;
- and for the first time, land-use decisions through the lens of social equity.

Blueprint Denver offers three major concepts to consider for future policies and investments. Integrating these concepts into planning an implementation project helps create a more equitable Denver.

Blueprint recognizes as Denver grows, neighborhoods will change, and implementation actions will need to consider these equity concepts to ensure residents and businesses can remain and thrive.

Blueprint establishes a hierarchy of Neighborhood Contexts, Future Places, and Street Types as elements of a complete neighborhood. Blueprint also provides a nuanced way to handle growth and development, preserving our most cherished historic and cultural assets while directing growth to key centers, corridors and high density residential areas where there is underutilized land and strong transportation options.

In addition to a system of complete neighborhoods, growth strategy and equity concepts, Blueprint contains many recommendations organized by the three elements of a complete neighborhood:

Specific strategies guiding this regulatory implementation project are provided below.

General Policy 2: Incentivize or require efficient development of land, especially in transit-rich areas.

Strategy C: Allow increased density in exchange for desired outcomes, such as affordable housing, especially in transit-rich areas.

General Policy 3: Ensure the Denver Zoning Code continues to respond to the needs of the city, while remaining modern and flexible.

General Policy 4: Ensure equitable planning processes and include underrepresented residents in plans and plan implementation.

General Policy 9: Promote coordinated development on large infill sites to ensure new development integrates with its surroundings and provides appropriate community benefits.

Strategy C: Implement regulatory tools to set clear and predictable requirements for large redevelopments to provide benefits to the community such as affordable housing and open space.

General Policy 11: Implement plan recommendations through city-led legislative rezonings and text amendments.

Strategy A: Prioritize larger-scale, legislative rezonings over site-by-site rezonings to implement plan recommendations and to achieve citywide goals, including equity goals.

Strategy C: Use a robust and inclusive community input process to inform city-led rezonings and zoning code text amendments.

Housing Policy 6: Increase the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities.

Strategy A: Incentivize affordable housing through zoning, especially in regional centers, community centers and community corridors adjacent to transit. This could include a process—informed by community input—to create citywide height bonuses in the zoning code, where additional height is allowed in exchange for income restricted units. Incentives for affordable housing are particularly important for areas that score high in Vulnerability to Displacement and score low in Housing Diversity.

Strategy B: Implement additional parking reductions for projects that provide income-restricted affordable units.

Strategy C: Implement other incentives for affordable housing, such as lower building permit fees for projects that commit to a certain percentage of income-restricted units onsite.
Housing Policy 7: Expand family-friendly housing throughout the city.

Strategy A: Implement tools to require and/or incentivize the development of family-friendly housing. This could include bonuses for affordable large units (those with three or more bedrooms), especially in multifamily developments.

Housing Policy 8: Capture 80 percent of new housing growth in regional centers, community centers and corridors, high-intensity residential areas, greenfield residential areas, innovation flex districts and university campus districts.

Strategy D: Advance housing affordability recommendations from this plan and Housing an Inclusive Denver to ensure new units include units affordable to a range of income levels.

Strategy E: In order to capture 25 percent of housing growth within the downtown neighborhood context that contains the largest regional center and the highest intensity residential areas: Create incentives for a wide variety of housing options to be included in new developments.

Housing an Inclusive Denver

_Housing an Inclusive Denver_, the City’s 5-year housing policy, strategy and investment plan, was approved by City Council in 2018. _Housing an Inclusive Denver_ is focused on tools that address a continuum of housing needs, including housing for residents experiencing homelessness, affordable and workforce rental housing, and attainable homeownership. The plan seeks to align the city and its partners’ actions between 2018-2023 according to four strategic goals:

- Create affordable housing in vulnerable areas and in areas of opportunity
- Preserve affordability and housing quality
- Promote equitable and accessible housing options; and
- Stabilize residents at risk of involuntary displacement.

Specific recommendations related to the creation of affordable housing and promotion of access includes the following, “Expand and strengthen land use regulations for affordable and mixed-income housing” (p. 47).

Key recommendations to support the above recommendation include:

- Implement and evaluate success of a proposed incentive overlay for building heights at the 38th and Blake transit station and explore expanding the program to other areas where increased density may be appropriate, such as near transit.
- Create a package of incentives that provide value for a developer, such as more clearly defined parking reductions, lower building permit fees, or special staff support to navigate the complex multi-agency permitting process, in exchange for a certain percentage of affordable units built onsite.
Affordable Housing

What is affordable housing?

Housing is affordable when individuals and families can pay for housing while still having money left over for necessities like food, healthcare, transportation, education, child care and savings.

The federal government defines housing as affordable when it consumes no more than 30% of a household’s income. This means what is considered “affordable” depends on a household’s income.

Affordable housing can describe dedicated (income-restricted) or naturally occurring affordable (or attainable) housing. Naturally occurring affordable units are units that may rent or sell at affordable levels — but they do not have legally binding affordability requirements.

Dedicated affordable housing units, are essential for ensuring affordability in neighborhoods where market rents are rising rapidly. They are also well suited to create inclusive communities and provide affordable housing to households with very low incomes. This may include seniors or people with disabilities on fixed incomes and formerly homeless individuals.

For this project and report, we focus on the type of dedicated affordable housing in which a person or household must meet income eligibility requirements.

Why do we need affordable housing?

Decent, safe and stable affordable housing is not only a basic human need, but it contributes positively to the broader community. When people can access stable affordable housing, it allows their children to thrive in school; reduces stress and leads to improved health outcomes; allows families to spend money on healthy food and health care; improves the economic vitality enabling for money to return to the local economy; supports the local workforce; and allows for individuals and families to grow and thrive in the community of their choosing.

Additionally, striving toward an equitable, affordable and inclusive Denver is a pillar of the city’s adopted plans. In addition to the community benefits and city’s vision around affordable housing, there is a widening gap between people’s incomes and the cost of housing.
Denver ACS Data 2017

The supply of housing has not been able to keep up with the demand nor the needed affordability levels to serve the existing Denver community. Rising housing costs cannot be attributed to one single issue but are result in a series of different factors impacted by local and global factors. In recent years, labor and material costs have grown by over 50% and land costs have doubled in many of Denver's neighborhoods. Therefore, because incomes are unable to keep up with the housing cost increases, we are seeing a growing shortage of affordable housing and an increase in cost burdened households across the city.

Why does AMI matter?

Income-restricted affordable housing commonly refers to Area Median Income (AMI). AMI are income limits established by the U.S. Department of Housing and Urban Development (HUD) to set the income thresholds households cannot exceed to be eligible for income-restricted affordable housing. This matters for housing policy and dedicated affordable housing units to identify who needs and is eligible to live in income-restricted housing.

Generally, affordability levels are organized into the following groupings with the Median Family Income (100% AMI) at $65,000 for a one-person household in 2019. A complete list of AMI levels with all household sizes can be found online.

<table>
<thead>
<tr>
<th>Category</th>
<th>AMI Range</th>
<th>2019 AMI limits for a one-person household</th>
</tr>
</thead>
<tbody>
<tr>
<td>Extremely Low Income</td>
<td>0-30% AMI</td>
<td>$19,500</td>
</tr>
<tr>
<td>Very Low income</td>
<td>31-50% AMI</td>
<td>$32,500</td>
</tr>
<tr>
<td>Low Income</td>
<td>51-80% AMI</td>
<td>$52,000</td>
</tr>
<tr>
<td>Moderate Income</td>
<td>81-120% AMI</td>
<td>$78,000</td>
</tr>
</tbody>
</table>

Instead of thinking about AMI as a table, it can sometimes be more helpful to think about an individual or household. Here are a few examples:

A single parent working full time at minimum wage makes around $22,000 a year. They earn less than 30% of AMI for a two-person household. Their monthly income is around $1,800 and 30% of their income is about $520 for monthly rent and utilities. This leaves about $1,280 for every other expense including: child care, taxes, clothing, food, transportation, healthcare, phone and internet, and loans. However, if this person had to pay Denver average rent for a one-bedroom apartment around $1,200 a month, they would be sharing a room with their child and paying nearly 66% of their income on rent. This family would be severely cost burdened.

A home health worker working full time who makes around $32,000 a year. They earn less than 50% AMI. Their monthly income is around $2,600 and 30% of their income is about $800 for monthly rent and utilities. This leaves about $1,800 for every other expense including: taxes, clothing, food, transportation, healthcare, phone and internet, and student loans. If this person had to pay Denver average rent for a one-bedroom apartment around $1,200 a month, they would be paying 46% of their income on rent. This person would be cost burdened.
What is the current affordable housing need?

In Denver, 70% of Denver households earning 0-80% AMI are cost burdened, and 37% are severely cost burdened. This means that nearly 1 in 3 households are cost burdened where they are paying more than 30% of their income on housing and 1 in 5 households are severely cost burdened where they are paying more than 50% of their income on housing.

As of 2019, there are 23,271 income restricted units (0-80% AMI) with another 951 units under construction. However, there are 122,992 households earning 0-80% AMI. This means that there is a citywide gap of about 99,722 units with a large need at lower income levels. As such, much of the funding is allocated towards these lower levels where there is a higher need.

HOST has a robust program with $71 million dollars allocated for the 2020 budget. However, even with this funding and strong partnerships within the community, the city is considering new and innovative approaches to meet the growing housing need, particularly for those with lower incomes.

What is the current legal context?

Currently, Colorado state law places a significant constraint on Denver and other local municipalities ability to address affordable housing. In 1981, Colorado prohibited rent control and more specifically prohibits local governments from “enacting any resolution or ordinance that would control rent on private residential real property or private residential housing units” via CRS § 38-12-301. In 2000, the Telluride decision determined that inclusionary zoning policies on rental housing would be considered a form of rent control. The result from the Telluride Court’s interpretation of the state rent control statute clarified that local governments cannot require that a developer create affordable rental housing on its property as a condition of a land use approval. As a result, local jurisdictions cannot create an inclusionary housing program that applies to rental housing. Therefore, under current state law, Denver cannot require the construction of affordable housing units on multi-family rental projects and must instead work through systems such as the existing linkage fee or develop voluntary systems through incentives until the State modifies the Rent Control Laws.

To learn more about the current housing priorities for 2020, check out the [Housing an Inclusive Denver 2020 Action Plan](#).

To see monthly activity reports on housing spending and production, funding priorities, and data on housing needs and production, check out the [Denver Affordable Housing Dashboard](#).
Affordable Housing Fund

As federal funding continues to decrease, and the housing needs continued to increase, Denver needed to examine new funding sources to meet the growing housing demands. In September of 2016, Denver signed Council Bill 16-0625 into law which created Denver’s first dedicated fund for affordable housing.

The new housing fund is used to create and preserve housing for households across a wide income spectrum. The fund supports housing and supportive services for at-risk residents, low- and moderate-income workforce rental housing, and moderate-income for-sale housing. In recent years, most of the funding has been allocated to lower-income programs and projects where there is the highest need.

