



Inclusionary Zoning

Local government cohort summary

Prepared Spring 2022

ACKNOWLEDGMENTS

DRCOG is grateful for the contributions from all cohort panelists, including:

- **Heidi Aggeler**, managing director, Root Policy Research (Session 1)
- **Analiese Hock**, principal city planner, City and County of Denver (Session 1)
- **Kathy Fedler**, community investment and housing manager, City of Longmont (Session 1)
- **Mollie Fitzpatrick**, managing director, Root Policy Research (Session 2)
- **Chase Hill**, founding partner, Sable Partners (Session 2)
- **Stephanie Reyes**, state and local policy manager (former), Grounded Solutions Network (Session 3)
- **Matt Weber**, state and local policy senior specialist (former), Grounded Solutions Network (Session 3)
- **Rodney Milton**, manager of community development (former), City of Aurora (Session 4)
- **Josh Humphries**, director, Office of Housing and Community Development, City of Atlanta (Session 4)
- **Sue Beck-Ferkiss**, social policy and housing program manager, City of Fort Collins (Session 4)
- **Brad Weinig**, director of catalytic partnerships, City and County of Denver (Session 4)

CONTENTS

EXECUTIVE SUMMARY	4
ORIGIN OF THE INCLUSIONARY ZONING COHORT.....	5
INFORMATION ON COHORT SESSIONS.....	7
Session 1: Introduction to inclusionary zoning.....	7
Session 2: Economics of inclusionary zoning.....	8
Session 3: Program design and structure	10
Session 4: Marketing and messaging.....	12
WHAT'S NEXT?	14

EXECUTIVE SUMMARY

Following the passage of House Bill 21-1117 in May 2021, local governments in Colorado have newly clarified authority to enact and enforce inclusionary zoning ordinances. In response to the legislation's passage, DRCOG staff coordinated with housing policy experts and planning practitioners in the Denver region so that participants better understand inclusionary zoning programs as a tool increase the supply of affordable housing in communities across the state.

DRCOG staff convened four sessions:

- Session 1 provided an introduction.
- Session 2 addressed economics of inclusionary zoning.
- Session 3 covered program design and structure.
- Session 4 focused on marketing and the messaging of inclusionary zoning programs.

This document includes information from each of the four sessions, including panelists, key discussion items, top takeaways from each session, as well as web links for more information on session material. Some of the key discussion items and takeaways from the sessions include:

- There isn't a template for designing an inclusionary zoning program — it requires a series of policy choices.
- Inclusionary zoning programs are market-driven; they leverage new development to create affordable units.
- An inclusionary zoning program will likely produce affordable units if:
 - The program is structured to promote unit production.
 - The community already has a moderate to high volume of residential development.
 - The inclusionary zoning requirements maintain economic feasibility.

- Communities should define the need for affordable housing locally; this will influence all local program design decisions. Understanding this purpose and need – why a jurisdiction is pursuing the program – can inform all questions about who, what, when and where the program applies.
- A community's approach to developing an inclusionary zoning program may vary depending on its political context. One way that may prove successful is to invite political leadership to the initial stages of the process to develop an inclusionary zoning program; then seek buy-in from the development industry, community members and other stakeholders.

DRCOG convened local planning practitioners to learn together about research on inclusionary zoning programs, and to hear from planners with experience developing, implementing and adapting inclusionary zoning programs. Jurisdictions that participated may or may not develop an inclusionary zoning program. The region's plan, Metro Vision, recognizes that DRCOG's member governments will contribute to the region's shared aspiration in ways that are aligned with local circumstances and priorities. Developing and implementing an inclusionary zoning program is just one possible way communities may choose to contribute to the goals outlined in Metro Vision. DRCOG's staff intends to use the lessons learned from organizing and supporting the inclusionary zoning cohort in its efforts to convene similar learning cohorts to address other issues of mutual regional concern.

ORIGIN OF THE INCLUSIONARY ZONING COHORT

The Denver region is facing a housing crisis.

