

Inclusionary Zoning



Ideas You Can Use
From the
Regulatory
Barriers
Clearinghouse

Problem



- ◆ Tight government financial resources
- ◆ Growing affordable housing need – Record 569
- ◆ Government non-monetary alternatives

What To Consider When Designing An Inclusionary Zoning Ordinance?



Possible Issues



- ◆ Statutory Authority
- ◆ Voluntary or mandatory
- ◆ Affordable requirements
- ◆ Applicability
- ◆ Targeting
- ◆ Alternatives
- ◆ Compliance period
- ◆ Penalties
- ◆ Compensating incentives

Statutory Authority



- ◆ Assumed by common law
- ◆ Home rule power
- ◆ Authorized by state

Vermont Statute



- ◆ Vermont – Section 4414– Record 990
- ◆ Conform to housing element
- ◆ Result from a needs analysis
- ◆ Include incentives
- ◆ Long-term availability

Do you want to...



Encourage developers
or ...

Require them

Voluntary Ordinances



- ◆ More easily enacted & implemented – Record 706
- ◆ Less likely to face legal challenges
- ◆ Winston–Salem – Record 731
- ◆ Long Beach – Record 144

Voluntary (cautions)



- ◆ Produces few affordable units –Record 486
- ◆ Determining the right amount and mix of incentives difficult

Mandatory Ordinances



- ◆ Produce more affordable units – Record 846
- ◆ Units for a wider range of incomes
- ◆ Uniform and predictable
- ◆ San Diego – Record 734

Mandatory (cautions)



- ◆ Development community resistance opposition
- ◆ Increased chance it could be litigated as a “taking” – Record 332

Hybrid Ordinance



- ◆ Only if developer seeks government aid
- ◆ Arlington County – Record 883
- ◆ Santa Fe – Record 701

A screenshot of the RBC Regulatory Barriers Clearinghouse website. The page title is "Regulatory Barriers Clearinghouse". The main content area is titled "Details" and shows the "Title" as "Santa Fe, New Mexico Zoning Ordinance". Under "Highlights", there are two items: a red X icon with the text "There is implicit recognition that the zoning ordinance does not provide incentives to create affordable housing" and a green checkmark icon with the text "The code gives the city authority to create incentives and requirements for inclusionary zoning and a housing opportunity program." The "Description" section contains a detailed paragraph about Chapter 14 of the Santa Fe City Code Land Development Laws, covering the city's authority to regulate and restrict zoning, including provisions for affordable housing, density bonuses, and incentives. The "Publication Date" is listed as 2001.



**What percent
of the project
do you want to
be affordable?**

Affordable Requirements



- ◆ San Diego
 - At least ten percent
- ◆ Santa Fe
 - Four different requirements
- ◆ Burlington
 - Rental – 15 to 25 percent
 - For Sale – 0 to 25 percent

**Do you want
the
regulations to
apply to all
development?**



Applicability



- ◆ Burlington – Record 503
 - Five or more dwellings (new construction or sub rehab)
 - Ten or more dwellings (reuse or conversion)
- ◆ San Diego
 - All residential developments (redevelopment area exceptions)
- ◆ Arlington
 - Residential and commercial

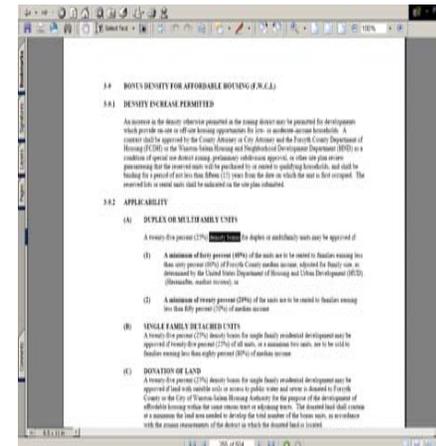
**What target
population
do you want
to serve?**



Targeting Beneficiaries



- ◆ **Winston Salem**
 - Rental – 60 %
 - Homeowner – 80 %
- ◆ **Boulder – Record 988**
 - Rental – HUD low income limit
 - Homeowner – HUD low income limit plus 10 %



Do you want
the units to
be
comparable
to other
units?



