



I OVERVIEW OF INCLUSIONARY ZONING

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Using a question-and-answer format, this chapter presents an overview of inclusionary zoning and a general introduction to *locally initiated* inclusionary zoning, the category of inclusionary zoning that is the focus of this guide.

WHAT IS INCLUSIONARY ZONING?

Inclusionary zoning and its correlative, *inclusionary housing*, are the terms used to describe a wide variety of techniques used by local governments that link the construction of low- and moderate-income affordable housing to the construction of housing for the marketplace. Under an inclusionary zoning program, affordable housing is constructed and integrated into more expensive housing developments, thereby becoming an integral part of the overall residential development of a community. Simply put, inclusionary zoning *encourages* or *requires* developers (as a condition of permit approval) to include some portion of affordable housing in new market-rate housing developments. The principal objectives of inclusionary zoning are to increase the supply of affordable housing in a community and to do so in a manner that fosters greater economic and racial integration. Affordable housing is housing priced so that households can afford to purchase or rent without paying more than approximately thirty percent of their income.

The impetus for the increased interest in inclusionary zoning has been the housing affordability crisis. Conventionally produced and financed housing has long been beyond the reach of the poor. However, as housing prices have risen substantially faster than incomes, such housing has begun to move further and further away from the reach of many middle-income residents. Thus, housing unaffordability is no longer a problem limited to the poor. Civil servants, including law enforcement officers, school teachers, and firefighters, now often have to choose between paying well beyond their means for a home in their communities or traveling long distances to and from their jobs.

The benefits of inclusionary zoning for local governments are that (1) it creates affordable housing through the private sector without having to commit significant public funds, (2) it increases the socioeconomic and racial diversity of families residing in new housing developments, and (3) it provides much needed housing to members of the local workforce—especially public sector employees who otherwise cannot afford to live in the communities where they work.¹ Wherever residential growth occurs in a community, inclusionary zoning can be used to generate affordable housing for low- and moderate-income families.²

HOW ARE INCLUSIONARY ZONING AND TRADITIONAL AFFORDABLE HOUSING PROGRAMS DIFFERENT?

The primary distinction between inclusionary zoning programs and traditional affordable housing programs is the provision in inclusionary zoning programs that affordable housing be created through the private rather than the public sector. Since the 1940s, affordable housing programs in the United States, with few exceptions, have relied on public-sector funds from federal, state, and local government.³ Inclusionary zoning, in contrast, engages the private sector (for-profit residential developers) in the construction of affordable housing, with all or part of the cost of development being reimbursed by the local government through the use of incentives.

A second important difference between traditional affordable housing programs and inclusionary zoning is that inclusionary zoning integrates affordable housing into market-rate housing developments throughout the growth areas of a community. Affordable housing created through traditional housing programs, whether for rental or ownership, is rarely integrated socioeconomically or racially into the community. Often this housing is located at the city center or along the urban fringe, where land is cheaper but far less accessible to community resources.

A final difference is that most traditional affordable housing assistance is used to subsidize rental housing for low- or very low-income families.⁴ In contrast, inclusionary zoning programs produce affordable housing that is largely for sale and targeted to low- and moderate-income families.⁵

WHAT TYPES OF COMMUNITIES ARE BEST SUITED FOR INCLUSIONARY ZONING?

Any growing community that designs an inclusionary zoning program to fit local conditions can effectively utilize this strategy for creating affordable housing. Production is maximized, however, in those communities that have a strong housing market, developable land, and a public infrastructure to support dense, large, new housing developments.⁶ Inclusionary zoning is especially well suited as a proactive affordable housing strategy in emerging growth areas (often bordering existing high-growth urban centers). While these conditions are ideal, older, land-constrained communities also are using inclusionary zoning on smaller in-fill and redevelopment projects.⁷

WHAT IS THE RATIONALE FOR INCLUSIONARY ZONING?

The rationale is based on two concerns: mitigation and community welfare. The *mitigation* rationale is based on the contention that a causal relationship exists between new market-rate development and an increased need for affordable housing in a community.⁸ Specifically, the argument is that the construction of market-rate housing increases homeownership, which in turn creates a demand for new services; these services are then provided by a labor force that also needs housing. Therefore, the developer bears some obligation for providing affordable housing for that workforce. In addition, market-rate development cuts into the amount of land available for potential future use as the site for affordable housing. Inclusionary zoning thus represents a local government mechanism comparable to development fees (e.g., school impact fee or water and sewer fee), to mitigate the effects of a new development proportionate to its impact on the public infrastructure.

