

METRO

Minneapolis' 'inclusionary zoning' policy takes shape, even as developers cry foul

By [Jessica Lee](#) | 08/06/2019



MinnPost photo by Jessica Lee

Minneapolis' Affordable Housing Trust Fund helped cover the cost of a new 243-unit apartment complex, Green on Fourth, in Minneapolis' Prospect Park neighborhood. Roughly one-fourth of the units are for households that earn 60 percent of the area's median income, or less.

Minneapolis leaders have embarked on a new chapter in their efforts to shift more responsibility to private developers to fill the city's gap in **affordable housing**: deciding under what circumstances developers should be able to opt out of proposed zoning changes that would require them to set aside units for less-than-market-rate rents in all future projects.

Following failed attempts to mandate such requirements in the past, city staff and housing consultants this summer are researching alternative compliance options for real-estate developers under what is known as **inclusionary zoning**: rules that require housing firms to dedicate a percentage of big multifamily complexes to households that earn no more than 60 percent of the area's median income, which is a little less than \$57,000 annually for a family of four.

Municipalities nationwide have established similar programs, aiming to spur a greater amount of mixed-income rental housing and to diversify popular residential neighborhoods. **The latest effort** in Minneapolis will build on an **interim ordinance** that went into effect this year that closely aligns with **Minneapolis 2040**, the city's long-term plan for development.

Despite the look at possible compliance alternatives, the overall work on behalf of city staff and researchers is not moving as quickly as some supporters would like. **City Council President Lisa Bender**, who has championed inclusionary zoning at City Hall, has said she is frustrated by the slow pace of the work. Meanwhile, the effort faces intense pushback from private developers — who describe the idea as an inappropriate intervention in the private market that will stifle housing construction at a time the city needs it most.

A 'straightforward and consistent' policy for Minneapolis

Inclusionary zoning isn't a new thing. More than **900 jurisdictions across 25 states** have already established inclusionary zoning programs, according to the Portland-based housing nonprofit **Grounded Solutions Network**, which is under contract to research inclusionary zoning for the city of Minneapolis.

The programs' criteria vary from region-to-region, **and so do their outcomes**; Generally, cities with hot housing markets haven't noticed a **significant impact on development or the rental market** when new projects are required to include affordable units, while **some research shows** less-competitive markets have found that inclusionary zoning hindered the development of new projects.

In the Twin Cities metro, Bloomington, Edina, Richfield and St. Louis Park already have inclusionary zoning policies, though they primarily apply to projects for which developers have received some sort of help from the city, such as subsidies or **tax increment financing**.

In Minneapolis, currently developers throughout the city can opt into programs that offer public subsidies in exchange for affordable units in market-rate projects, but that only happens on a case-by-case basis. But for decades, housing advocates have wanted Minneapolis to go further and mandate requirements for all developments across the city.

"We need to be able to make sure everyone can afford to live here," said City Council Member Jeremy Schroeder, who served as policy director of the **Minnesota Housing Partnership** before winning the **election in 2017**. "That's just not something we're seeing from the market on its own without incentives."

In December, when the City Council approved **Minneapolis 2040**, the council adopted the interim inclusionary zoning ordinance that pertains to any new private housing project that needs a variance

(that is: any project that needs permission to depart from what's allowed under the current zoning for its lot).

Andrea Brennan, the city's director of housing policy and development, and Bender, a former city planner in San Francisco, said the city must take that mandatory approach because of the latitude the current city code gives to developers for big residential projects.

In the neighborhoods where developers are building much of the city's new housing — downtown and around the lakes — zoning code allows developers to construct very large buildings with no special permissions, Bender said. That's different from other large cities, such as New York, which often leverage zoning codes to require developers to include affordable units in exchange for adding density.

“In the part of our city where we're getting the most housing development and an interest in the market for new housing, we can't do [incentive-based inclusionary zoning] because previous councils made it very easy to build housing downtown with no affordable requirements,” Bender said. “We're trying to develop a policy that is kind of straightforward and consistent across the city.”