- **Over 14% of households (more than 170,000) in the Denver region spend more than half of their incomes on housing**, according to the U.S. Census Bureau's 2015-2019 American Community Survey. An additional 18% (more than 226,000 households) spend 30% to 49% of their household income on housing, meaning that one in three Denver region households are cost burdened.
- **Over 32,000 individuals experienced homelessness** in Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson counties according to the Metropolitan Denver Homeless Initiative's *State of Homelessness, 2021 Report*.
- **In Colorado, 21% of municipalities increased their levels of support for people experiencing homelessness or housing insecurity** according to the Colorado Municipal League's 2021 State of Our Cities and Towns Report.

Among the outcomes in Metro Vision, the Denver region's plan, is for a future where: **Diverse housing options meet the needs of residents of all ages, incomes and abilities**. Among the outcome's supporting objectives is

to: **Increase the regional supply of housing attainable for a variety of households.**

To do this, Metro Vision offers ideas for local implementation, respects local plans and encourages communities to work together. These are three of the six core principles that have shaped the role of Metro Vision since its earliest conception.

The six Metro Vision principles shape DRCOG's work. DRCOG has a legacy of convening conversations around the issues and opportunities faced by the region, as well as by its constituent counties and municipalities. Convening conversations around challenges and opportunities allows communities to coordinate and staff from each to learn from others and design local initiatives that best fit local circumstances and strategic plans.

Recently, DRCOG staff have sought to formalize the structure of their approach to convening conversations with local government staff and other stakeholders (see Table 1). In the inclusionary zoning cohort, DRCOG convened local government staff to explore the potential tool of inclusionary zoning — an authority of cities, towns and counties newly clarified with the passage of Colorado House Bill 21-1117 in 2021.

Metro Vision Principles

- **Metro Vision protects and enhances the region's quality of life.**
- **Metro Vision is aspirational, long-range and regional in focus.**
- **Metro Vision offers ideas for local implementation.**
- **Metro Vision respects local plans.**
- **Metro Vision encourages communities to work together.**
- **Metro Vision is dynamic and flexible.**

Table 1. Inclusionary zoning cohort

Cohort step	Description	
1.	Identify issue or opportunity	Gov. Jared Polis signs Colorado House Bill 21-1117, clarifying the authority of cities, towns and counties to adopt inclusionary zoning ordinances affecting rental housing, in addition to for-sale housing, which had previously been allowed by state law.
2.	Research promising practice	Some jurisdictions in other states have adopted inclusionary zoning to require that a certain percentage of new housing units be rented or sold at below-market rates to households with lower incomes. Several jurisdictions in Colorado have adopted similar policies as allowed prior to the passage of House Bill 21-1117 (for example, covering for-sale housing only or on a voluntary basis for rental housing).
3.	Convene and incubate	Invite local government planning staff interested in being early investigators and possible adopters to participate in a series of meetings to learn more about inclusionary zoning from each other and visitors on various topics.
4.	Release	Conclude the meeting series after four sessions to allow participating local government staff to continue discussions on whether and how to implement inclusionary zoning in their jurisdiction.
5.	Document	Document the topics and resources discussed for participant reference, as well as for other jurisdictions which may be ready to start investigating inclusionary zoning.

INFORMATION ON COHORT SESSIONS

Session 1: Introduction to inclusionary zoning

Session purpose:

To introduce a cohort for staff of local governments in the Denver region willing and ready to explore their newly clarified authority to enact and enforce inclusionary zoning ordinances.

Session panelists

- **Heidi Aggeler**, managing director of Denver-based Root Policy Research, provided an introductory presentation on inclusionary zoning.
- **Analiene Hock**, principal city planner with the City and County of Denver, provided an overview of Denver's past experience with inclusionary zoning.
- **Kathy Fedler**, community investment and housing manager with the City of Longmont, provided background and lessons learned from the city's experience with two inclusionary zoning programs in the last two decades.

Key discussion items

- According to Grounded Solutions Network, local inclusionary zoning policies “tie the creation of affordable homes for low- and moderate-income households to the construction of market-rate housing or commercial development.”
- Several jurisdictions in Colorado have previous experience with inclusionary zoning program development, despite the limitations under the state constitution prior to the passage of House Bill 21-1117, including.