The *community welfare* rationale is based on the duty of local governments to provide for the health, safety, and general welfare of its citizens (which, in this context, is defined to include making affordable housing accessible to a diverse mix of incomes in the community). To accomplish these goals, local governments impose land-use regulations that govern the development of land in specified zoning districts within their jurisdictions.⁹

These regulations might include limits on development in a floodplain, application of minimum housing codes, or as the argument goes, the provision of affordable housing. Inclusionary zoning is simply one of many land-use regulations or standards set forth in a zoning district intended to promote the health, safety, and general welfare of the community.¹⁰

WHAT STEPS CAN A LOCAL GOVERNMENT TAKE TO MAKE INCLUSIONARY ZONING A WIN-WIN FOR DEVELOPERS AS WELL AS THE COMMUNITY?

The best strategy is to balance stakeholder interests. Developers likely will oppose inclusionary zoning. Therefore, incentives will be useful in brokering an acceptable compromise with this important stakeholder group. A density bonus, or an increase in the amount of development that can be built on a tract of land, is the primary incentive offered to a builder. A density bonus is considered reimbursement of part or all of the cost of developing affordable housing along with market-rate housing. In addition, several programs in this study reported that other incentives, such as development fee waivers, fast-track permitting, and flexible design standards, are highly valued by developers in their communities. Involving developers from the outset is crucial in designing a program that can offer effective incentives and thus win acceptance.

Among the local citizenry, inclusionary zoning will likely be well received in the abstract. In practice, however, this support may not transfer to the actual construction of market-rate developments, which are what enable inclusionary zoning to succeed. The programs in this study uniformly reported that public and neighborhood opposition of the NIMBY (Not In My Back Yard) variety did not center on the inclusion of affordable housing but, instead, on the development's general impact on schools, roads, community character, and the environment. The granting of density bonuses to reimburse developers can compound these concerns.¹¹ In response, some local governments have adopted controls on high-density development, despite the likelihood that such policies perpetuate urban sprawl. While some communities officially promote medium- to high-density development within their urban boundaries, significant barriers to these developments have been inserted in local zoning ordinances, and public opposition to high-density projects is often fierce.¹²

Inclusionary zoning and growth controls can coexist, albeit imperfectly. Broad application of inclusionary zoning to logical housing development types, sizes and locations will ensure that what growth does occur will include affordable housing. Community-based planning also can facilitate agreement among diverse stakeholders on future growth zones or overlay districts where high-density development is welcome. A process that streamlines the development approval process (removing the uncertainty of case-by-case negotiations) but includes affordable-housing construction and design standards might strike a manageable balance. Finally, inclusionary zoning often provides for flexibility in the zoning ordinance. Whereas development standards, such as lot size minimums and setbacks, may have an exclusionary effect, flexibility encourages creative mixed-use, mixed-income, and mixed housing-type developments.¹³

WILL DEVELOPERS NOT BUILD IN COMMUNITIES WITH INCLUSIONARY ZONING?

Inclusionary zoning has generally been a policy response by local governments to a shortage of affordable housing resulting from high growth and/or strong housing demand, which often is tightly coupled with access to greater job opportunities and a perceived higher quality of life. Aside from the impact of normal economic fluctuations, the programs in this study have experienced little cessation in demand for housing or unwillingness among developers to supply such housing.

**DO DEVELOPERS CIRCUMVENT INCLUSIONARY
ZONING BY BUILDING SMALLER DEVELOPMENTS?**

There is no evidence that developers circumvent inclusionary zoning requirements by building developments below the threshold. Montgomery County, Maryland, and Fairfax County, Virginia, both communities with high thresholds for inclusionary projects reported that few developments have intentionally avoided the affordable housing requirement. Both programs have strict guidelines that prevent developers from attempting to conduct projects piecemeal in order to avoid the threshold. The other programs in this study either reported that this was not a problem with their lower thresholds or that they avoid this issue altogether by applying the affordable housing requirement to all new development.

**WILL AFFORDABLE HOUSING CONSTRUCTED AS A RESULT
OF INCLUSIONARY ZONING HAVE A NEGATIVE IMPACT ON
THE PROPERTY VALUES OF THE NEARBY MARKET-RATE HOMES?**

Only one comprehensive study on this question has been conducted.¹⁴ The study examined more than 1,000 home sales in subdivisions that included affordable homes throughout Montgomery County, Maryland, and Fairfax County, Virginia. The study found no discernible impact on the value of market-rate properties in these developments versus similar developments without affordable homes. This result may be attributable in part to design standards in both programs that require affordable homes to be identical or very similar in exterior appearance to adjacent market-rate housing. The other programs in this study similarly reported no negative impact of inclusionary zoning on property values.