Developers pushing back

Not all are on board with the city's sweeping approach. “The policy goes too far,” **Steve Cramer**, president of the **Minneapolis Downtown Council**, told council members at a **July council committee** meeting to discuss alternative compliance options.

Members of the **Minneapolis' Downtown Council** are part of a group of developers from both the for-profit and nonprofit sectors that have organized to push back against inclusionary zoning. In meetings with representatives from Grounded Solutions and with City Council members, and in testimony before council hearings, the developers say that complying with the proposed requirements for affordability will add to the cost of developing projects, effectively discouraging new housing construction. One member described the city's push as “legislating against market forces.” They want the city to scrap the existing concept altogether.

Many developers rushed to submit applications for construction permits at the end of last year to avoid the new requirements under the interim ordinance, said Cramer. Due to labor and construction costs, typical market-rate projects are already on the edge of financial feasibility, said Cramer, and requiring less-than-market rate units without any additional help from the government will only keep developers from building in Minneapolis.



MinnPost photo by Jessica Lee

In Minneapolis, currently developers throughout the city can opt into programs that offer public subsidies in exchange for affordable units in market-rate projects.

“The basic, underlying issue that our market confronts is a demand-supply imbalance that puts pressure on all rents,” especially rents of what’s often referred to as NOAH (for **naturally occurring affordable housing**), Cramer said. “Any regulatory policy that overreaches and causes projects to become financially infeasible will deter investment, slow down production overall and exacerbate this fundamental, underlying problem.”

Developers have also criticized the process by which the city has gone about creating the policy. Namely, they feel the city has not adequately sought their input, has employed old data to measure the economy, and relied too heavily on the input of Grounded Solutions, which they describe as an advocacy group.

“As an industry, we’re in the best position to tell you what’s going to work and not work,” **Steve Minn**, of **Lupe Development Partners**, told council members. “We’re concerned that your policy could — probably likely will — have the completely opposite effect on the production and preservation of affordable housing. We’re trying to convey that message to you, and we think we’re being ignored.”

City moving forward

Despite the pleas from developers, city staff are continuing to move forward creating a permanent inclusionary zoning policy. “These sort of repetitive process complaints, when there has been a lot of engagement, starts to diminish the message that we hear from stakeholders who are making those complaints,” Bender said of developers’ opposition.

The final proposal is likely to match the criteria already included in the city's **temporary** inclusionary zoning ordinance, though the permanent policy would apply to all new projects, not just those seeking variances. The temporary ordinance calls for developers of new rental properties to make 10 percent of their units affordable to households that earn 60 percent of the area's median income (AMI). Developers who get **tax increment financing** from the city, meanwhile, have to make 20 percent of their units affordable to households that earn 50 percent AMI (or slightly more than \$47,000 per year for a family of four), which equals a **monthly maximum rent of roughly \$1,179**.

So far, only three housing projects have been subject to the interim policy. Yet because of other city rules, only one of the projects, a development near Bde Maka Ska by the **Elevage Development Group**, has actually needed to comply with the inclusionary zoning rules, and the developer has presented preliminary designs that exceed the requirements for less-than-market-rate units, said Sam Rockwell, **who chairs the city's planning commission**.

"My perspective is that it [the interim ordinance] needs to be amped up," said Rockwell, so that the permanent policy has a broader scope and applies to more projects.

Compliance alternatives

City staff and council members are also determining if, or to what extent, they want to give developers more options for compliance in lieu of building affordable units onsite.

Other cities with inclusionary zoning rules provide a variety of compliance alternatives for developers. For example, developers can sometimes pay fees in lieu of affordable units on site; or they can build new affordable units elsewhere in the city or donate land to the government for affordable housing. Another option is to allow developers to remodel existing homes and establish new zoning requirements so that they can't turn into high-priced, luxury housing in the future.

The fee option is the most popular alternative tool in cities with inclusionary zoning, often because it's easy for developers to use, according to Grounded Solutions' Stephanie Reyes.