Housing Linkage Fee

The linkage fee is only one of the many funding sources for the housing fund. The linkage fee was supported by a legal study that determined the legal “nexus” between development, jobs and housing need. In addition to the required nexus study, a financial feasibility study was also conducted to determine the impacts that the linkage fee may have on development.

The nexus study determined the legally justifiable fee that could be charged on different development types. Legally justified fees range from $9.60 per square foot on single-family residential development to $119.29 per square foot on stand-alone retail development, including a variety of residential and commercial prototypes evaluated with legally justified fees within that range. The summary table can be found on page 3 of the 2016 report conducted by HR&A.

The feasibility analysis examined the effect of the nexus fee from $1.00 per square foot to $7.00 per square foot. The study examined Return on Equity (ROE), Return of Cost (ROC) and Residual Land Value (RLV). The analysis indicated that a fee up to $7.00 per square foot would have a relatively small effect on returns.

Current Fee System

The linkage fee is assessed based on new gross floor area only (not including parking) with the exception of additions of 400 square feet or less to existing single-unit or duplex buildings. To respond to inflation, the fees are adjusted for inflation in an amount equal to the percentage change from the previous year in the national Consumer Price Index for All Urban Consumers (CPI-U).

In lieu of paying the fee, the developer has the option of meeting the “build alternative” by building affordable housing units within the building, or within a quarter-mile radius of the subject property, according to a set formula which varies by use and is outlined in the Rules and Regulations.

For example, a 100,000 square foot multi-family project would be required to build 2 units or could pay $157,000. In most areas of the city, the cost to build a single unit far exceeds $78,500 making the fee option far more economically desirable.

Outcomes of the Linkage Fee to Date

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Fees</th>
<th>Fees Exempted</th>
<th>Net Fees Collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$6.3 M</td>
<td>$5.1M</td>
<td>$1.1 M</td>
</tr>
<tr>
<td>2018</td>
<td>$23.2 M</td>
<td>$18.9 M</td>
<td>$4.4M</td>
</tr>
<tr>
<td>2019</td>
<td>$20.6 M</td>
<td>$10.5M</td>
<td>$10.3M</td>
</tr>
<tr>
<td>Total:</td>
<td>$50.1M</td>
<td>$35.5M</td>
<td>$15.8M</td>
</tr>
</tbody>
</table>

*Current projects for 2020 anticipate $10M in fees collected

While permit activity and square footage constructed exceeded initial projections, the effective date policy or “grandfathering” approach exempted far more projects than originally anticipated. This approach exempted any project that submitted a concept plan (not a formal SDP plan) before January 1st, 2017 which led to a significant rush of concept plans to avoid the payment of the fee.

As mentioned previously, the developer has the option to meet the build alternative instead of paying the linkage fee. However, because the system is not set up to incentivize the construction of units, to date only two projects (outside of the 38th and Blake Incentive Overlay area) have constructed units through a build alternative plan (BAP). The following table summarizes the outcomes of the two projects that build the required units instead of paying the fee.

<table>
<thead>
<tr>
<th>Address</th>
<th>Total Units</th>
<th>Income Restricted Units</th>
<th>Unit Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1241 Stuart Street</td>
<td>20</td>
<td>1</td>
<td>1-bedroom unit (565sf) for-rent at 80% AMI</td>
</tr>
<tr>
<td>1051 N Mariposa</td>
<td>58 Units</td>
<td>2</td>
<td>2-Bedroom (~1,200 sf) for-sale at 80% AMI (DHA Project)</td>
</tr>
</tbody>
</table>

Current fees can be found online.
2020 Housing Action Plan

The linkage fee ordinance specified that an annual inflation adjustment may occur on July 1, 2018 and each July after for an adjustment equal to the percentage change from the previous year in the CPI-U. On average, this has been about a 2% increase.

The ordinance specified the fee could not be increased prior to 2020 unless and until the city commissions another financial study (feasibility analysis) to evaluate the economic impact of the fee change.

The *Housing and Inclusive Denver Annual Action Plan (2020)* identified the following 2020 action regarding the linkage fee:

- Leverage information collected from the 2019 analysis on the linkage fee’s historic collection to make a recommendation in consultation with internal and external partners regarding conducting a feasibility analysis and/or update to the linkage fee. (p. 28)
Inclusionary Housing Ordinance

Before the linkage fee system, Denver had an Inclusionary Housing Ordinance (IHO) from 2001 until 2016 at which point it was replaced with the linkage fee.

The IHO was Denver's primary tool to facilitate homeownership opportunities of workforce housing (people earning between 50% and 90% AMI). Generally, the IHO required for-sale projects over 30 units to provide a minimum 10% build requirement for 80% AMI or lower. Many of the units required a minimum income restriction of 15 years.

Developers were provided with financial incentives along with parking reductions and density bonuses. IHO production is reflective of the market rate for-sale housing production in Denver; therefore, IHO unit production has been somewhat dependent on conditions affecting all for-sale housing in Denver. As shown in above, the majority of IHO units were constructed as part of largescale developments located in Lowry, Green Valley Ranch and Stapleton built from 2003-2005. As the housing market slowed in the mid-2000s, IHO production slowed along with it. Even as the housing market in Denver has strengthened significantly in the past few years, for-sale multi-family production has continued to be affected by tighter lending standards and construction defects requirements.

Additionally, the IHO allowed for projects to comply with the IHO through a cash-in-lieu payment, which varied according to the needs for affordable housing at the location of the project. In total, 11 of these projects that were subject to the IHO took advantage of this option proving a total of $7,647,921 cash instead of the 115 units. A large majority of these projects were in Downtown (e.g. the Spire, Four Seasons, One Lincoln Park) or other locations such as Cherry Creek or Ballpark.

Over the 15-year timeframe that the IHO was in place, a total of 1,116 units have been built, most of which were in the earlier years of the ordinance.
**Zoning**

**What is zoning?**

The Denver Zoning Code (DZC) implements the city’s vision for the future of Denver, by calibrating regulations for structures, uses and parking by neighborhood context. The DZC was adopted in 2010. Each piece of land in Denver is assigned a specific zone district. Zone districts are categorized by context and then by district.

Additionally, zoning provides a prescriptive framework for building and site design. These elements include:

- **Building Form Standards:** building height, setbacks, setbacks, entry requirements, transparency, build-to, etc.
- **Design Standards:** Parking location, landscaping, street level active uses, etc.
- **Use Limitations and Restrictions:** specify which land uses (e.g. residential) are permitted and if any restrictions apply to the use.

For purposes of this project, higher intensity residential zone districts such as Multi Unit (MU), Residential Office (RO) and Residential Mixed Use (RX) and mixed use zone districts such as Mixed Use (MX), Main Street (MS), Commercial Corridor (CC) will all be considered through this project. Low intensity residential districts such as Single Unit (SU) and Two Unit (TU) will not be included in this project.

The current Denver zoning code can be found online.

<table>
<thead>
<tr>
<th>Zoning Code Naming Convention</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Neighborhood Context</strong></td>
</tr>
<tr>
<td>-----------------------------</td>
</tr>
<tr>
<td>S = Suburban</td>
</tr>
<tr>
<td>E = Urban Edge</td>
</tr>
<tr>
<td>U = Urban</td>
</tr>
<tr>
<td>G = General Urban</td>
</tr>
<tr>
<td>C = Urban Center</td>
</tr>
<tr>
<td>D = Downtown</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Therefore, a C-MX-8 zone district is an Urban Center, Mixed Use zone district with a maximum height of 8 stories.

**What is incentive zoning?**

Incentive zoning is a tool that allows for voluntary trade-offs between the developer and the city. This is also sometimes described as value capture.

This means that a developer may be granted additional building height or zoning relief in exchange for providing something that would not otherwise require by the developer. For example, a developer may have a site that can build by-right to a three-story height, however if the developer commits to meet the standards for the incentive height, they may be able to build an additional two stories in exchange for the community benefits.

The intent of zoning incentives is for the trade-off, for example the additional density, to be the subsidy that can off-set the cost to build the affordable units. If the incentives are not property calibrated to be economically viable, the incentive will not be used, and the community benefit will not be achieved.

Incentive zoning should set clear standards for what the developer must do (e.g. provide 10% affordable housing at 60% AMI) in exchange for the additional height. Clarity and predictability of the requirements is key to any successful incentive system.

In Denver, incentive zoning has been used in downtown zone districts, however most notably an incentive system focused on affordable housing was adopted in 2018 for the 38th and Blake Station Area.

Many other peer cities also use incentive zoning to achieve desired community benefits. An overview and the outcomes of these systems will be added to the next iteration of the report.

**Other Zoning Incentive Systems**

While this project will focus on incentives for the construction of affordable housing, the DZC does offer other incentive in some of the geographic specific districts such as Cherry Creek, Arapahoe Square, and portions of Downtown. These incentives sometimes offer greater development capacity for the provision of open space, residential uses, affordable housing, public art, wrapped parking and active uses.
38th and Blake Incentive Overlay

Most relevant to the Affordable Housing Zoning Incentive project is the 38th and Blake Incentive Overlay pilot project. This incentive system was adopted by City Council in February of 2018 and applies to the station area around 38th and Blake covering portions of the Five Points, Globeville and Cole neighborhoods. The incentive system for this area intended to accommodate growth and change in a transit-rich in a manner that provides community benefits in exchange for greater development height. While the pilot project has resulted in 36 new affordable homes for the neighborhood, city staff will draw upon the lessons learned from this project to create stronger policies going forward.

38th and Blake Plan Amendment

The system sets a “base height” and an “incentive height” which varies throughout the station area and was informed by the 38th and Blake Height Amendments Plan adopted in 2017. The recommendations of the plan amendment focused on the refinement and update the existing five neighborhood and area plans with a focus on building heights, to achieve the following:

- Make clear the vision for building height,
- Respond to changing conditions and public investment affecting the 38th & Blake Station Area and the surrounding NDCC area, and
- Support appropriate and desired growth patterns, including building form standards, and mixed income housing opportunities associated with greater density and height within the overall 38th & Blake Station Area.

The plan provides a future maximum building heights map indicating appropriate maximum “base” height and maximum incentive height throughout the plan area. The recommended heights map is shown below. The process attempted to provide a clear “base height” as the height generally described by previous plans and set incentive heights as those that were consistent with the overall vision. While this system ensured strong community buy-in, it created a somewhat arbitrary system for creating base and incentive heights. For example, some sites may have a base of 2-stories and a maximum of 5-stores, and others with a base of 5-stories and a maximum of 16-stories.
Plan Implementation
The 38th and Blake Station Area Plan implementation was sponsored by the council member at the time and resulted in zoning code text and map amendments (rezoning). This meant that the zoning code language itself was changed to create the incentive overlay and the area was rezoned to align with the overlay base and incentive height. Many of the sites were previously zoned Industrial (either I-A or I-B) with a minimum FAR of 2.0. Concurrent to the development and mapping of the overlay, a design overlay was created establishing regulations to achieve a vibrant pedestrian realm with building and site design that emphasizes walkability and access to daylight, minimizes the impact of parking and integrates appropriately with existing buildings in RiNo and portions of the 38th and Blake Station area that are just outside the district. The design overlay includes regulations for building setbacks, parking location and access, massing (the shape and form of a building as perceived by a viewer at street level), street-level active uses, pedestrian access and transparency.