Denver

- The city and county's approach transitioned from site-specific negotiated affordability outcomes in the early 2000s to an adopted inclusionary zoning ordinance from 2002 to 2017 which was then replaced by a linkage fee.
- The jurisdiction is consolidating its approach through its Expanding Housing Affordability project, potentially mandating the inclusion of affordable housing for new residential developments with 10 or more units and increasing linkage fees for residential developments of one to nine units and non-residential uses.

Longmont

- The city has developed two distinct programs over the last two decades.
- The current program provides incentives for middle-tier housing. It also requires 12% of units in new residential developments be affordable to low- and moderate-income renters or buyers.
- The current program allows developers several alternatives to the direct, on-site provision of affordable housing.

Top findings and takeaways

- There isn't a template for designing an inclusionary zoning program — it **requires a series of policy choices**.
- Completing a **local housing needs analysis** and **economic feasibility analysis** (see Session 2) will help a jurisdiction identify several key program design considerations and could also help inform other housing policy decisions.
- **Other program design considerations** can come from local deliberations, local objectives and the potential relationship with other local programs.

Links for more information

- Grounded Solutions Network’s [InclusionaryHousing.org](#).
- City and County of Denver’s [Expanding Housing Affordability program](#).
- City of Longmont’s [Inclusionary Housing Ordinance](#).
- [Inclusionary Zoning Cohort Session 1: Introduction to Inclusionary Zoning](#) event details.
- [Colorado House Bill 21-1117](#) clarifies local government authority to promote affordable housing.

Session 2: Economics of inclusionary zoning

Session purpose:

To focus on the real estate economics affected by inclusionary zoning ordinances and provide perspective from the development community on the challenges in delivering affordable units to market.

Session panelists

- **Mollie Fitzpatrick**, managing director of Root Policy Research, provided an overview of project- and market-level effects of inclusionary zoning programs, as well as noting incentives and compliance options.
- **Chase Hill**, founding partner of Sable Partners, provided perspective from the development community on delivering units to market, with some suggested concessions that jurisdictions may offer to developers to offset the expected cost of producing affordable units under an inclusionary zoning program framework.

Key discussion items

- Inclusionary zoning programs are market-driven; they leverage new development to create affordable units.
- Affordability requirements may lower returns on investment in new housing and may, depending on their structure, slow the production of new housing by making fewer units or projects feasible in cases where the anticipated returns no longer exceed anticipated project costs.