Whatever the options, the choices tend to have the same result: an increase of affordable units in the city's housing market, though specific market factors can affect the success of each approach. Cities with a solid network of affordable-housing nonprofits and open land tend to be more successful with the off-site option; few developers take advantage of land-donation option (though many cities offer it); and the idea of rehabilitation is helpful in markets with a strong supply of housing at risk of sharp rent hikes, according to Reyes.

Bender says that where Minneapolis lands on the compliance options will have a significant impact on the ordinance's overall impact. By limiting the alternatives — or having none at all — the ordinance could spur the building of more affordable housing in the city's most rapidly developing neighborhoods. On the other hand, allowing developers to build affordable units off-site or employ other alternative compliance options could lead to more development in parts of the city that haven't yet been touched by the building boom. By allowing in-lieu fees, the city could raise money for its

Affordable Housing Trust Fund, which helps large-scale developers who want to maintain — or build more — affordable rental units, though Bender emphasized that it would not be a strong revenue-generating tool.

“This is a pretty fundamental question to the policy, which is: Do we want to require that developers would provide affordable housing on site in the new buildings? Or are we going to allow them to pay a fee or to comply with this ordinance and requirements in some other way?” Bender said.

She said she and her colleagues are leaning toward using the ordinance to leverage the development of more affordable units in places where they aren’t currently located.

“We know that if we don’t have any development in the city it exacerbates our supply problem,” Bender said. “There’s no doubt that we need to be careful to shape a policy that will still allow housing to be built ... and effectively leverage it for market rate units.”

Despite the continued uncertainty around compliance alternatives, Bender said she is frustrated by the slow pace of creating a permanent inclusionary zoning policy. “It’s been a number of years and, truthfully, I’m not sure why it’s taken so long,” she said. “I’m really looking forward to getting a more detailed proposal from staff to bring it through the council process for approval.”

A draft proposal of the ordinance is expected to be completed by October, said Brennan, the city’s director of housing. Then, the City Council and the city’s planning commission will host public hearings and vote to finalize the change this winter. Bender is hopeful the council will pass the zoning change before the end of the year.

But she also emphasized that the inclusionary zoning measure that the council considers could change after a 2019 vote. Many cities, she said, have established policies and changed them to reflect shifting market trends and development patterns.

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COMMENTS (16)

SUBMITTED BY PAT TERRY ON 08/06/2019 - 11:44 AM.

Inclusionary zoning means less and more expensive housing.

<https://www.strongtowns.org/journal/2018/4/10/is-inclusionary-zoning-creating-less-affordable-housing>

LOG IN TO REPLY

SUBMITTED BY BETSY LAREY ON 08/06/2019 - 01:35 PM.

It most certainly does not. A developer plans on X amount per unit. The government makes him/her sell 10% of the units for much cheaper. It still costs him x to build, just less profit. Surprised nobody wants to build it?

LOG IN TO REPLY

SUBMITTED BY PAT TERRY ON 08/06/2019 - 01:49 PM.

Betsy, we are actually in agreement here. You are correct that making developers build less profitable buildings will mean less gets built. That means – as I said – that there will actually be less housing, and therefore the remaining housing will be more expensive.

LOG IN TO REPLY

SUBMITTED BY MICHAEL HESS ON 08/06/2019 - 04:32 PM.

I think the other buyers or tenants will end up paying more to make the economics work, driving up market prices for everyone.

LOG IN TO REPLY

SUBMITTED BY BETSY LAREY ON 08/06/2019 - 12:01 PM.

When the government inserts itself into supply and demand it never turns out well. However they implement this, it will increase the cost of the units being built. It's no secret the cost of building is one of the highest in the country, due to fees and restrictions put on developers and even individuals trying to build in the Twin Cities. Keep it up, and you will run the middle class right out of town, and you'll be stuck with the wealthy and the poor. I'm glad I don't live in Minneapolis anymore. It was once a great place to live.