Incentive System
For a predominately residential development (more than 50% of GFA is residential uses) to exceed the base height, the development must (1) provide the required affordable units within the subject development; or (2) provide the required affordable units at an off-site location within the incentive area.

For commercial buildings (less than 50% of GFA are residential uses) to exceed the base height, the development must (1) pay the linkage fee and the additional fee for the incentive height at four times the city’s existing affordable housing fee for square footage above the base height, or (2) provide the required affordable units at an off-site location within the incentive area, or (3) pay the citywide linkage fee and execute a community benefits agreement. The community benefits agreement is developed with the DEDO in consultation with CPD to consider the applicable community serving uses and appropriateness of exchange in benefit to additional height. Examples of these uses may include as day-cares, groceries or artists’ spaces.

The following graphic depicts the general framework to achieve the incentive heights.

General residential affordability requirements must meet the following:
- Units must be affordable at 80% AMI
- Units provided to meet incentive requirements must be located within the overlay area
- Mix and size of affordable units must match market rate units

In addition to the overlay incentivizing affordable units, a system was developed to incentivize community-serving uses.

The following is an example of a multi-family residential development with a base height of 5 stories building to the maximum height of 12 stories. This hypothetical project would require 10 affordable units.

See the next page for details on the outcome of the systems.
Findings of the 38th and Blake Incentive Overlay
The 38th and Blake and RiNo area have seen significant development activity in the area. The following map identifies the recent development within the Overlay Area. Before the adoption of the incentive overlay, 27 projects were approved/permited and build or currently under construction. One of which is the ULC project at 38th and Walnut providing 66-units for families earning 30% to 60% AMI.

Outcomes of approved projects with height incentive
Following the adoption, three projects have used the incentive height to produce 36 affordable units. See the table below for more information on the details of these approved projects.
Since the incentive is based on the floor area of the project with different multipliers based on uses contained within the development, there is not a set percentage outcome as can be seen in the table below. However, on the three projects approved, this has yielded an average of 5% affordable units.

<table>
<thead>
<tr>
<th>Address</th>
<th>Base Height</th>
<th>Maximum Height per Incentive</th>
<th>Built Height</th>
<th>Affordable Units @ 80% AMI</th>
<th>Total Units</th>
<th>% of total Units</th>
<th>Unit Summary</th>
</tr>
</thead>
</table>
| 3433-3463 Walnut Street  | 5 Stories   | 12 Stories                   | 13* Stories  | 16                          | 382         | 4%               | All rental
8 studio units: 438sf
7 one-bedroom units: 582sf
1 two-bedroom unit: 1,026 sf |
| 3701 Marion Street       | 3 Stories   | 5 Stories                    | 5 Stories    | 2                           | 54          | 3.7%             | All rental
2 one-bedroom units: 693 sf |
| 3750 & 3770 Blake Street | 8 Stories   | 16 Stories                   | 17* Stories  | 18                          | 207         | 8.6%             | All rental
6 studio units: 540sf |
Outcomes of approved projects under base height

Since the adoption of the incentive overlay, four projects have been approved that did not leverage the height incentive. None of these projects built to the maximum base height of 8 stories. Many of these projects remained below 8 stories where it is possible to stay at a lower cost construction type.

Anticipated Outcomes of Projects Under Review

Of the projects (11) currently under review, seven of these projects anticipate using the incentive. Of the projects anticipated to use the incentive, their proposed heights range from 8 – 16 stories with a median height of 12 stories. Additionally, three projects in concept that have expressed interest in the incentive, however have not created any formal development proposal for evaluation.

<table>
<thead>
<tr>
<th>Status</th>
<th>Address</th>
<th>Base Height</th>
<th>Maximum Height per Incentive</th>
<th>Proposed/Approved Height</th>
<th>Proposed Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approved projects building within base height</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Approved</td>
<td>3560 Chestnut Place</td>
<td>8 Stories</td>
<td>12 Stories</td>
<td>1 Story</td>
<td>Restaurant</td>
</tr>
<tr>
<td>Approved</td>
<td>2095 31st St.</td>
<td>8 Stories</td>
<td>12 Stories</td>
<td>4 Stories</td>
<td>Multi-Family</td>
</tr>
<tr>
<td>Approved</td>
<td>3750, 3760, 3770 Walnut Street</td>
<td>8 Stories</td>
<td>8 Stories</td>
<td>7 Stories</td>
<td>Retail, Restaurant, Multi-Family, Hotel</td>
</tr>
<tr>
<td>Approved</td>
<td>3515 Brighton &amp; 3508 Delgany</td>
<td>12 Stories</td>
<td>16 Stories</td>
<td>7 Stories</td>
<td>Office, Retail, Restaurant</td>
</tr>
<tr>
<td>Projects under review planning to build within the base height</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under Review</td>
<td>3601 Brighton</td>
<td>8 Stories</td>
<td>16 Stories</td>
<td>1 Story</td>
<td>Retail/Brewery (Adaptive reuse)</td>
</tr>
<tr>
<td>Under Review</td>
<td>3732 -3740 Downing</td>
<td>8 Stories</td>
<td>8 Stories</td>
<td>6 Stories</td>
<td>Multi-Unit Office</td>
</tr>
<tr>
<td>Under Review</td>
<td>3560 Brighton</td>
<td>8 Stories</td>
<td>16 Stories</td>
<td>6 Stories</td>
<td>Hotel</td>
</tr>
<tr>
<td>Under Review</td>
<td>3500 Blake</td>
<td>8 Stories</td>
<td>16 Stories</td>
<td>6 Stories</td>
<td>Restaurant and Office</td>
</tr>
<tr>
<td>Projects under review planning to build within the incentive height</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under Review</td>
<td>3560 Chestnut</td>
<td>8 Stories</td>
<td>12 Stories</td>
<td>12 Stories</td>
<td>Retail, Restaurant, Office, Multi-Family</td>
</tr>
<tr>
<td>Under Review</td>
<td>3615 Delgany</td>
<td>8 Stories</td>
<td>12 Stories</td>
<td>12 Stories</td>
<td>Restaurant and Office</td>
</tr>
<tr>
<td>Under Review</td>
<td>4290 Brighton</td>
<td>8 Stories</td>
<td>12 Stories</td>
<td>11 Stories</td>
<td>Multi-Family</td>
</tr>
<tr>
<td>Under Review</td>
<td>3595 Wynkoop</td>
<td>8 Stories</td>
<td>16 Stories</td>
<td>16 Stories</td>
<td>Multi-Family</td>
</tr>
<tr>
<td>Under Review</td>
<td>3800 Blake</td>
<td>8 Stories</td>
<td>16 Stories</td>
<td>14 Stories</td>
<td>Office and Hotel</td>
</tr>
<tr>
<td>Under Review</td>
<td>3753 Wynkoop</td>
<td>5 Stories</td>
<td>16 Stories</td>
<td>13 Stories</td>
<td>Multi-Family</td>
</tr>
</tbody>
</table>
Benefits of the current 38th and Blake Incentive System:
- Creates a predictable system of base height, incentive height, and affordable housing requirements for the developer
- Captures the impacts of both commercial and residential projects
- Allows the affordable units to be built (no fee option) for projects with more than 50% GFA residential uses
- Supports appropriate and desired growth patterns within the station area
- Creates an efficient system that allows units to get to the market faster
- Creates a system for monitoring and tracking

Drawbacks to the current 38th and Blake Incentive System:
- The base and incentive height were determined before market or financial analysis
- The base height is often sufficient for the development market
- The yield of affordable units is lower than intended
- The system does not incentivize larger units or deeper affordability
- Based on the linkage fee which requires reevaluation with modifications to the citywide fee
- The off-site construction option may lead to delayed affordable units to the market
- Community serving use option does not provide a clear system of expectation by the city, community or developer
- For some sites, the base and incentive height are the same negating the ability for affordable housing to be realized
- The rule-of-measurement (ROM) for building heights can allow for an additional story

Community Feedback
The community has noted in various settings the following drawbacks of the current incentive system at 38th and Blake.

The output of the affordable units is too low. Now that multiple projects have been approved and the yield of affordable units is around 5%, there is a feeling that the tradeoff is not fair or sufficient to meet the needs of the community.

The base height is too high. Many of the projects do not need to take advantage of the incentive height to create an economically feasible project. Additionally, much of the base height is in the ideal building height range for the market.

The affordability level of 80% does not meet the community need. Many of the surrounding neighborhoods include individuals and families that require units at lower level AMIs.
Developer Feedback

Members of the project team met with a series of developers to better understand the development perspective on the benefits and drawbacks of the existing system.

The following is intended to summarize the feedback received from these discussions:

What factors led to your decision to either use the incentive height or build within the base height?

Lot size: Some parcels are better suited for large stick frame podium buildings whereas other (sometimes smaller) can only justify a high-rise building.

Necessary Capital: To build at higher heights (generally above 7 or 8 stories) this requires concrete/steel construction. This type of construction is more expensive and therefore requires additional upfront capital. For some developers, this is a significant change in business model or investor base and does not make sense to change their approach.

Prior Experience: Developers that planned for or used the incentive have done mixed-income development previously either in Denver or other communities.

Market Condition: Denver has much lower high-rise developments compared to other peer cities. This is due to an imbalance between the market rental rates and the cost to build high-rises. Therefore, only certain neighborhoods or sites can get the rents required to cover the premium for high rise construction.

For those interested building with the incentive height, did the requirements cause challenges in financing or otherwise?

Developers intending to use the incentive did not find the requirement deter investors or financial intuitions, and with the increase in social investing, some even saw this as a benefit to the development. Banks and investors are seeking a return on their money and the system can ensure certain thresholds of returns. However, if other factors changed such as land price, AMI level, and market rate rent, this may not remain the case.

How did the approval process for the Build-Alternative Plan (BAP) impact your project approval?

While intended to be a clear and predictable process, this was not always the experience. The developers realize that this is a new program and there are kinks to work out, but it did lead to a less predictable process and outcome than expected. Because the required affordable units are determined by the gross square footage which is not formally calculated towards the end, this could lead to delayed understanding of the required units and challenges with investors. Additionally, the covenant language included some problematic language that required confusion and additional length to the approval process.

The incentive overlay was paired with a design overlay that removed parking requirements within ½ mile radius of the station area. Did this change your development plan or parking ratio?

While the developers were interested in providing less parking, the market (even adjacent to a rail station) still requires for people to drive cars, therefore on average a rate of one space per unit is expected.

