

2010

# Inclusionary Housing Survey: Measures of Effectiveness





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## **Acknowledgments**

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## ***GOALS OF THE SURVEY***



*Santa Cruz CA  
2030 N. Pacific*



*Frederick MD  
Whispering Creek*



*Santa Monica CA  
502 Colorado*

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In the fall of 2008, the Innovative Housing Institute undertook a survey of inclusionary housing policies throughout the United States. The study of inclusionary housing policies was funded by a generous grant from the Ford Foundation.

The goal of the survey was to explore the inclusionary housing policies in some of the most active jurisdictions throughout the United States, and to discover what impact on the creation of affordable housing these policies have had. Information was obtained in the following categories:

- Affordable Housing Units Production
- Inclusionary Housing Law Provisions
- Compliance Alternatives
- Length of Affordability

We received information from fifty two jurisdictions. The majority of the responding jurisdictions were in California and the Middle Atlantic. The jurisdictions participating in the survey are identified on the map on the following page.

Although this survey addresses the inclusionary housing policies in fifty two of the most active jurisdictions across the United States, it should be noted that there are over 400 jurisdictions that have some type of inclusionary housing law or ordinance currently in place throughout the nation. The majority of the active jurisdictions are in New Jersey and California, each with over 150 jurisdictions with affordable housing laws. In addition, there are over 100 municipalities on Long Island, NY, that are to enact inclusionary housing laws as required by the New York State Legislature in 2008.



**Location of Jurisdictions Included in Inclusionary Housing Survey**



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## ***DATE INCLUSIONARY HOUSING LAW ENACTED***



*New York NY  
The Palmers*



*San Bruno CA  
Crossing Plaza*



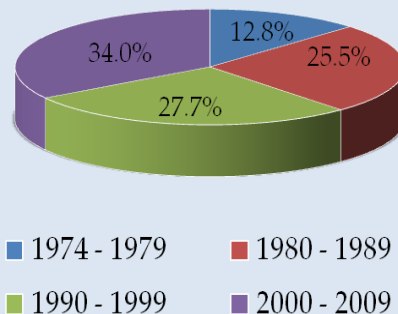
*San Francisco CA  
SOMA Grand*

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In 1973 and 1974, Fairfax County, Virginia, and Montgomery County, Maryland, became the first jurisdictions in the United States to adopt inclusionary housing laws. Since then many inclusionary housing laws and ordinances have been enacted throughout the United States.

The survey shows that the number of jurisdictions that are adopting inclusionary housing policies continues to grow.

### **Year Initial Inclusionary Housing Law Enacted**



About half of the jurisdictions in the survey have amended their laws or ordinances; eight have been amended more than once since initially enacted.

Inclusionary housing laws and ordinances are developed locally, based on needs and trends at the jurisdiction level. Just as housing markets across the United State vary largely, so do the policies and laws governing development of housing and the inclusion of affordable housing. As the housing market has changed, inclusionary housing policies and laws have been enacted, amended and in some cases, ended.

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## ***AFFORDABLE HOUSING UNITS PRODUCTION***



*Santa Rosa CA  
Woodbridge*



*San Leandro CA*



*Chula Vista CA  
MarBrisa*

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As inclusionary housing laws have become more prevalent in America, affordable housing has become an integral part of developing communities. Through these laws and zoning ordinances, families who might not otherwise be able to afford quality housing, have been able to rent or own homes in good, safe neighborhoods, close to schools, shopping and public transportation.

The survey shows that, for the jurisdictions that responded:

- 59,620 affordable units were built, plus
- 16,278 affordable units have been planned or approved but not yet built.

In many jurisdictions, developers can pay fees in-lieu of building affordable units. Since adopting inclusionary laws, the survey reports:

- \$210.1 million have been paid in the form of in-lieu fees, with an additional
- \$99.8 million in in-lieu fees due.

In turn, these fees are used to build affordable homes.

- 7,367 affordable units have been built with in-lieu fees.
- .