Table 2. Example concessions or incentives to improve feasibility

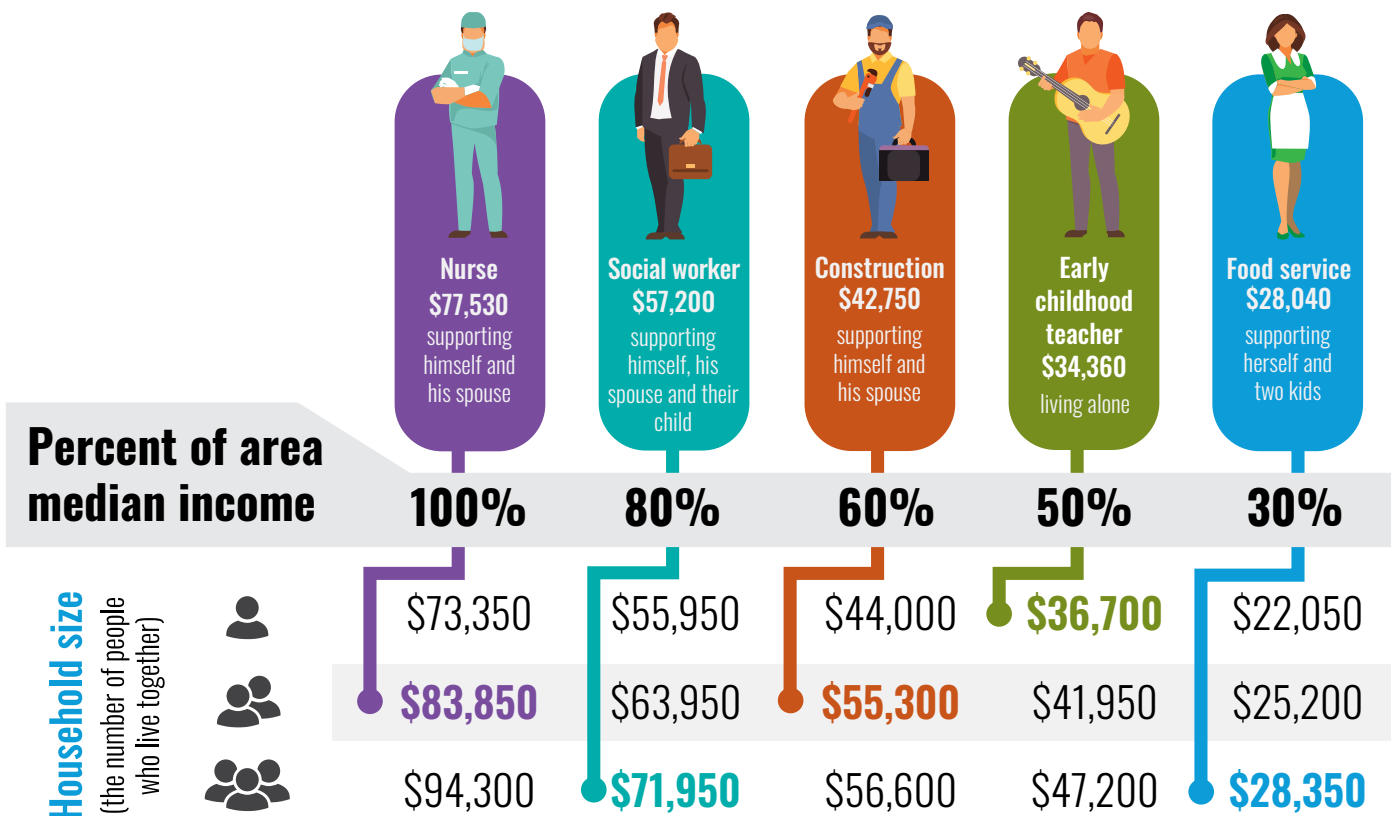
Lower upfront developer costs	Increase future return on investment
<ul style="list-style-type: none"> • direct subsidy • parking reductions • expedited permit review • reduced impact, tap and/or permit fees 	<ul style="list-style-type: none"> • density bonus • tax abatement

- There are two dimensions to housing affordability in inclusionary zoning programs; both affect feasibility:
 1. *depth* of affordability as measured in relation to an area’s median household income or AMI (see examples in Figure 1), and
 2. *breadth* of affordability as measured in the percent of units that must be available at below-market rents or prices for any given development project.
- Concessions by or incentives from local governments (see Table 2) can help developers reduce or subsidize housing development costs or otherwise make up for lower returns under affordability requirements.

Top findings and takeaways

- The **housing supply in the Denver region has not kept pace with job and population growth**, resulting in escalating home values. Inclusionary zoning programs risk slowing housing production below this already inadequate pace if affordability requirements ignore developer feasibility.
- At a project-level, **income-restricted, affordable units reduce developer income** in a for-rent development. Similarly, **for-sale affordable units reduce the expected sale revenue** but cost roughly the same to construct.

Figure 1. Example household incomes for different occupations in the Denver region



Sources: "Fiscal Year 2021 Multifamily Tax Subsidy Project Income Limits Summary," U.S. Department of Housing and Urban Development. "Occupational Employment and Wage Statistics," U.S. Bureau of Labor Statistics, May 2020.

Data notes: Query for Denver-Aurora-Lakewood metropolitan statistical area. Area median income thresholds rounded to the nearest \$50.