How might this system need to change or respond if developed into a citywide system?

There is an acknowledgement that the RiNo neighborhood is very uniquely positioned for a density bonus program. The significant amount of public investment (I-70, Brighton Boulevard, 38th and Blake Station, National Western Center, RiNo Park, etc.) in the area along with a large area of land ripe for redevelopment has created the opportune location for a density incentive.

In other areas of the city, the market may not warrant taller buildings and there may be greater neighborhood opposition to a change in heights. For example, shallow lots adjacent to protected districts may not support significant redevelopment.

The city may need to look at other incentives beyond zoning tools to offset the cost needed to construct affordable units.
Other Existing Zoning Incentives

In addition to the 38th and Blake Incentive Overlay, the Downtown Area Plan Amendment led to the implementation of new zoning for the Central Platte Valley (D-CPV). This new zoning included an incentive system like 38th and Blake. However instead of identifying different base and incentive heights, the amendment set a district wide 5-story base height and unlimited incentive height for projects that meet the DRMC requirements for the incentive height. The DRMC specifies that any residential mixed use project will build the standard citywide linkage fee for the base heights and 6-times the citywide build-alternative on incentive stories. Commercial mixed-use projects would pay 6-times the linkage fee on the incentive height or a community benefits agreement. Additionally, it required that all large or multi-phased projects execute a negotiated affordable housing plan with HOST.

Since development in the Central Platte Valley has yet to occur, an analysis of the outcomes has not been conducted.

Summary of Affordable Housing Zoning Incentive Systems

<table>
<thead>
<tr>
<th></th>
<th>38th &amp; Blake</th>
<th>CPV-Auraria</th>
<th>D-GT</th>
<th>D-C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adoption Year</td>
<td>Feb. 2018</td>
<td>Dec. 2018</td>
<td>2010*</td>
<td>2010*</td>
</tr>
<tr>
<td>Base Height</td>
<td>Varies (2-8 stories)</td>
<td>5-stories</td>
<td>4.0 FAR</td>
<td>10.0 FAR</td>
</tr>
<tr>
<td>Incentive Height</td>
<td>Varies (2-16 stories)</td>
<td>no max</td>
<td>0.4 FAR</td>
<td>1.0 FAR</td>
</tr>
<tr>
<td>Incentive Height Multiplier</td>
<td>4x Fee</td>
<td>6X Fee</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Outcome to Date</td>
<td>36 units approved</td>
<td>none</td>
<td>none</td>
<td>none</td>
</tr>
</tbody>
</table>

* Downtown districts were carried over from the Former Chapter 59 zone district which were last revised in the early 90s.

In the downtown zone districts the floor area premium is very low in comparison to other premiums. Because of this, no projects used the affordable housing floor premium. These existing systems will be reviewed and likely revised as a part of the project.
Criteria to Evaluate Successful Solutions

Proposed incentive systems should balance multiple community objectives. City staff and the advisory committee will use the four criteria outlined below to evaluate possible incentive systems to help determine the preferred strategy. The is the draft criteria intended for further consideration and refinement by the advisory committee.

**Equity**
The incentive system should benefit everyone and take into considerations the different needs of each community.

**Market Reality/Produce Outcomes**
The incentive system should be calibrated to the market and economic realities to ensure that the intended outcome of affordable housing is produced.

**Clear Expectations**
The incentive system should create outcomes that provide clarity of expectations to the developer and outcomes of community benefit to the community.

**Accountability**
The proposed system should allow for successful implementation, administration, tracking, and monitoring.
Peer City Best Practice Research

While many cities operate in different legal, political and socioeconomic contexts, an analysis of similar cities’ approaches can provide a baseline of understanding about the advantages and drawbacks of different incentive or inclusionary affordable housing systems. The purpose of this report is to provide an overview of the key components of affordable housing zoning incentive programs in peer cities, including those programs that blend zoning incentives with inclusionary housing requirements.

Peer cities were selected based on one or more of these criteria:

- Presence as a major city within a combined metropolitan statistical area with a similar population to the Denver metropolitan area;
- High housing costs including a history of high housing costs or recent, rapid escalation in costs; and
- Existence of an affordable housing zoning incentive (AHZI) and/or a blended inclusionary housing and AHZI program (“blended program”).

This analysis covers rental and for sale housing and includes both voluntary and mandatory programs. Recognizing that affordability targets differ among cities; this review does not focus on a particular household Area Median Income (AMI) range.

Peer city’s programs

The following methods or systems to create affordable housing through zoning or new development include:

- **Allowing increased density** in exchange for development of affordable units.
- **Requiring affordable units in new residential developments.** This is commonly called “inclusionary zoning” or “inclusionary housing.”
- **Imposing a fee** on new development that is then used to by the public sector to create affordable housing, often leveraged with federal housing programs. Such fees take many forms and may be called impact, linkage, or “in-lieu” fees if the fees are allowed in place of building required affordable units.
- **Offering incentives** for the creation of affordable housing such as reductions in parking requirements, waivers of fees, and streamlined permit processing.

These programs rarely work in isolation and are usually designed to complement to a core program. In some cases, cities have several programs that apply under different conditions.

Peer Cities Reviewed

The peer cities research began with a larger selection of cities than are included in this section. Preliminary reviews of some cities’ programs found that the programs had been paused due to state law limitations (e.g., Nashville) or were in early development stages (e.g., Salt Lake City).

The resulting peer cities reviewed in this section, by type of program, include:

**Zoning Incentives Only**
- Austin, Texas

**Blended Programs**
- Atlanta, Georgia
- Los Angeles, California
- San Jose, California
- Seattle, Washington

**Inclusionary Zoning Only**
- Minneapolis, Minnesota
- Portland, Oregon

![Liberty Bank Building in Seattle, WA. A mixed-income housing project in the Capitol Hill neighborhood](image)
Top Level Findings from Peer City Research

Denver’s peer cities are in a similar process of evaluating how to incentivize the private sector to help address the affordable housing need. Except for Austin and Seattle, which have had small-area approaches to incentive zoning, and California cities (whose incentives have been long mandated by state law), these programs are relatively new and were designed and implemented in the past 2-3 years.

Required affordable housing contributions of private sector developers—inclusionary zoning—is becoming a more common solution in high cost, moderate to large size cities such as Denver. These programs are relatively new in many peer cities and highly constrained state law in others; as such, the outcomes of such programs are not fully known.

California’s density bonus requirement suggests that just having a bonus option does not guarantee development. The programs must be closely tailored to market demands and development feasibility.

When properly designed, density bonus programs appear to be successful in facilitating more affordable units per site by both affordable and market rate housing developers. Programs with the strongest outcomes to date share similar conditions:

- Pent up demand for both affordable and market rate housing;
- Relatively low base heights/FAR, especially for the urban composition of the area;
- Ample opportunity to apply the bonus along transportation corridors, moderate- to high-density districts, and within planned residential areas;
- Fees-in-lieu that reflect the cost of developing affordable units; and
- Are calibrated to submarket costs.

Programs in the Context of State Law

State law plays a significant role in the opportunities, constraints, and structure of local affordable housing incentives and mandates. State laws which influence the affordable housing and density bonus programs of peer cities include:

<table>
<thead>
<tr>
<th>State Law Requirements for Affordable Housing Policies/Programs (e.g. requires rent control or Inclusionary Housing)</th>
<th>State Law Plays a Neutral Role in Affordable Housing Policies</th>
<th>State law limits or prohibits Affordable Housing Policies (e.g. bans rent control)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado</td>
<td></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Texas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
California

California enacted a State Density Bonus Law (SDBL) in 1976. That law requires cities to offer density bonuses in exchange for affordable housing and prescribes the level of bonus by Area Median Income (AMI), for condo conversions, and for senior housing. Those requirements are shown in the Appendix Figure 1: State of California Density Bonus Requirements. The bonus incentives apply to the “gross allowable residential density.”

California state law also allows for land donation or provision of child care on-site, allows more bonuses for additional incentives (e.g., flexibility in design standards and setbacks), and sets specific parking maximums. The affordability term mandated by state law is 55 years.

Georgia

Georgia, like Colorado, prohibits rent control. Atlanta’s City Council is pushing to change state law and has enacted an incentive-heavy inclusionary housing program that applies only to certain areas of the city where significant public benefit is providing enabling for value-capture opportunities (state law makes a city-wide ordinance virtually impossible).

Oregon

Oregon passed House Bill 2001 in 2019, which requires cities with more than 10,000 people or within the Portland metropolitan area to allow duplexes in lands zoned for single-family dwellings within their designated urban growth boundaries. It also prohibits conditioning approvals of Accessory Dwelling Units (ADUs) within urban growth boundaries on off-street parking availability or owner occupancy. A companion bill allows nonresidential places of worship to allow multiple affordable housing units on land zoned for nonresidential place of worship use. The state also recently passed a bill that caps annual rent increases at seven percent plus inflation.

Texas

Texas prohibits all types of inclusionary zoning. In response, peer city Austin has enacted several density bonus incentives to facilitate affordable housing creation.

Minnesota

Minnesota, like Colorado, has an anti-rent control statute (Chapter 471 Section 9996). That statute contains an exception that allows a city or county to adopt an ordinance to control rents and sales price limits as conditions for development approval if that ordinance is approved in a general election. The law also allows cities to negotiate rent pricing with developers (e.g., in cases of city subsidies to support the development).

Washington

Washington State has been proactive in encouraging cities to use incentive tools for affordable housing, including passing legislation to eliminate the need for cities to perform a nexus analysis before they can enact affordable housing incentive programs and recommending density bonuses and setting minimum standards for affordable housing incentive programs. Additionally, Washington cities with a population of 15,000 or more may establish a multifamily tax exemption (MFTE) program to stimulate the construction of new, rehabilitated, or converted multifamily housing within designated areas, including affordable housing. Projects approved under this program allows for a tax exemption up to 12 years. The city of Seattle is currently pushing for revisions to the MFTE program to allow for longer tax exemption periods.

---

1 The effectiveness of the state law varies by market area, dependent on market rents, existing base heights, and construction costs. The City of Berkeley, which does not have base heights for most multifamily districts, backs into an “implicit” base height based on development standards.

Austin, Texas: Affordable Housing Zoning Incentives

History
The City of Austin has had density bonuses in place since 2004. Austin is prohibited by Texas state law from requiring inclusionary zoning or imposing a fee and, as such, developed density bonuses as an alternative. The city has 10 density bonus programs, each created by a different city ordinance. The programs differ greatly by incentives, community benefit requirements, fee-in-lieu options, and outcomes.

Key elements of Austin’s zoning code: Multifamily districts are relatively low density, with a maximum of 90 feet in the highest density district (approximately 8 stories). Higher density is achieved through overlays and planned unit developments.

Key requirements.
The figure below compares the primary criteria of each program. Primary components include:

Most programs require an affordability commitment of 10 percent of all units.