## IH LAW PROVISIONS



*Denver Co  
Dakota Lofts*



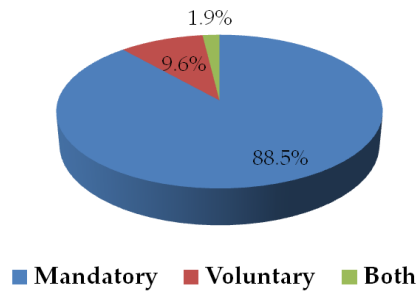
*Emeryville CA  
Elevation 22*



*Huntington Beach CA*

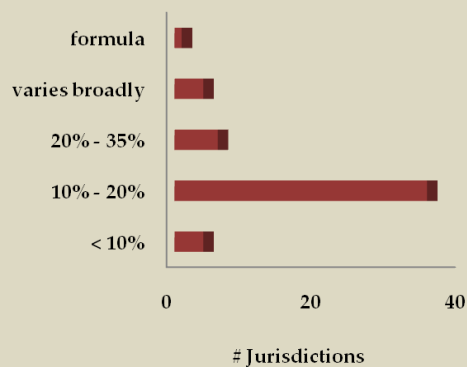
Although there are some jurisdictions that do not require participation in the inclusionary housing ordinance, the vast majority of jurisdictions surveyed have mandatory requirements.

**Law / Ordinance Requirement**



In an effort to establish somewhat “permanent” affordable units to households of lower income, there may be a requirement that a specific percentage of units are set aside and deemed affordable. The requirements for mandatory set-asides vary widely. For those jurisdictions which reported to have a mandatory set-aside, the minimum is as few as 4% or 5% of total units in a development (Fairfax County, VA; Morgan Hill, CA; New York, NY; and San Clemente, CA) to as much as 35% of total units (Salinas, CA, and Davis, CA.)

**Set Aside**



## IH LAW PROVISIONS



*San Leandro CA*

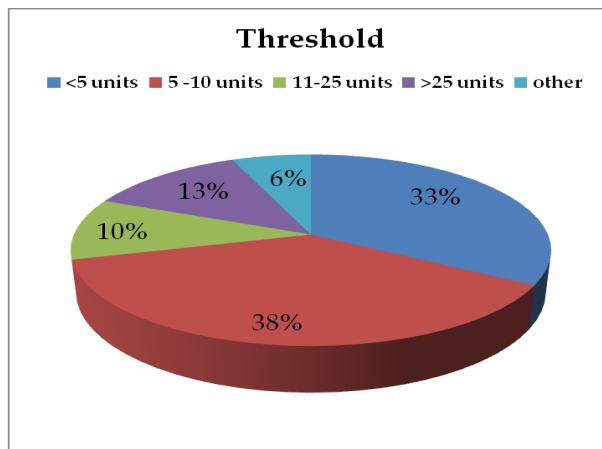


*Santa Rosa CA  
Colgan Meadows*



*Emeryville CA  
Courtyards at 65th*

More than two thirds of the surveyed jurisdictions require that developments of fewer than twenty five units comply with the inclusionary housing law. Boulder, Colorado requires that all developments, regardless of size, comply with the inclusionary law, and must set aside 20% of units as affordable. Loudoun County, Virginia, on the other hand, has a minimum threshold of fifty units and requires only 10% of units be set aside as affordable.



To offset the cost burden on developers required to build affordable housing units, many jurisdictions will grant developers special provisions. Density bonuses may be awarded to a developer that includes affordable housing in the community. The density bonus can allow for an additional number of units to be included in the plans beyond that which is normally zoned, in exchange for including a certain percentage of affordable units.

	Percentage of Jurisdictions that Allow	Percentage of Jurisdictions that Don't Allow
Density Bonuses	85.7%	14.3%

## IH LAW PROVISIONS



*San Clemente CA  
Glennerye*



*Montgomery County MD  
Grovesnor Station*



*Santa Rosa CA  
Olive Grove*

Other cost offsets and incentives include the waiver of certain zoning restrictions; reductions or deferral of fees. These are given in exchange for additional affordable units being included in the development. Waivers, reductions and waivers are not as frequently granted as density bonuses, but are reported in more than half the jurisdictions in the survey.