Comparability



- ◆ Burlington
 - Bedroom mix same
 - Interior amenities and size can be less
- ◆ Boulder
 - Detached units – 48 percent of other units
 - Attached units – 80 percent of other units

**How to meet
the
requirements?**



Meeting the Requirements



- ◆ All units must be on site
- ◆ Units may be developed elsewhere
- ◆ Existing units may be dedicated
- ◆ In lieu fees can be paid
- ◆ A combination of all of the above

Alternatives



- ◆ Boulder
 - At least half must be on site
 - Allows off-site units, land, cash, or existing units.

- ◆ San Diego
 - Allows in lieu fees
 - Amount varies by development size
 - Amount changes annually

More Alternatives



- ◆ **Santa Fe**
 - Allows cash, land, labor, or other in-kind
 - Two percent processing fee

- ◆ **Burlington**
 - Allows off-site units
 - Requirement increases by 25 percent



Do you want a long-term compliance period?

A screenshot of the RBC Regulatory Barriers Clearinghouse website. The page has a blue header with the RBC logo and navigation links. The main content area is white with a blue sidebar on the left. The sidebar contains links for "What's New", "About Us", "Search Database", "Newsletter", "Subscribe to RBC Listserve", "Relevant Publications", "Announcements", "Brochure", "Submit Experiences", and "Contact Us". The main content area features a welcome message, a "Regulatory Barriers Content" box, a "Regulatory Barrier Category Definitions" table, and three "Features" boxes. The "Features" boxes include "An electronic directory", "A searchable database", and "A toll-free number". The "Regulatory Barrier Category Definitions" table lists various categories such as Administrative Processes & Streamlining, Fees and Conditions, Rent Controls, Tax Policies, Building & Housing Codes, Planning & Growth Restrictions, State and Local Environmental and Historic Preservation, Zoning, Land Use, and Development, Fair Housing and Neighborhood Displacement, Redevelopment/Infill, Regulatory Enforcement Process, and Construction and Subdivision Regulations. The "News" box highlights "Web-Based Training on Incentive Criteria for Reducing Regulatory Barriers" and "New Records added to the database".

Notice: The contents of the records contained on this site reflect the views of the authors and/or promulgating agencies, and should not be construed as representing the views or policies of the U.S. Department of Housing and Urban Development.

Compliance Periods



- ◆ Winston-Salem – 15 years
- ◆ Santa Fe – 20 years for rental, 6 months on for-sale housing
- ◆ San Diego – Not less than 55 years
- ◆ Boulder – Permanent

You want your
monitoring and
penalties to be
simple and
easy, don't
you?