- AMI ranges are generally between 60 and 120 percent AMI.
- Seven of the programs allow a fee-in-lieu, which ranges from 50 cents per net rentable square foot to $12 per gross bonus square foot.
- The affordability periods vary considerably.
- All affordable developments must accept Housing Choice Vouchers.
- The East Riverside Corridor, which includes a neighborhood adjacent to downtown with gentrification pressures, has the highest affordability set-aside requirement. This area is somewhat similar to the Colfax corridor in Denver.
- The North Burnet Gateway is unusual in that it is a very suburban context district adjacent to the unincorporated county—this area is similar to South Hampden in Denver.
- The Safe, Mixed-Income, Accessible, Reasonably Priced, and Transit-Oriented (S.M.A.R.T.) program is a system for fee waivers and fast-track for affordable units.

New density bonus program
Austin is in the process of a code update which will include provisions to standardize the density bonuses.

The city’s newest density bonus program—“Affordability Unlocked”—was enacted in May 2019. Affordability Unlocked is designed for and meant to be paired with city funding for affordable housing developers. The program has two tiers, with the first tier requiring:

- Rental units: At least 50 percent of rental units must be affordable to 60 percent AMI, with 20 percent at 50 percent AMI, and affordable for 40 years. One-fourth of the units must include 2 or more bedrooms or be used for supportive or elderly housing.
- Ownership units: At least half must be affordable to 80 percent AMI for 99 years. One-fourth of the units must include 2 or more bedrooms or be used for supportive or elderly housing.
- Density bonuses: Base zoning height is increased by 1.25 times and/or up to 6 dwelling units per lot in single family zones. Design and site requirements are waived and parking is reduced.

Tier two developments are located within ¼ mile of a transit corridor and are allowed up to 1.5 times the base height with up to 8 dwelling units per lot in single family zones. At least 75 percent of units must be affordable with 10 percent at 30 percent AMI and 50 percent with two or more bedrooms.

Additional Incentives
Parking reductions are available for all affordable units. The city has had some challenges with property managers prohibiting income-restricted tenants from using parking spaces and now specifies tenants’ rights in program compliance documents.

Program Outcomes
As shown by the figure in Table 3: Austin Density Bonus Outcomes, in addition to units developed through “Smart Developments,” or fee waivers, negotiated Planned Unit Developments and the University Neighborhood Overlay have generated the most affordable units in numbers.
Key Takeaways

- Public subsidies are needed to achieve deep levels of affordability in a low-density context
- A non-standardized, piecemeal approach to incentive programs creates varied geographic outcomes, even when programs have similar requirements;
- Fee waivers and expedited review are powerful incentives; and
- Planned Unit Development/Large Development Area agreements can be effectively used to produce affordable units.

Capitol Studios in Austin, TX providing 135 income restricted units
Photo source: https://foundcom.org/housing/our-austin-communities/capital-studios/
Atlanta, Georgia: Incentive-Heavy Inclusionary Zoning

History

The City of Atlanta passed an Inclusionary Zoning (IZ) ordinance in January 2018 requiring all new multifamily rental developments with at least 10 units located in specified overlay districts to provide income restricted units or pay a fee in-lieu. Though required to participate, developers are given a choice among various incentives in return for their compliance.

Atlanta desired a city-wide ordinance, but state law prevents rent control and makes a citywide application virtually impossible. The city’s “work-around” was to apply the inclusionary zoning requirement to a specific portion of the city where there was significant public investment allowing the city to require a public benefit without risk of a “takings” argument. Development in these areas is also strong, catalyzed by the city’s major trail investment (the BeltLine) and shown below.


Key elements of Atlanta’s code:
Neighborhoods are clustered into zones that determine zoning standards. Base for high-density multifamily is 15 stories, including those that abut single family neighborhoods. TOD base is 22 stories.

Key Requirements

The following requirements and incentives apply to multifamily rental developments (and conversions) with 10 or more units in the BeltLine and Westside Overlay Districts beginning January 29, 2018.

- Developers are required to reserve 15 percent of units at or below 80 percent AMI or 10 percent of units at or below 60 percent AMI.
- Developers can pay a one-time fee in lieu of providing units. The fee schedule fluctuates depending on the specific market area (based on variation in land costs) and ranges from $124,830 to $167,364 per unit. (Construction costs per unit are assumed to be $120,698 in all subareas).
- Developers that opt to construct the affordable units can select up to three incentives to help offset the cost of providing the affordable units (those that pay in-lieu fees are not offered incentives):
  - 15 percent density bonus based on FAR;
  - Transferrable development rights (note that affordable units must be generated on-site but unused density can be transferred offsite);
  - No residential minimum parking requirement;
  - 25 percent reduction in non-residential parking requirement;
  - Expedited permit review (Special Administrative Permit applications 21 day guarantee); and/or
  - “Major project status” which grants a project meeting with representatives from all relevant departments to review the project for potential issues and expedite the process.

According to the city’s planning department, developers are primarily interested the “major project status” and expedited review incentives. Developer perception is that the market does not support additional density nor does it support parking reductions.

Atlanta’s IZ ordinance requires the affordable units to be substantially similar to the market-rate units in construction and appearance; they must be scattered throughout the development, and the bedroom mix must be proportionate to that of the market rate units. The affordability period is 20 years.
Additional incentives

There are some additional density bonuses throughout the city, but they are created on a district-by-district basis and are rarely used. City planning staff report that developers are building under the allowable FAR throughout the city and do not perceive additional density as a value add.

Program outcomes

The IZ policy went into effect in January of 2018. Since that time, 2,369 total rental units have been constructed or approved in the BeltLine Overlay; 731 of those units are income restricted (487 at 60% AMI and 244 at 80% AMI). That total includes several non-profit developments that were 100 percent affordable at 60 percent. To date, no developer has opted to pay the fee in lieu.

Atlanta Takeaways

- Mandatory programs are successful in producing affordable units when the fee-in-lieu payment approximates the cost to develop an affordable unit
- Developers value expedited review over density bonuses when the density bonus is low, and the market is perceived to favor low density products.
Los Angeles, California: Affordable Housing Zoning Incentives

History
Los Angeles has had a density bonus option in place for many decades, as required by California state law. A January 2017 audit by the city’s Controller found that between 2008 and 2014 only 426 units were created under the program (about 60 units per year).

In 2016, voters successfully passed Measure JJJ, which revised the density bonus program and created two new affordable housing zoning incentive programs: 1) Value capture, and 2) Transit Oriented Communities (TOC). These projects bolster the state-mandated program and, thus far, have been much more successful in producing affordable housing—including privately-provided housing affordable to 0-30 percent AMI households—and stimulating overall market rate residential development in transit-rich areas.

Key elements of Los Angeles’ zoning code: Heights are regulated by “height districts.” Highest density multifamily zones are limited to 13:1 FAR not to exceed 13 stories.

Key requirements
Los Angeles has several density bonus programs:

**Standard + Value Capture**
The city must offer the standard density bonus incentives, based on state law and shown in the first four columns in Figure 1: State of California Density Bonus Requirements. The new “value capture” program adds density and incentives for contribution of affordable units as indicated in the far right column in the table.

An added bonus is that projects proposing these incentives—called “on menu” requests—are processed by planning staff; they do not go through planning commission or City Council.

**Density bonus > 35 percent**
Measure JJJ requires that projects receiving a discretionary General Plan amendment, zone change, or height district change exceeding 35 percent or a development of residential use where they were not previously allowed to provide density bonuses, which vary affordability level. For rental, these bonuses require a mix of affordability levels as shown in Table 4: Requirements for Density Bonus exceeding 35% or new Residential Use.

**Transit Oriented Communities Bonus**
The Transit Oriented Communities bonus, or TOC also stemmed from Measure JJJ. This option applies to housing developed within ½ mile of a “Unique TOC Affordable Housing Incentive Area.”

Parcels within the TOC designation are assigned a tier from 1 to 4 based on the shortest distance between any point on the lot and a qualified “Major Transit Stop”—a light rail, bus rapid transit (BRT) site, or traditional bus site. The tier depends on proximity to transit and quality of transit (for example, Tier 1 = 2 bus lines, Tier 4 = BRT).

TOC maximum bonuses and incentives are generous and are summarized in Table 5: TOC Density Bonuses and Requirements.

**In Lieu Fee**
The Value Capture and TOC programs do not have a fee-in-lieu option. For other programs, Measure JJJ sets the in-lieu fee at 1.1 times the number of affordable units that would have been provided if developed, multiplied by an “affordability gap.” The fee in lieu for a density bonus increase exceeding 35 percent is shown below:

<table>
<thead>
<tr>
<th>Unit Size</th>
<th>Fee Per Unit*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>$53,233</td>
</tr>
<tr>
<td>1 bedroom</td>
<td>$56,684</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>$62,891</td>
</tr>
<tr>
<td>3 bedroom</td>
<td>$69,927</td>
</tr>
</tbody>
</table>

*The fee is higher for residential projects in not formerly allowed areas.

**Parking Requirements**
California state law sets the parking maximums for developments participating in density bonuses at 1 space/unit for studios and 1 bedroom units; 2 spaces for 2-3 bedroom units; and 2.5 spaces for 4+ bedroom units. For projects with transit access, minimum parking ratios range from .3 (special needs developments) to .5 (seniors, mixed-income, affordable rental). Los Angeles allows lower parking ratios (from no parking required to 1 space per dwelling unit) for TOC program participants and these vary depending on the development area.
Additional incentives
Los Angeles offers a suite of additional incentives in exchange for increases to the proportion of units that are affordable and/or adherence to the city’s labor standards. Those incentives include setbacks/yards, open space, lot coverage, lot width, and additional height (ranging from 1-3 additional stories).

Program outcomes
The city’s planning department maintains an interactive Housing Progress Report website that tracks outcomes by program.
In 2019, approximately 27,000 residential units were approved with 5,662 of those affordable, or 21 percent of all units—half of the affordable units were created by the TOC program alone. This is a substantial increase since 2015 when 16,481 units were approved, and 7 percent were affordable. In about one-third of approved developments, more than 20 percent of the units were affordable.

As demonstrated by the following figure below, the TOC program has grown to be a significant portion of residential units proposed, accounting for 42 percent of units proposed in 2019. Units proposed through standard density bonuses have been consistent over time, ranging between 17 and 21 percent of all units in most years. Residential developments created through zone changes have declined significantly since Measure JJJ was enacted, as have units proposed through other entitlements.

Los Angeles Takeaway’s
The city’s combination of relatively low base heights, generous density bonuses with no fee-in-lieu option, and pent up demand for housing has achieved a unique depth of affordability and unit volume.
San Jose, California: Blended Program

History
San Jose implemented rental inclusionary zoning for the first time in 2010 and immediately halted the ordinance due to a lawsuit in Los Angeles challenging inclusionary zoning. A recent feasibility study concluded that the city’s current inclusionary ordinance is unlikely to produce affordable rental units except in one location—West San Jose—due to rising construction costs and moderation of rents. The study found the program ineffective for for-sale products in all parts of the city for the same reason (current for sale prices cannot support construction costs). Therefore, San Jose is acknowledging the need to revise their existing programs to better meet the need.