	Percentage of Jurisdictions that Allow	Percentage of Jurisdictions that Don't Allow
<i>Waivers, Reductions, Deferrals</i>	59.6%	40.4%

Fast track processing involves “pushing” permits through at an expedited pace. As the saying goes, “time is money.” Jurisdictions may agree to fast track processing for developments that agree to set aside a certain percentage of units for affordable housing. Although it is less prevalent in the jurisdictions included in the survey, about a third reported the use of fast track processing in the survey response.

	Percentage of Jurisdictions that Allow	Percentage of Jurisdictions that Don't Allow
<i>Fast Track Processing</i>	34.8%	65.2%

## IH LAW PROVISIONS



*Boulder CO  
Foothills*

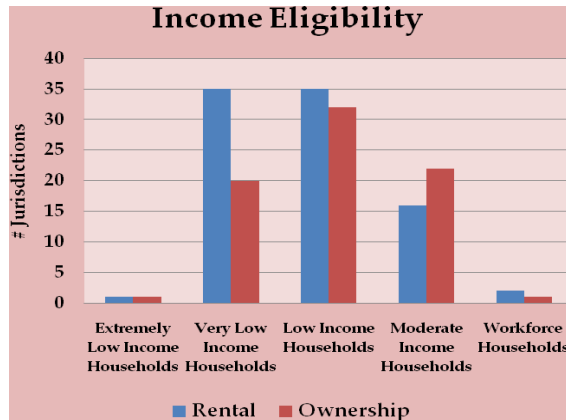


*Santa Rosa CA  
Alderbrook Heights*



*San Clemente CA  
Vintage Shores*

The income levels of the households eligible for inclusionary housing laws and ordinances vary greatly throughout the United States.



Most jurisdictions' laws and ordinances mandate that affordable rental housing produced by the inclusionary ordinance be available for very low income and low income households. Generally, very low income applies to households earning 50% or less of Area Median Income and low income households are those earning less than 80% of Area Median Income.

For ownership, more jurisdictions require affordable ownership units to be available to low income households and moderate income households. Moderate income households are most commonly defined to be those earning less than 120% of Area Median Income.

The definition of eligible income levels varies throughout the United States, but is fairly consistent within ten percent of those levels mentioned above. Some jurisdictions require affordable housing to be available to households earning as little as 30% or less of Area Median Income or to households earning within 160% of Area Median Income.



## COMPLIANCE ALTERNATIVES



*Santa Cruz CA  
Redwoods Commons 2*



*Boulder CO  
Buena Vista*



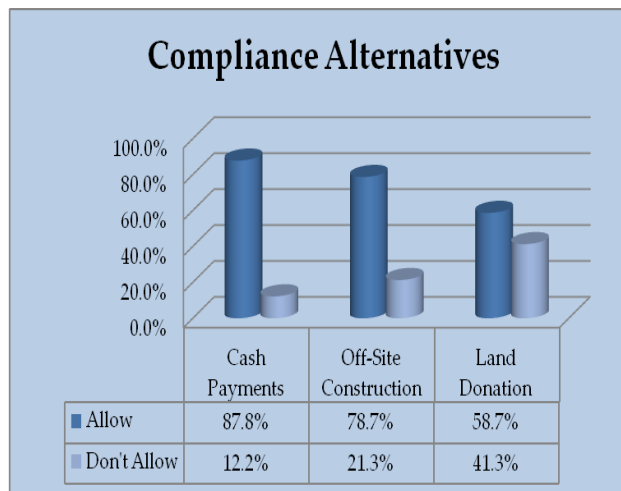
*San Leandro CA  
Tuscani Place*

When including affordable units in the development isn't feasible for a developer, alternatives may exist in jurisdictions where inclusionary zoning requirements are mandatory.