Compliance Mechanisms

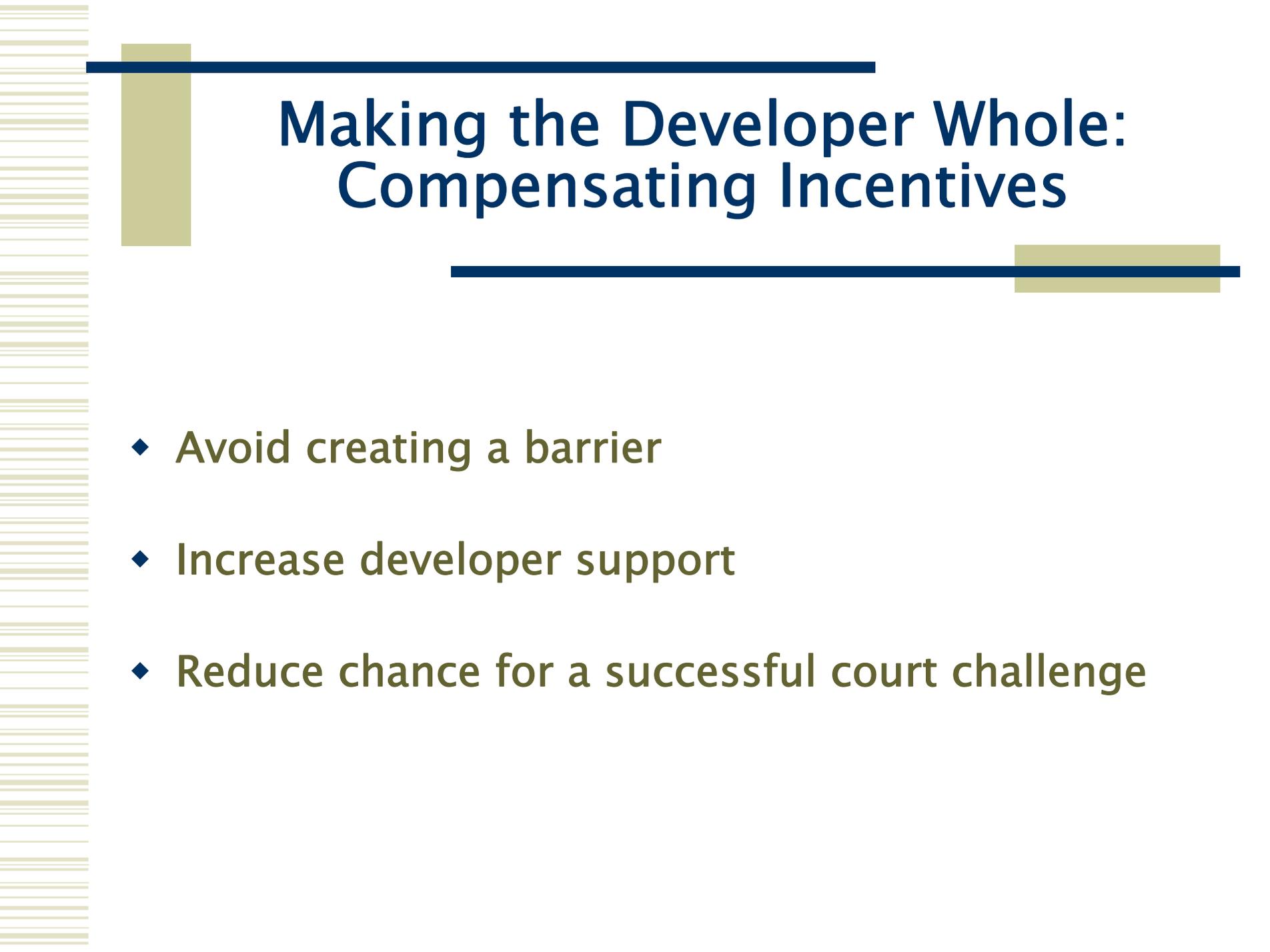


- ◆ **Winston–Salem**
 - Staff determination of sales prices, tenants and income limits
- ◆ **Boulder**
 - Restrictive covenants and other written agreements
- ◆ **Burlington**
 - Agreements and/or deed restrictions
 - Limited equity appreciation, limited rent increases, exclusive option to purchase, and prohibition on subletting

Penalties



- ◆ **Winston–Salem**
 - Revocation of permits or other planning approvals
- ◆ **San Diego**
 - Recapture of portion of profit for violations.
- ◆ **Burlington**
 - Issuance of tickets
 - Fines from \$100 to \$250



Making the Developer Whole: Compensating Incentives

- ◆ Avoid creating a barrier
- ◆ Increase developer support
- ◆ Reduce chance for a successful court challenge

What Package of Incentives do You Want to Make Available?



Compensating Incentives



- ◆ Bonus densities – Record 863
- ◆ Streamlined processing – San Diego
- ◆ Exempt increase in value of property from assessment for property tax purposes – Spokane – 783

Additional Compensating Incentives



- ◆ Fee waivers or deferrals – Santa Fe
- ◆ Reduced parking requirements – Denver
- ◆ Variances to Setbacks – Cambridge – 162
- ◆ Design Flexibility – Sacramento



**What Type of
Density
Bonus is
Most
Appropriate?**

Amount of Bonus



- ◆ **Santa Fe**
 - One for one up to a 50 percent increase
- ◆ **Burlington**
 - Up to 25 percent depending on zoning district

Additional Policy Alternatives



- ◆ Set or flexible program
- ◆ Base bonus on number of units, bedrooms or square footage
- ◆ For rehab/new construction base the bonus on the entire number of units in the development



Inclusionary Zoning Conclusion

- ◆ Relatively new tool
- ◆ Somewhat complicated with many options
- ◆ Regulatory Barriers Clearinghouse ready to assist

Inclusionary Zoning



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How can you benefit?



- ◆ Join the listserv
- ◆ Visit our site
- ◆ Read our newsletter
- ◆ Call 800-245-2691, option 4

How can you help others benefit?



- ◆ Electronic announcement
- ◆ Brochures
- ◆ Provide link
- ◆ Create your own announcement
- ◆ Submit information

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