Key elements of San Jose’s zoning code: The program is limited to 4 residential zone districts. Base heights are specific to planning areas, employment centers, downtown, and transit corridors. Maximum height along transit corridors ranges from 120 to 200 feet.

Key requirements

Density bonus
San Jose offers the same terms as the state density bonus law requires shown in Table 1: State of California Density Bonus Requirements, including the same incentives (parking reductions, some design concessions). According to staff, density bonuses have not been commonly used by the private sector due to: 1) Lack of interest and awareness by the development community; 2) Limited value to developers; 3) Lack of land for dense developments; and 4) Neighborhood opposition to density. Density bonuses are most common for “100 percent affordable” developments and in high frequency bus areas (less than ½ mile from bus stop).

Inclusionary housing ordinance (IHO) and impact fee
San Jose is in the process updating its inclusionary housing ordinance to encourage more on-site affordable housing. The current ordinance applies to developments with 20 units or more and has multiple compliance options (developments between 3 and 19 units pay an impact fee). The IHO terms and proposed changes include:

- Now: 9 percent of units at 80 percent AMI and 6 percent at 50 percent AMI.
- Proposed to broaden the range and deepen affordability: 5 percent at 100 percent AMI; 5 percent at 60 percent AMI; and 5 percent at 50 percent AMI or 10 percent at 30 percent AMI.
- Currently, developers may use combination of on-site apartments and in-lieu fees, but the rules are changing. The proposed modification will allow 5 percent of moderate-income affordable apartments on-site, and a fee of $18.26 per sq. ft. in lieu of building the remaining low-income affordable apartments. The modification will also allow developments on adjacent parcels to qualify as “on-site.”
- Affordability period is 55 years; proposed change to 99 years.

In-lieu fee
Currently, the in-lieu fee is $125,000 per inclusionary unit (roughly equivalent to $28 per sq. ft. The city is proposing to increase to $43 sq. ft. for the entire development. Fees may differ by planning area; this is currently under evaluation. San Jose is also currently working to create a Commercial Linkage Fee.

Program outcomes
All but one project has chosen in-lieu compliance, hence the ordinance update.

San Jose Takeaways

- A low fee-in-lieu discourages developers from constructing affordable units
- Density bonus programs are very context sensitive
Seattle, Washington: Blended Program

History
The City of Seattle has offered density bonus incentives for affordable housing since the 1970s, with the most successful application in the downtown market. According to the city, prior to establishment of its current program, incentive zoning took a piecemeal approach, which was difficult to administer and yielded inconsistent results.

The city revisited those incentives in 2014 in reaction to rapid rises in housing prices and to help achieve the city’s goal of affordable housing development. A coalition of affordable housing developers, for-profit developers, business interests, and advocates mobilized support for mandatory affordable housing requirements (more commonly known as “inclusionary zoning”) in exchange for incentives; this was part of a broader set of recommendations to increase housing affordability through the city’s Housing Affordability and Livability Agenda, or HALA.

The resulting Mandatory Housing Affordability (MHA)—described as “Seattle’s new policy to ensure that growth brings affordability”—was adopted in the university and downtown districts in 2017 and expanded in 2019 to cover all but single-family detached only districts. About 6 percent of the city’s single family detached stock was rezoned to allow cottage homes and duplexes.

In sum, the city gave property owners greater value through rezoning and, in return, asked for a contribution to affordable housing, through unit development or payment.

- Density bonuses take the form of increasing maximum height, increasing floor area ratios (FAR), or establishing a different zoning designation. Larger zoning changes require a larger number of affordable units to be built or a higher in-lieu fee.
- MHA applies to all units in rezoned areas, including single family homes—for example, if a single-family home is demolished and replaced by a new home, a fee-in-lieu is required, even if the redeveloped home does not take advantage of increased density.

Two factors affect the required affordable housing unit contribution required:
- Market typology (low, medium, or high cost market)
- Benefit derived from the rezone.

MHA areas are designated as High, Medium, or Low depending on market characteristics, as shown in the map below.

Key requirements
- The MHA requirement was coupled with a significant rezoning effort at very small geographic levels—e.g., transit rich areas were given greater densities, lower density neighborhoods had smaller scale changes.
- MHA only applies in areas of the city that were rezoned in 2017 and 2019 to allow greater density; these were mostly focus areas for future job and housing growth. About 6 percent were in single family neighborhoods.
- Rezoning in other parts of the city that are applicant-initiated are also subject to MHA.

Key elements of Seattle’s zoning code: Seattle separates residential uses into “Low Rise—LR,” “High Rise—HR,” and other specific zones which allow a range of densities. LR is found in neighborhoods and, with code revisions, now limits height to between 30 and 50 feet. HR is limited to a few areas near downtown with a base of 440 feet. Downtown base heights range from 240 to 550 feet, with some areas of downtown with unlimited height.
Requirements and in-lieu fee

Developers in MHA areas have two options to comply with the inclusionary requirement: 1) “Performance” option, which requires that affordable units be built; and 2) “Payment” option. City staff generally prefer the payment option as they believe they are better able to leverage funds with state subsidy and create more units that would be provided through the payment option.

The following chart shows the requirements for residential and commercial properties located outside of the downtown area, developed in the 2019 application of the MHA. Fee-in-lieu is calculated on a sq. ft. basis.

For residential developments, the MHA requirement is based on the number of total units (e.g., 5% of units must be MHA units); for commercial, it is based on floor area in commercial use, excluding underground areas and 4,000 sq. ft. of “street level commercial usage.” The proportion of affordable units required ranges from 5 percent to 11 percent.

AMI levels and affordability periods include:
- Rental units < 400 sq. ft.—40 percent AMI for 75 years
- Rental units > 400 sq. ft.—60 percent AMI at initial income certification and 80 percent at recertification, which allows income increases. Affordability period is 75 years
- Homeownership units—mortgage should be affordable to 65 percent AMI (using 35% of monthly income) with qualifying households up to 80 percent AMI

### MHA requirements

*Note: MHA payment requirements are updated annually using a consumer price index (CPI) adjustment method. The tables below reflect current payment requirements as of March 2019. A zoning reviewer at SDCI can confirm the applicable payment calculation amount for a specific project. For more detail, see Tip 257.*

#### Residential and live-work outside Downtown, SM-SLU, and SM-U 85 zones

<table>
<thead>
<tr>
<th>MHA zone suffix</th>
<th>low area</th>
<th>medium area</th>
<th>high area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>$</td>
<td>%</td>
</tr>
<tr>
<td>(M)</td>
<td>5%</td>
<td>$7.64</td>
<td>6%</td>
</tr>
<tr>
<td>(M1)</td>
<td>8%</td>
<td>$12.28</td>
<td>9%</td>
</tr>
<tr>
<td>(M2)</td>
<td>9%</td>
<td>$13.64</td>
<td>10%</td>
</tr>
</tbody>
</table>

#### Commercial outside Downtown, SM-SLU, and SM-U 85 zones

<table>
<thead>
<tr>
<th>MHA zone suffix</th>
<th>%</th>
<th>$</th>
<th>%</th>
<th>$</th>
<th>%</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>(M)</td>
<td>5%</td>
<td>$5.58</td>
<td>5%</td>
<td>$7.81</td>
<td>5%</td>
<td>$8.92</td>
</tr>
<tr>
<td>(M1)</td>
<td>8%</td>
<td>$8.92</td>
<td>8%</td>
<td>$12.55</td>
<td>8%</td>
<td>$14.22</td>
</tr>
<tr>
<td>(M2)</td>
<td>9%</td>
<td>$10.04</td>
<td>9%</td>
<td>$13.94</td>
<td>9%</td>
<td>$16.17</td>
</tr>
</tbody>
</table>
Parking requirements

Seattle does not require minimum parking for rental units that are restricted to serve 80 percent AMI. For non-rent restricted rental units, the requirement is 1 space per dwelling unit or 1 for each 2 small efficiency (micro) units.

Additional incentives. Seattle also offers a Multifamily Tax Exemption (MFTE) program that exempts payment of property taxes for units with affordable rents, created as part of market rate multifamily building development or redevelopment. Between 20 and 25 percent of units must be set aside as affordable for a maximum period of 12 years, after which the exemption and affordability of the units expires. The 12-year limit is based on state law, which was revised to allow the MFTE program.

The income restrictions vary by unit size and differ from the MHA:

- For a 20 percent affordable unit contribution, studios rent at 65 percent AMI; 1-bedroom at 75 percent AMI; 2-bedroom at 85 percent AMI; and ownership units range between 100 and 120 percent AMI; and
- Only micro-units are eligible for the 25 percent unit contribution and exemption; these must rent at 40 percent AMI.
- The tax-exempt program is separate from the MHA; MFTE units cannot count toward the MHA obligation. As such, the MFTE program could be used on top of the MHA or as part of a redevelopment that does not have affordable units.
- The Seattle Office of Housing manages the program, sets income eligibility and rents, and also maintains a list of available units for eligible renters.

Program outcomes

Because the program is relatively new—many developments currently being built now received permits prior to implementation of MHA—outcomes of the 2017 or 2019 programs are still unknown. Staff believe the vast majority of developers are taking advantage of the density bonuses, however.

Seattle Takeaways

- The city’s incentive program is unique for its broad geographic application and offsetting the costs of mandatory inclusionary zoning with valued-added base height increases
- Fee-in-lieu payments reflect market and value-add differences
- Property tax exemptions are an effective cross-subsidy to the private sector.
Minneapolis, Minnesota: Inclusionary Zoning

History
The City of Minneapolis implemented inclusionary zoning requirements for residential and mixed-use projects with more than 10 units receiving financial assistance from the city in 2003. However, inclusionary zoning requirements have historically been determined on a case-by-case basis.

In 2018, City Council adopted the Inclusionary Housing Policy Framework and an interim Inclusionary Zoning ordinance based on recommendations from a 2018 study. The permanent Inclusionary Zoning Ordinance was developed throughout 2019 and adopted on December 13, 2019 (effective January 1, 2020).