Nearly nine out of ten jurisdictions in the survey indicated that they would accept cash payments in-lieu of the developer building on-site affordable units. These fees are put into a fund that is used to build other affordable units.

Another alternative available to more than three fourths of respondents is the option to provide affordable units at a different location.

Though not as common, more than half the jurisdictions in the survey allow developers to donate parcels of land in place of including affordable units in the development.



## LENGTH OF AFFORDABILITY



San Bruno CA  
*Village at the Crossing*

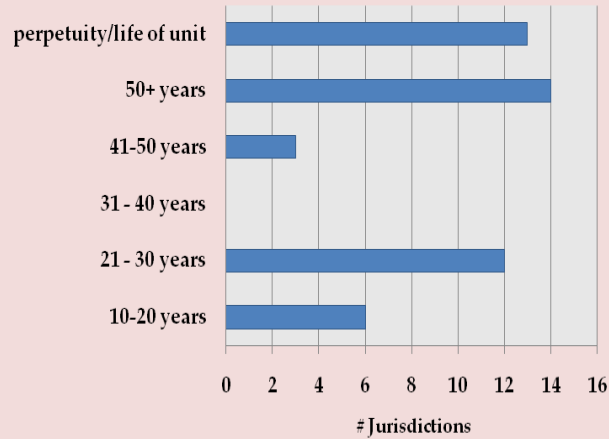


Montgomery County MD  
*Timberlawn Crescent*



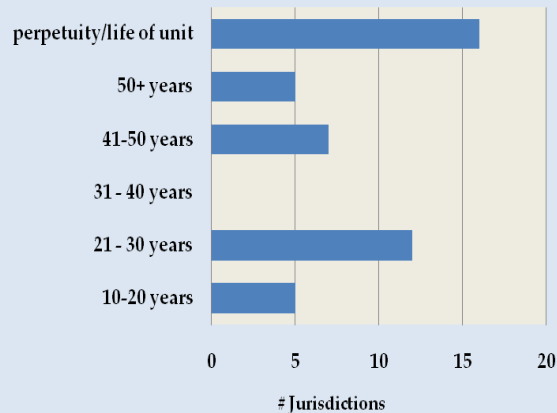
Santa Monica CA  
*The Tahiti*

### Rental Length of Affordability



Maintaining the affordability of a unit over a substantial period of time is an important element of inclusionary housing. Having the ability to re-sell or re-rent an affordable unit to another low to moderate income family, maintains a stock of affordable housing in a community. Most jurisdictions require units to remain affordable for fifty years up to the life of the unit or in perpetuity.

### Ownership Length of Affordability





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## *OTHER*



*Chula Vista CA  
Rolling Hills Garden*



*Denver CO  
Green Valley Ranch*



*Huntington Beach CA  
Pacific Landing*

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### **Conclusion**

Since the mid-1970s, jurisdictions throughout the United States have implemented inclusionary housing laws and ordinances. These laws and ordinances are designed to make available reasonably priced housing to those who might otherwise have a difficult time affording housing in these jurisdictions. Creation of such laws and ordinances in the fifty two jurisdictions surveyed has produced nearly 60,000 affordable rental and ownership units, with more than 16,000 more affordable units planned or approved.

### **Methodology**

Initially, sixty three jurisdictions were contacted and invited to participate in the survey. A survey form was distributed to each jurisdiction, requesting specific information about their inclusionary housing policies in place. In addition to the survey form, information was compiled using data from the California Coalition for Rural Housing website database <http://www.calruralhousing.org/>, as well as information obtained from Business and Professional People for the Public Interest reports, State of New Jersey Department of Community Affairs, Council on Affordable Housing <http://www.state.nj.us/dca/affiliates/coah>, and the Non-Profit Housing Association of Northern CA <http://www.nonprofithousing.org/>. Compilation of the data was done over a period of two years and reflects the most recent data from all sources, when collected.