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SUBMITTED BY PAUL UDSTRAND ON 08/06/2019 - 01:22 PM.

I don't know why reporters who write about business issues like this refuse to provide examples? A single example would illustrate more than five paragraphs. How much does a building cost to build? How much does the developer make, and how? When a developer claims that they'll lose money or make less money, what exactly is the business model? If we don't have this information we can't draw any conclusions.

If you build 50 units and charge \$1,000 per unit, that's \$50,000 a year. Without knowing how much the building cost, and what the loan terms are, how can we know whether or not "profitable"?

Why would we ask the guys who refuse to build affordable housing, how to build affordable housing? Industries are never happy with their "margins", but you can't accept their claims at face value... clearly these guys are making money or they're building so much.

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SUBMITTED BY BETSY LAREY ON 08/06/2019 - 01:44 PM.

I find it interesting that Lisa Bender is the force behind this. She was an urban planner in San Francisco. How many affordable units were built in San Francisco during her tenure there? NONE. Nice track record. This is simply not going to work in Minneapolis.

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SUBMITTED BY MATTHEW STEELE ON 08/06/2019 - 03:36 PM.

While I don't necessarily agree with her on this policy, I'm baffled that you would blame Lisa Bender for a failure of San Francisco to build affordable units during her "tenure" as not-a-policymaker. If anything, it appears that Bender learned from crisis created by Bay Area NIMBYs and is doing an amazing job of ensuring we don't go down that path here.

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SUBMITTED BY PAT TERRY ON 08/06/2019 - 04:01 PM.

Bender may not be driven by NIMBY-ism, but she is promoting a policy that will almost certainly be counter-productive. Why does she get a pass for bad policy driven by good intentions.

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SUBMITTED BY LISA MILLER ON 08/06/2019 - 06:21 PM.

At some point there needs to be the question of how to keep those in the city who pay taxes. If you put high density everywhere, those families who want a small yard will move out; building 'affordable' (and what does that mean) is nice, but its more akin to a lottery system. If building more were the simple answer, wouldn't other cities already have had progress in more affordable places? Can't there be more of a compromise and also what about smaller homes that are snapped up by developers and then turned into something more expensive.

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SUBMITTED BY PAT TERRY ON 08/06/2019 - 08:17 PM.

Other cities HAVE had progress in adding affordable housing and reducing housing costs through building and adding density. There was this false notion that the 2040 plan is based on unproven ideas. It wasn't.

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SUBMITTED BY BETSY LAREY ON 08/06/2019 - 05:02 PM.

In another MinnPost story today is a great article about the city of Hilltop, essentially a trailer park with a few apartment buildings surrounded by Columbia Heights. This is perfect affordable housing. So can someone tell me why the city of Minneapolis won't allow trailer parks to be built? So much vacant industrial land available. Probably because it makes too much sense. What say you Lisa Bender?

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SUBMITTED BY RAY SCHOCH ON 08/06/2019 - 09:11 PM.

While various commenters argue over the details, one truth seems pretty obvious: The "private market" or "free market" in housing has utterly and completely failed to provide an adequate supply of decent housing for the lower quartiles of the income spectrum in the Twin Cities metro, especially for the people in those income segments who have children.

Zoning is a key component in modern metropolitan areas, and is often used to keep out types of development deemed undesirable, or at least less desirable, by the powers-that-be. I make no claims to understanding the Minneapolis zoning code except to say that it appears to be Euclidian (meaning that it limits development in a designated area to a particular type – single-family residential; industrial; multi-family residential; etc. – and thus an antiquated additional obstacle to the development of housing for people in the lower half of the income spectrum.

Paul Udstrand's complaint is on-point, I think. More facts are needed – even if the figures have to come from developer sources that should always be treated as potentially self-serving. What does a housing unit cost to build? What are the sources of that cost (materials, labor, finance charges, fees, etc.)? What's the profit margin built into that cost? When subsidies (TIF, density bonuses, etc.) are offered to developers, who bears the cost of those subsidies? Do market-rate buyers or renters subsidize the cost of below-market-rate buyers or renters, and if so, how much of an effect does that have on the monthly housing costs of those buying or renting at market rate?