Key requirements

Rental units
IZ requirements apply to all rental housing projects unless the development is less than 20 units, designated student housing, or provides at least 20 percent affordable units at 60 percent AMI. The city offers six regulatory options for compliance:

- Build on-site at or below 60 percent AMI—8 percent of units at or below 60 percent AMI for 20 years with no incentives.
- Build on-site at or below 30 percent AMI—4 percent of units at or below 30 percent AMI for 20 years with no incentives.
- Build on-site at or below 50 percent AMI—20 percent of units at or below 50 percent AMI for 30 years to receive city assistance (subject to City Council approval) in the form of Inclusionary Zoning TIF.
- Pay cash-in-lieu—$15 per sq. ft. of market-rate residential development if project has 7 or fewer stories; $22 with 8+ stories, based on market-rate residential development. The in-lieu fees are adjusted annually based on the construction cost index for Minneapolis.
- Build off-site—This option is available after June 1, 2020 and subject to the approval of City Council. The developer is allowed to partner with an experienced affordable housing developer or preserve naturally occurring affordable housing.
- Donation of land to the city—This option is available after June 1, 2020 and subject to the approval of the CPED Director. The land is appraised by the city to be greater than or equal to the in-lieu fee, a combination of land donation and in-lieu fee may be utilized; the land must be in an area where there is high need for affordable housing sites (i.e., areas where the city does not control sufficient development sites); and reasonably developable for affordable housing.

Ownership units
The city offers four regulatory options for compliance:

- Build on-site at or below 70 percent AMI—4 percent of units at or below 70 percent AMI for 20 years with no incentives.
- Pay cash-in-lieu—Subject to the same requirements as rental units.
- Build off-site—Subject to the same requirements as rental units.
- Donation of Land to the city—Subject to the same requirements as rental units.

Parking requirements
The city did not modify parking requirements as part of the IZ updates; however, parking requirements are more favorable for transit heavy areas.

Additional incentives
Minneapolis offers property tax reductions for building owners with 20 percent or more units affordable 60 percent AMI or below; the reduction period is 10 years. Eligible properties receive a 40 percent deduction on qualifying units. Qualified building owners can receive additional benefits which include a grant of $100 per affordable unit capped at $1,000 per property, free or low-cost energy efficiency and healthy home assessments, city subsidies and utility rebates for energy upgrades, and solar energy incentives.

Green on 4th Mixed-Income Project in the Prospect Park neighborhood near the prospect park transit station. Source image: https://www.tmiarchitects.com/greenon4th
Portland, Oregon: Inclusionary Zoning

History
The City of Portland implemented its Inclusionary Housing Ordinance on February 1, 2017 along with minor modifications to its existing Multiple-Units Limited Tax Exemption Program (incentive-based affordable program). The ordinance was made possible by a 2016 State of Oregon bill which removed the statewide statutory ban of local inclusionary housing ordinances. Portland’s IH ordinance was designed to help produce new affordable housing units for households earning less than 80 percent AMI.

Portland’s IH program requires all residential developments with at least 20 units to provide a percentage of those units for households earning less than 80 percent AMI. The city offers several compliance options including a fee-in-lieu that varies by district (discussed under Key requirements below). Prior to the 2017 IH ordinance the city’s MULTE program was used to incentivize affordable development. According to city staff, the perception of the program was that it was primarily used by developers that were very familiar with the program and knew how to implement it as part of their development, but that the program was not a tool easily accessed by a broad group of developers.

Key requirements

The IH ordinance applies to residential buildings proposing 20 or more units. The city offers six regulatory options for compliance:

- **Build on-site at or below 80 percent AMI**—15 percent of units affordable at 80 percent AMI, except in Central City and Gateway Plan Districts where 20 percent must be affordable at 80 percent AMI. Incentives include a 10-year tax exemptions, construction excise tax exemption, parking exemption, and FAR bonus.
- **Build on-site at or below 60 percent AMI**—8 percent of units affordable at 60 percent AMI, except in Central City and Gateway Plan Districts where 10 percent must be affordable at 60 percent AMI. Incentives include a 10-year tax exemptions, construction excise tax exemption, System Development Charge (SDC) exemption (on affordable units), parking exemption, and FAR bonus.
- **Build off-site, new construction**—20 percent of units affordable to 60 percent AMI or 10 percent of units affordable to 30 percent AMI. Tax exemptions are reviewed on a case-by-case basis; other incentives include construction excise tax exemption, SDC exemption (on affordable units), parking exemption (sending site), and FAR bonus (sending site).
- **Provide off-site, designate existing building**—designate affordable units in an existing building (receiving building) separate from the proposed development (sending building). In this case, affordability requirements are equivalent to 25 percent of the sending building’s units affordable to 60 percent AMI or 15 percent of the sending building’s units affordable to 30 percent AMI. Incentives include parking exemption (sending site) and FAR bonus (sending site).
- **Build on-site with reconfiguration of bedrooms**—Developers selecting options one or two above (build on-site) can redistribute the total number of affordable unit bedrooms and effectively reduce the number of affordable units while increasing the size of those units (e.g., shift two one-bedroom units into a single two-bedroom unit). The same incentives apply to this option as in options one and two.
- **Fee in-lieu**—calculated per gross square foot of the proposed development. In the Central City and Gateway Plan Districts the fee is $27.00 per gross square foot; in all other areas the fee is $19.00 per gross square foot though this amount is scheduled to increase to $23 per gross square foot at the end of 2020.

Parking requirements
Parking exemptions are applied to entire development sites within 1,500 feet of a transit station (or 500 feet of a transit street with frequent peak service). For sites outside of that range, parking exemptions are offered for the affordable units only. Developers that pay a fee-in-lieu are not granted any parking exemptions/reductions.

Additional incentives

In addition to the Inclusionary Housing program, Portland offers the following incentives:

- **System Development Charge (SDC) Exemptions.** Portland’s SDCs are impact fees paid by new residential development that fund proportional increases to transportation system, parks and recreation facilities, and water works systems. In addition to waiving SDCs under certain IH options (discussed above) PHB also exempts affordable home ownership units from SDCs.
- **Limited Tax Exemptions (LTEs).** The city has three LTE programs: Non-Profit LTE (NPLTE); Multiple-Unite LTE (MULTE); and Homebuyer Opportunity LTE (HOLTE). The MULTE program is administered through the IH program and the benefits are described in the previous figure and discussion. The NPLTE program applies to non-profit organizations with income-restricted housing (either multiple-unit or single-unit) affordable to households earning less than 60 percent AMI. The HOLTE program offers homeowners earning less than 100 percent AMI a tax...
exemption for 10 years. It is designed to increase affordability for families and therefore only applies to owner-occupied dwellings with three or more bedrooms (or two bedrooms if located near transit).

Program outcomes
To date (3 years since implementation), Portland’s inclusionary housing program has permitted 601 affordable units from 91 development projects. On average the city is attaining 10 percent affordability from eligible projects (601 affordable units out of 5,768 total units in eligible projects). Of the 601 affordable units permitted, just over half (56%) are affordable at 60 percent AMI and 44 percent are at 80 percent AMI. Three-quarters of the units permitted are studios or one-bedrooms (which is roughly equivalent to the overall distribution of new unit sizes).

There has been some criticism that the inclusionary housing program has discouraged residential development in Portland. Others (including the city) suggest that developers planning projects around the time of inclusionary housing implementation rushed to get building permits and land use review applications submitted before the ordinance which falsely inflated pre-inclusionary housing permitting and lead to an anticipated slow-down immediately following implementation. This is consistent with permitting data during that period, which show a spike in permits just before the inclusionary housing implementation. Subsequent reports indicate market factors unrelated to the implementation of inclusionary housing may be signaling an upcoming slow-down in multifamily development.
Considerations Moving Forward

Based on peer city analysis and drawing upon the evaluation of Denver’s 38th & Blake density program, the following should be considered in the development of the citywide incentive system.

1. To respond to the diverse needs of Denver’s most vulnerable residents and community needs, Denver’s system should allow for affordability level blends (e.g., 10 percent of units at 80 percent AMI combined with 5 percent of units at 50 percent AMI) and allow for lower unit contributions for low-AMI units. An example of this is found in Los Angeles, which offers the highest bonuses to developments with deeper levels of affordability; this program has demonstrated success in creating deeply affordable (30 percent AMI) units through generous density bonuses options along major transportation corridors. At 38th and Blake, the 80 percent AMI requirement does not serve the needs of many residents in the area.

2. Denver’s existing base heights are higher than those offered through successful peer city bonus programs. To be effective, the citywide system will likely need modifications to base heights. For example, in many areas across Denver (e.g., Downtown, 38th and Blake, Colfax Avenue) the current market is not building to the maximum entitlement and many times is leaving significant entitlement unbuilt. In contrast to peer cities, density bonus programs are successful when there is relatively low base heights/FAR coupled with strong demand for market and affordable housing.

3. The citywide system should prioritize the construction of affordable units over a fee-in-lieu option. To meet the housing needs, the system should encourage the development of affordable units. For example, at 38th and Blake, any development that is predominantly residential must build the units and a fee-in-lieu option is not available. If a fee in lieu option is provided, the cost must accurately reflect the actual cost of developing and marketing affordable units. Incentives and fees-in-lieu payments must accurately reflect differences in the cost of development by submarket, as determined through the feasibility analysis. Below-cost fees-in-lieu are unlikely to result in the construction of units.

4. The citywide system should be tailored to submarket cost differences; proximity to transit; neighborhood context; and to achieve equity goals. Careful calibration should occur to respect these different contexts without creating an overly complex system. For example, Seattle bases their system on different requirements based on sub-market development costs. In Los Angeles’ tiered system of bonuses are based on the level of transit service and are used as starting points of submarket design.

5. Density bonuses are not always the most meaningful incentives, the citywide system should explore additional incentives such as expedited review, parking reductions, and other financial incentives. Developers in Denver and many peer cities have expressed that predictability in reviews is a powerful incentive. Unpredictable review periods raise costs in the form of interest on loans to acquire land and can compromise the ability to find investors. To cope with these risks, developers will often raise the cost of housing. In Atlanta, a menu of incentives is paired with their mandatory requirement. Of the different options, the expedited review was selected far more frequently than the density bonus or parking reduction.
## Appendix:

**Table 1: State of California Density Bonus Requirements**

<table>
<thead>
<tr>
<th>Affordability Level/Housing Type</th>
<th>Min. % of Affordable Units for Bonus</th>
<th>Bonus received for Min. %</th>
<th>Additional Bonus per 1% increment over Min. %</th>
<th>% of Affordable Units to qualify for Max Density Bonus of 35%</th>
<th>Additional bonus for every 1 percent of additional units</th>
</tr>
</thead>
<tbody>
<tr>
<td>50% AMI rental and for sale</td>
<td>5%</td>
<td>20%</td>
<td>2.50%</td>
<td>11%</td>
<td>2.5%</td>
</tr>
<tr>
<td>60% AMI rental and 70% for sale</td>
<td>10%</td>
<td>20%</td>
<td>1.50%</td>
<td>20%</td>
<td>1.5%</td>
</tr>
<tr>
<td>110% AMI for sale</td>
<td>10%</td>
<td>5%</td>
<td>1.00%</td>
<td>40%</td>
<td>1%</td>
</tr>
<tr>
<td>Senior citizen housing</td>
<td>35 units</td>
<td>20% of senior units</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Condo conversions:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low income</td>
<td>15%</td>
<td>25%</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Mod. income</td>
<td>33%</td>
<td>25%</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Land donation (must be sufficient to develop 40 units)</td>
<td>10% of mkt rate units; land must be within ¼ mi of mkt rate dev</td>
<td>15%</td>
<td>1%</td>
<td>30%</td>
<td></td>
</tr>
<tr>
<td>Child care facility onsite</td>
<td>N/A</td>
<td>Based on sq ft</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 2: City of Austin Affordable Housing Development Incentive Policy Overview

