

illegal. A few states have adopted legislation that either explicitly permits or preempts (prohibits or limits) local inclusionary housing policies. States also have different legal frameworks regarding municipal authority to enact local legislation; these differences in municipal authority also impact the ability of local jurisdictions to adopt inclusionary housing policies.

The [Inclusionary Housing Map and Program Database](https://inclusionaryhousing.org/map/) (<https://inclusionaryhousing.org/map/>) summarizes the state legal framework relevant to local inclusionary housing policies for each of the 50 states.

Policy Considerations

No two inclusionary housing policies are the same. Policymakers in each community must consider several distinct questions. Key policy design questions include: Will the policy be mandatory or voluntary? Will it apply citywide, or only to certain geographies or neighborhoods? Will it apply to all new developments, or only those with public money attached? What household income levels should be served to address housing needs and racial disparities in the community? Will developers be offered incentives to help offset the cost of compliance? Will there be alternative methods of compliance beyond building the affordable units on site? What are the racial equity implications of each of these policy choices?



Each policy addresses each of these questions, though the specific answers differ depending on local conditions. More details on these policy considerations can be found [here \(https://inclusionaryhousing.org/designing-a-policy/\)](https://inclusionaryhousing.org/designing-a-policy/).

Program Considerations

Passing a policy is only the first step in making inclusionary housing successful. Inclusionary housing programs cannot be successful unless they are well run and adequately staffed, and they must secure sufficient funding for ongoing administrative costs. Communities also need to be able to track program data in order to evaluate outcomes and make needed changes over time. Key program elements include supporting builders to comply with policy, monitoring rental units, and stewarding homeownership units. Local governments may choose to partner with an experienced outside organization, such as a community land trust, to help administer the units created by an inclusionary housing policy.

Program implementation is also where some of the most powerful steps can be taken to advance racial equity. For example, programs can set strong marketing requirements for inclusionary housing units, require developers to select tenants based on a lottery system rather than first come/first served, and limit the reasons that property owners may deny applications for inclusionary housing units (e.g., limit use of eviction and/or criminal record reviews).

More details on program implementation can be found [here \(https://inclusionaryhousing.org/designing-a-policy/program-structure/\)](https://inclusionaryhousing.org/designing-a-policy/program-structure/).

Considerations For Policy Adoption

At the local level, inclusionary housing policies tend to be popular when the housing market is strong (i.e., housing prices are high and there is sufficient new housing construction). However, there is usually a delay from the time at which an inclusionary housing policy is first considered to the time it is adopted, which can sometimes mean that, by the time a policy is adopted, the housing market may already have begun to turn down. This is one of many reasons it may make sense to adopt an inclusionary housing policy [before the market heats up \(https://shelterforce.org/2018/05/07/inclusionary-housing-in-soft-or-mixed-markets/\)](https://shelterforce.org/2018/05/07/inclusionary-housing-in-soft-or-mixed-markets/). Several cities, including Boston, Detroit, and Minneapolis, have recently updated their inclusionary housing policies to reflect their changing markets.

Inclusionary housing is also appealing during periods of low federal and state funding, because it leverages the profitability of new development to pay for affordable housing without significant public subsidy. Some localities are trending toward a concept known as “funded inclusionary zoning,” in which property tax abatements are offered for an entire development—not just the affordable units—in order to offset the cost to the developer to provide affordable units. This avoids the use of public subsidy for IH units, as instead the locality forgoes unrealized revenues.

State preemption of local inclusionary housing policies has largely plateaued, with some states allowing localities to create voluntary inclusionary housing policies while continuing to prohibit mandatory IH policies. Recent Supreme Court rulings against certain residential impact fees as unlawful “takings” have introduced questions regarding the legal viability of some mandatory inclusionary housing policies, but such effects remain to be seen.

What to Say to Legislators

Advocates and policy experts can communicate about inclusionary housing in ways that circumvent common misperceptions and create a new narrative for policymakers in moderate markets and more conservative political climates. Some of the key benefits of inclusionary housing that may be compelling to legislators include:

1. **Sharing the benefits of growth.** As housing and land costs increase, a relatively small number of landowners receive most of the benefit while, often, the lowest-income residents bear much of the burden in the form of higher rents and displacement pressure. Inclusionary housing leverages the profitability of new development to pay for new affordable housing units and supports the creation of more economically diverse and inclusive communities.
2. **Economic integration.** Inclusionary housing policies were first developed to specifically counteract a history of exclusionary zoning policies that reinforced economic and racial segregation. A wealth of recent research has convincingly demonstrated that concentrated poverty is a cause of many of the worst social problems and is especially damaging to children. Inclusionary housing has been successful in creating sustainable mixed-income communities.
3. **Conservation of scarce public resources.** Federal public funding for housing has been declining for decades, and in the current political climate, will probably continue to shrink. New affordable housing developments can require over \$300,000 of local investment per unit in many markets. Inclusionary housing is one of the few ways to create reasonably priced housing without significant public subsidy. Jurisdictions can adopt inclusionary housing without draining the general fund, while reducing residents’ need for other social services that come with housing instability.

Policymakers are often concerned that inclusionary housing requirements will become a barrier to housing development. While there is not much evidence of this outcome occurring at any significant level in real programs, this is an appropriate concern that plays a central role in the debate whenever any community considers affordable housing requirements.

There is evidence that it is possible to set affordable housing requirements so high that they prevent developers from wanting to build or landowners from wanting to sell. If this happens, it can result in a reduced supply of housing and ultimately higher housing prices. However, data suggest that programs that provide incentives and flexibility can successfully require significant affordable housing without any impact on market supply or prices. [Economic feasibility analyses \(https://inclusionaryhousing.org/resources/#feasibility\)](https://inclusionaryhousing.org/resources/#feasibility) can analyze the extent to which local market-rate housing development projects can realistically support a set-aside of lower cost units without slowing or deterring construction.

Policymakers may also be concerned that the costs of inclusionary housing requirements will be passed on to market-rate renters and homeowners. This is unlikely to happen for two reasons:

1. Market rate is market rate. Developers can't "pass along" the costs of inclusionary housing policies to market-rate renters and buyers because those renters and buyers will only pay what the market will bear. If developers and property owners could charge more, they would already be doing so.
2. The costs of inclusionary housing requirements are generally borne by landowners. One common concern is that if affordable housing requirements are set too high, developers may not be able to make sufficient profits and will choose not to build or to build in another community with fewer requirements. But because landowners can't move to another community, they will have to lower land prices to attract developers, meaning that landowners are the ones whose profits ultimately drop.

For More Information

[InclusionaryHousing.org](https://inclusionaryhousing.org)

[Inclusionary Housing Map and Program Database \(https://inclusionaryhousing.org/map/\)](https://inclusionaryhousing.org/map/)

[Inclusionary Housing Calculator \(https://inclusionaryhousing.org/calculator/\)](https://inclusionaryhousing.org/calculator/)

[GroundedSolutions.org](https://groundedsolutions.org)