- At a market-level, **inclusionary zoning programs may modestly increase housing costs**; while housing costs have been increasing in cities with and without inclusionary zoning programs, the additional costs borne by non-income-restricted households are minor and typically passed on to those that can afford them.
- An inclusionary zoning program will likely produce affordable units if:
 - the program is **structured to promote unit production**,
 - the community **already has a moderate to high volume of residential development** and
 - the inclusionary zoning **requirement is economically feasible**.

Links for more information

- [From conflict to compassion: a Colorado housing development blueprint for transformational change](#), Common Sense Institute, June 2021.
- [Inclusionary Zoning: What does the research tell us about the effectiveness of local action?](#), Urban Institute, January 2019.
- [Economics of Inclusionary Housing Policies: Effects on Housing Prices](#) white paper, Grounded Solutions Network, 2016.
- [Inclusionary Zoning Cohort Session 2: Understanding the Economics of Inclusionary Zoning](#) event details.

Session 3: Program design and structure

Session purpose:

To introduce the different inclusionary zoning program design and structure choices.

Session panelists

- **Stephanie Reyes**, state and local policy manager (former) and **Matt Weber**, state and local policy senior specialist (former) of Grounded Solutions Network, shared insights about the structure of different inclusionary zoning program based on the network's research on over 1,000 such programs.

Key discussion items

- It is important for communities to define the need for affordable housing locally; this will influence all local program design decisions. Conducting a housing needs assessment may help answer why a jurisdiction is pursuing an inclusionary zoning program. This should inform all questions about *who, what, when* and *where* the program applies.
- Decisions about program structure (see Table 3) are the first set of choices.
- Detailed policy choices include the percentage of units to be affordable, affordability level, duration of affordability and design standards.

Top findings and takeaways

- **Each decision about program structure and policy has pros and cons**, which may be more or less significant jurisdiction to jurisdiction based on:
 - the local need being addressed,
 - the strength of the local housing market,
 - political viability
 - ability or need to offer incentives and
 - capacity to take on additional approval and monitoring responsibilities.
- Over two-thirds of programs nationwide are mandatory; **mandatory programs produce significantly more affordable units than voluntary programs.**
- Most programs **require that 10 to 20 percent of units be affordable.**
- More than 80 percent of programs require **at least 30 years of affordability.**

- Two-thirds of programs nationwide **apply to the entire jurisdiction.**
- Ninety percent of programs nationwide **apply to both for-sale and for rent housing.**
- Having a **project threshold size can reduce the financial burden on small projects** but can also create an **incentive for developers to build smaller projects to avoid producing affordable units.**

Links for more information

- Grounded Solutions Network’s InclusionaryHousing.org, specifically:
 - [Program Design Worksheet](#)
 - [Findings on inclusionary zoning from ongoing research](#)
- [Inclusionary Zoning Cohort Session 3: Program Design and Structure](#) event details.

Table 3. Foundational inclusionary zoning program structure choices

Element	Choices
Program type	Mandatory
	Voluntary
Geographic coverage	Consistent across jurisdiction
	Vary requirements by areas or neighborhoods
	Apply only to specific areas or neighborhoods
Housing tenure	For-rent
	For-sale
	Both
Project threshold size	Apply to projects with ___ or more housing units

Session 4: Marketing and messaging

Session purpose:

To learn about effective ways to discuss the development of inclusionary zoning programs with internal and external audiences.

Session panelists

- **Rodney Milton**, manager of community development (former), City of Aurora, who had previously worked for the City of Atlanta, moderated a conversation about the process to develop and market the Atlanta's Inclusionary Zoning ordinance along the Atlanta BeltLine.
- **Josh Humphries**, director, office of housing and community development, City of Atlanta, provided an overview of the implementation of Atlanta's Inclusionary Zoning ordinance and how the program has evolved in the three years since its adoption.
- **Sue Beck-Ferkiss**, social policy and housing program manager, City of Fort Collins discussed the City's previous and current experience with affordable housing policy including the recent establishment of an internal structure.
- **Brad Weinig**, director of catalytic partnerships, City and County of Denver discussed the city and county's previous inclusionary zoning program and outlined the newly proposed Expanding Housing Affordability program.