<table>
<thead>
<tr>
<th>Program Name/Location</th>
<th>Incentive Policy Type</th>
<th>Date of Program</th>
<th>Applicability</th>
<th>Incentives, Waivers, Modifications</th>
<th>Required Affordable Set-Aside</th>
<th>Maximum Income Limit (% of AMI)</th>
<th>Affordability Period</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smart Development</td>
<td>Density bonus</td>
<td>2007</td>
<td>Citywide</td>
<td>Increased height, FAR, building coverage, 10% rental, 5% owner</td>
<td>10%</td>
<td>0% 80%</td>
<td>1 yr 3 yrs</td>
<td>None</td>
</tr>
<tr>
<td>Planned Unit Development Bonuses</td>
<td>Density bonus</td>
<td>Various</td>
<td>PUD exceeding base entitlements</td>
<td>10% rental, 5% owner</td>
<td>10%</td>
<td>0% 80%</td>
<td>99 yrs 40 yrs</td>
<td>$7.5M of bonus</td>
</tr>
<tr>
<td>University Neighborhood Overlay</td>
<td>Density bonus</td>
<td>2014</td>
<td>University area</td>
<td>Increased height, FAR, parking flexibility</td>
<td>10%</td>
<td>65-80%</td>
<td>15 yrs 15 yrs</td>
<td>5-55% rentable units</td>
</tr>
<tr>
<td>Vertical Mixed Use</td>
<td>Density bonus</td>
<td>2010</td>
<td>Villas and townhouses</td>
<td>Waiver of height, FAR</td>
<td>10%</td>
<td>80-100%</td>
<td>90 yrs 50 yrs</td>
<td>None</td>
</tr>
<tr>
<td>Transit Oriented Development</td>
<td>Density bonus</td>
<td>2006</td>
<td>TID overlay districts</td>
<td>Increased height, FAR, standards flexibility</td>
<td>0%</td>
<td>0% 80%</td>
<td>0 yrs 5 yrs</td>
<td>None</td>
</tr>
<tr>
<td>Rainey Street High Density Bonus</td>
<td>Density bonus</td>
<td>2006</td>
<td>Rainey Street properties</td>
<td>Waiver of height, FAR</td>
<td>10%</td>
<td>80% 80%</td>
<td>31-50% 14%</td>
<td>None</td>
</tr>
<tr>
<td>North Burnet Gateway Suburban Context</td>
<td>Density bonus</td>
<td>2005</td>
<td>North Burnet Gateway district</td>
<td>Increased height and FAR</td>
<td>10%</td>
<td>90% 90%</td>
<td>40 yrs 10%</td>
<td>$7.5M of bonus</td>
</tr>
<tr>
<td>East Riverside Corridor</td>
<td>Density bonus</td>
<td>2009</td>
<td>East Riverside/central neighborhood</td>
<td>Increased height, FAR, standards flexibility</td>
<td>0%</td>
<td>0% 80%</td>
<td>40 yrs 10%</td>
<td>$1.5M of bonus only for buildings &lt; 60%</td>
</tr>
<tr>
<td>Downtown Density Bonus</td>
<td>Density bonus</td>
<td>2013</td>
<td>Central business district</td>
<td>Increased height and FAR</td>
<td>10%</td>
<td>10% 10%</td>
<td>63-80% 10%</td>
<td>$3-5M soft, residential projects only</td>
</tr>
<tr>
<td>Micro Unit Density Bonus</td>
<td>Density bonus</td>
<td>2013</td>
<td>TID districts, units 500 sq ft and less</td>
<td>Waiver of height and FAR</td>
<td>10%</td>
<td>80% 80%</td>
<td>80 yrs 1%</td>
<td>None</td>
</tr>
</tbody>
</table>

Source: City of Austin

### Table 3: Austin Density Bonus Outcomes

<table>
<thead>
<tr>
<th>Program Name/Location</th>
<th>No. of Projects</th>
<th>Date of Program</th>
<th>Total Affordable Units</th>
<th>Total Units</th>
<th>% Affordable</th>
<th>Fee-in-Lieu</th>
<th>% &lt; 30% AMI</th>
<th>% 31-50% AMI</th>
<th>% 51-80% AMI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smart Development</td>
<td>1,646</td>
<td>2007</td>
<td>17,389</td>
<td>45,261</td>
<td>38%</td>
<td>$3,056,705</td>
<td>2%</td>
<td>8%</td>
<td>29%</td>
</tr>
<tr>
<td>Planned Unit Development Agreements</td>
<td>36</td>
<td>Various</td>
<td>3,848</td>
<td>28,596</td>
<td>13%</td>
<td>$3,261,917</td>
<td>0%</td>
<td>0%</td>
<td>14%</td>
</tr>
<tr>
<td>University Neighborhood Overlay</td>
<td>67</td>
<td>2014</td>
<td>1,477</td>
<td>12,671</td>
<td>12%</td>
<td>$3,235,224</td>
<td>0%</td>
<td>2%</td>
<td>10%</td>
</tr>
<tr>
<td>Vertical Mixed Use</td>
<td>81</td>
<td>2010</td>
<td>849</td>
<td>8,366</td>
<td>10%</td>
<td>$-</td>
<td>0%</td>
<td>0%</td>
<td>10%</td>
</tr>
<tr>
<td>Transit Oriented Development</td>
<td>35</td>
<td>2009</td>
<td>484</td>
<td>3,079</td>
<td>16%</td>
<td>$4,650,033</td>
<td>0%</td>
<td>5%</td>
<td>11%</td>
</tr>
<tr>
<td>Planned Unit Development Bonus</td>
<td>8</td>
<td>2008</td>
<td>264</td>
<td>1,023</td>
<td>26%</td>
<td>$-</td>
<td>0%</td>
<td>0%</td>
<td>26%</td>
</tr>
<tr>
<td>Rainey Density Bonus</td>
<td>6</td>
<td>2005</td>
<td>75</td>
<td>1,675</td>
<td>4%</td>
<td>$1,501,975</td>
<td>0%</td>
<td>0%</td>
<td>4%</td>
</tr>
<tr>
<td>North Burnet Gateway Bonus</td>
<td>8</td>
<td>2009</td>
<td>72</td>
<td>1,057</td>
<td>7%</td>
<td>$12,727,973</td>
<td>0%</td>
<td>0%</td>
<td>3%</td>
</tr>
<tr>
<td>East Riverside Corridor</td>
<td>3</td>
<td>2013</td>
<td>41</td>
<td>982</td>
<td>4%</td>
<td>$8,168</td>
<td>0%</td>
<td>0%</td>
<td>4%</td>
</tr>
<tr>
<td>Downtown Density Bonus</td>
<td>9</td>
<td>2013</td>
<td>29</td>
<td>2,473</td>
<td>1%</td>
<td>$10,158,469</td>
<td>0%</td>
<td>0%</td>
<td>1%</td>
</tr>
<tr>
<td>Micro Unit Density Bonus</td>
<td>2</td>
<td>2014</td>
<td>5</td>
<td>107</td>
<td>5%</td>
<td>$-</td>
<td>0%</td>
<td>4%</td>
<td>1%</td>
</tr>
<tr>
<td>Total</td>
<td>1,901</td>
<td>2014</td>
<td>24,533</td>
<td>105,290</td>
<td>23%</td>
<td>$38,600,464</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

Source: City of Austin
### Table 4: Requirements for Density Bonus exceeding 35% or new Residential Use

<table>
<thead>
<tr>
<th>Affordability Level/Housing Type</th>
<th>Increase in Residential Density &gt; 35%</th>
<th>Residential Use where not previously Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>30% AMI rental + 50% AMI rental</td>
<td>5% @ 30% AMI and 6% at 50% AMI</td>
<td>5% @ 30% AMI and 11% at 50% AMI</td>
</tr>
<tr>
<td>30% AMI rental + 80% AMI rental</td>
<td>5% @ 30% AMI and 15% at 80% AMI</td>
<td>5% @ 30% AMI and 20% at 80% AMI</td>
</tr>
<tr>
<td>50% AMI for sale</td>
<td>11%</td>
<td>11%</td>
</tr>
<tr>
<td>80% AMI for sale</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>110% AMI for sale</td>
<td>40%</td>
<td>40%</td>
</tr>
</tbody>
</table>

Source: City of Los Angeles Measure JJJ In-Lieu Fee Schedule and LAMC Section 11.5.11 (b) (3).

### Table 5: TOC Density Bonuses and Requirements

<table>
<thead>
<tr>
<th>TOC Tiers</th>
<th>Type of Transit Stop</th>
<th>Distance from Transit Stop</th>
<th>Maximum Density Bonus Above Base Height*</th>
<th>% ELI Affordable or % for VLI</th>
<th>or % for LI</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – Low Transit Access</td>
<td>Metro Link Rail Stations</td>
<td>1500– 2640 feet</td>
<td>50%</td>
<td>8%</td>
<td>11%</td>
</tr>
<tr>
<td></td>
<td>Regular plus Rapid Bus</td>
<td>1500 – 2640 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Two Regular Busses</td>
<td>750 – 2640 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 – Medium Transit Access</td>
<td>Metro Link Rail Stations</td>
<td>750 - &lt; 1500 feet</td>
<td>60%</td>
<td>9%</td>
<td>12%</td>
</tr>
<tr>
<td></td>
<td>Two Rapid Buses</td>
<td>1500 – 2640 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Regular plus Rapid Bus</td>
<td>750 - &lt;1500 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Two Regular Busses</td>
<td>&lt;750 Feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 – High Transit Access</td>
<td>Metro Rail Station</td>
<td>&lt; 2640 feet</td>
<td>70%</td>
<td>10%</td>
<td>14%</td>
</tr>
<tr>
<td></td>
<td>Metro Link Rail Stations</td>
<td>&lt;750 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Two Rapid Buses</td>
<td>&lt;1500 feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Regular plus Rapid Bus</td>
<td>&lt;750 Feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 – Regional Transit Access</td>
<td>Metro Rail Stations</td>
<td>&lt;750 feet</td>
<td>80%</td>
<td>11%</td>
<td>15%</td>
</tr>
</tbody>
</table>

Source LA TOC Guidelines: [https://planning.lacity.org/ordinances/docs/toc/TOCGuidelines.pdf](https://planning.lacity.org/ordinances/docs/toc/TOCGuidelines.pdf)
i 2017 ACS 5-year estimate data
ii 2017 ACS 5-year estimate data
iii Town of Telluride v. Thirty-Four Venture