I'd also suggest that Ms. Larey's assertion that "When the government inserts itself into supply and demand it never turns out well" is, at best, the usual right wing anti-government propaganda. At worst, Ms. Larey is shilling for the real estate development segment of the housing industry, as she presents not even a shred of evidence to support her assertion. It's worth pointing out that, in her final comment, Ms. Larey then contradicts herself by suggesting that Minneapolis – "the government" – insert itself into supply and demand by encouraging the development of trailer parks.

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SUBMITTED BY PAT TERRY ON 08/07/2019 - 10:32 AM.

The "truth" you think is "pretty obvious" is actually completely baseless. There never has been a free market for housing because of zoning laws, NIMBY opposition, and other factors that have artificially constrained housing construction. There is an affordable housing crisis because there is a housing shortage. Housing costs have soared because the population has grown, but the amount of housing has not kept up. Part of the 2040 plan is to remedy this by eliminating the artificial constraints. Cities that have done this have seen housing costs drop as the housing supply catches up with demand.

I am by no means a free market acolyte. I don't share Ms. Larey's broad statements even if she is right here. I'm just a Democrat with an economics background who has studied housing. And in this case the problem isn't the free market – it's the lack of one. You could certainly learn from the cost details, but the bottom line is that developers won't build if they can't turn a profit. And IZ cuts into those profits and, in places where it has been implemented, has resulted in less housing being built and higher housing costs.

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SUBMITTED BY PAUL UDSTRAND ON 08/07/2019 - 09:50 AM.

Ray says: "While various commenters argue over the details, one truth seems pretty obvious: The "private market" or "free market" in housing has utterly and completely failed to provide an adequate supply of decent housing for the lower quartiles of the income spectrum in the Twin Cities metro, especially for the people in those income segments who have children."

Absolutely. Now watch neoliberals double down on their magical thinking and "explain" the nature of supply and demand. We're still not having a serious conversation about affordable housing and solutions to produce it.

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SUBMITTED BY ALEX SCHIEFERDECKER ON 08/07/2019 - 10:45 AM.

Inclusionary zoning (IZ) is an odd issue. At the most basic level, it's certainly the case that if you keep ramping up price controls, you'll reach a point where it makes no sense to continue producing the good being controlled.

However, although many development projects do have small margins, the interim ordinance has not seemed to stifle development—in fact development proposals are ahead of last year’s pace, including several projects that fall under the ordinance. A recent project in St. Paul that was presented to neighbors suggested that the inclusion of guaranteed affordable units in that development would increase the rent of the other units by \$30/mo, or roughly 2%. That’s not the end of the world, and soaking wealthier renters (though of course, wealthier renters are often less wealthy than the median homeowner) to ensure poorer renters can remain in places with access to opportunity is certainly a defensible policy.

But this debate over pro formas seems to me to be a bit of a sideshow. The main issue with IZ is that there is no place where it has actually led to a significant amount of affordable units. The output of IZ programs has always proven to be really really small. There’s not enough talk about this, and what the city really wants to achieve by, let’s say, creating 50 affordable units a year at the risk of depressing housing production overall. Is that a valid tradeoff?

There’s also not enough talk about the main benefit of IZ programs, which is not the affordable unit output, but the economic integration and desegregation. Most development in Minneapolis is occurring in wealthier areas of town, where demand to live is the highest. Sure 50 affordable units may not be much, but if they are occupied by low income families who benefit in other ways from living in a neighborhood with a lot of resources, that’s a benefit beyond simply having a roof and a bed that isn’t being discussed.

It’s a challenging issue that maybe gets more attention than its consequences. I hope that Minneapolis is able to closely study whatever policy it implements. Meaningfully depressing housing production is not worth IZ, but if the effects on development are small, it will provide small but significant benefits.

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