Key discussion items

- Atlanta's process to adopt inclusionary zoning began with political leadership, then progressed to discussions with the development community, community members and neighborhood organizations throughout the BeltLine.
- The City of Atlanta used findings from a report on the first three years of the program to counter negative messaging by quantifying program success and potential for long-term viability.
- Dialogue between residents and the City of Atlanta program staff continues after initial program implementation. For example:
 - Neighborhood-level interest to include a for-sale requirement is encouraging the city to test this approach in a program expansion area with the potential to bring the change citywide.
 - The city is also responding to local concerns about residential displacement by considering the setting aside of new affordable housing units for residents who have lived in the neighborhood.
- Atlanta, Denver, and Fort Collins each characterize inclusionary zoning in the following ways to engage stakeholders:
 - It is an **incremental tool** designed to require affordable housing units be incorporated into new market-rate developments.
 - It is a **market-based policy tool** that is not meant to subsidize affordable units.
 - It is **only one of many tools** meant to help solve housing challenges. For example, it can help to mitigate residential gentrification; however, it

cannot solve homelessness.

Top findings and takeaways

- The City of Fort Collins completed a Comprehensive Housing Affordability Policy Study so that local policymakers and other stakeholders had the **information necessary to consider all options available** to increase the number of affordable housing units.
 - Fort Collins **established an internal structure to facilitate communication with local policymakers and other stakeholders**, including a housing affordability task force, an executive team, as well as an ad hoc housing council committee.
 - The City and County of Denver shifted to “mandatory housing” to **create a policy messaging distinction** between the previous inclusionary ordinance that would require all new multi-family developments to include on-site affordable units or pay a substantial in-lieu fee.
 - Denver’s **extensive engagement with the development community** helped them understand the new program and find solutions that work with the market while addressing housing need.
- Communicating inclusionary zoning program policy choices to various program stakeholders is **most effective if the method matches the intended audience**. For example:
 - the development community and planning practitioners are more likely to respond to study- and analysis-driven explanations of policy choices, whereas
 - elected officials and community members are more likely to respond to messaging about the expected program outcomes.

Links for more information

- [City of Atlanta’s Inclusionary Zoning](#) ordinance information.
- [City of Atlanta’s 2020 Inclusionary Zoning Report](#), a three-year progress report, January 2021
- [City of Fort Collins affordable housing information](#)
- City and County of Denver’s [Expanding Housing Affordability](#), recently proposed inclusionary housing requirements.
- [Inclusionary Zoning Cohort Session 4: Marketing and Messaging](#) event details.

WHAT'S NEXT?

Jurisdictions that participated in the cohort sessions may or may not develop an inclusionary zoning program. Metro Vision recognizes that each will contribute to the region's shared affordable housing aspirations in a manner appropriate to local circumstances and priorities. Regardless, DRCOG staff thank participating staff for their willingness to learn together.

For those who did not participate, this document outlines the cohort's learning path and can connect you to material shared during the four sessions. Please reach out to DRCOG staff if you have followed along and want to be a part of this peer network going forward. While decisions about program design and structure require a local decision-making process, cohort participants recognize the value of continued coordination of messages about inclusionary zoning and the issue of affordable housing more generally.

DRCOG staff had originally intended to host a fifth cohort session focused on inclusionary zoning program implementation and monitoring. Group discussion at the conclusion of the fourth session indicated that topic may be premature, given that few jurisdictions in the Denver region have advanced to a stage of program development appropriate for such conversations. DRCOG staff will continue to identify opportunities to convene, partner or host conversations on the topic of inclusionary zoning. Since the cohort concluded, at least one county-level partnership (Boulder County) is coordinating to address the development and implementation of inclusionary zoning programs.

DRCOG staff remains committed to the practitioner-centered learning cohort model and hopes to be able to convene similar cohorts on topics of interest to its member jurisdictions as necessary. Such topics could include land use planning in the wildland urban interface, supporting transit-oriented development, or transitional and supportive housing for homeless populations.



1001 17th St., Suite 700
Denver, CO 80202

main: 303-455-1000
email: drcog@drcog.org
web: drcog.org