**HOW MUCH WILL INCLUSIONARY ZONING COST
A LOCAL GOVERNMENT TO ADMINISTER?**

The administrative requirements of an inclusionary zoning program can be divided into three broad categories: (1) processing of the development application, project approval, and construction oversight; (2) income qualification, training, and certification of homebuyers; and (3) long-term monitoring and enforcement. Administrative tasks involved in processing the development will fall on the local government (regardless of any inclusionary zoning requirement) but carrying out the other administrative duties can involve nonprofits and/or the developer.

Depending on the volume of development projects and complexity of program design, our research indicates that a locally initiated inclusionary zoning program that relies heavily on nonprofits and/or developers for administration can expect to commit between one-tenth and one-half a full-time employee (FTE).¹⁵ Such administrative arrangements, however, may also require the local government to provide financial support to the affordable housing nonprofit. Programs that assume most administrative duties can expect a staff commitment of one to three FTEs. As a general rule, a program that offers flexibility and a broad package of incentives requires more staffing.¹⁶

**WHAT MODEL SHOULD MY LOCAL GOVERNMENT
USE FOR ITS INCLUSIONARY ZONING PROGRAM?**

There is no one-size-fits-all formula to inclusionary zoning—each program must be designed to fit the local context in which it is applied. As evidence, a regional task force of diverse stakeholders from the Triangle area in North Carolina recently undertook an exhaustive examination of inclusionary zoning and concluded that because of significant variations in community characteristics, zoning ordinances, development

patterns, and local political culture, no single inclusionary zoning approach could be prescribed for local governments in the region.¹⁷ Their finding contradicts the way some inclusionary zoning ordinances have been developed, however.¹⁸

WHAT IS THE NATIONAL EXPERIENCE WITH INCLUSIONARY ZONING?

The first inclusionary zoning programs date to the early 1970s.¹⁹ Though few in number, these programs were community-based efforts driven by concern over rapid growth and a decreasing availability of affordable housing. As pioneers of a new affordable housing strategy, these programs varied in design; however, all shared one critical ingredient, local public support. As such, these programs and others that followed form a group we identify as locally initiated inclusionary zoning programs.

In the 1980s, acute shortages of affordable housing and the use of exclusionary zoning practices by local governments led two states, California and New Jersey, to begin placing pressure on their local governments to produce more affordable housing.²⁰ Specifically, California passed the Housing Element Act, which included the “fair share” doctrine or the obligation of every local government to develop and implement housing plans that would produce affordable housing sufficient to meet local and regional needs.²¹ New Jersey also adopted “fair share” legislation, but this state effort had the added force of the *Mount Laurel II*²² decision mandating local government action on affordable housing and prescribing corrective measures if there was a failure to do so.²³

Local governments responded to state mandates by adopting housing plans and strategies that often included inclusionary zoning. In cases where the communities were genuinely committed to affordable housing plans, the inclusionary zoning worked. However, many local governments seemed to adopt inclusionary zoning mainly as political cover from possible state litigation or other penalty and, in those cases, inclusionary zoning produced few if any affordable homes.²⁴ We classify programs located in these states as state-initiated and they are not included in this guide.

In the 1990s, locally initiated inclusionary zoning began to spread across the country, especially in the eastern United States. Today there are approximately two hundred mandatory inclusionary zoning programs (locally and state initiated) in place in ten states. These programs have created approximately one hundred thousand affordable homes.²⁵ While these numbers are modest in comparison to those of other affordable housing programs, inclusionary zoning has been able to consistently locate affordable housing in higher-income enclaves that are otherwise inaccessible to most low- and moderate-income families.²⁶

WHAT IS THE NORTH CAROLINA EXPERIENCE WITH LOCALLY INITIATED INCLUSIONARY ZONING?

Chapter two reviews three types of locally initiated inclusionary zoning—mandatory, voluntary, and conditional. North Carolina has had limited experience with each. The most common type in North Carolina has been voluntary inclusionary zoning. These voluntary programs have failed to produce a significant amount of affordable housing. The town of Davidson, in contrast, has formally adopted a mandatory inclusionary zoning ordinance that has been very productive. The program was enacted in 2001 largely as a response to the proliferation of exclusive subdivisions throughout the community.²⁷ The town of Chapel Hill employs a conditional inclusionary zoning program and has had similar successful results.

For the foreseeable future, inclusionary zoning programs implemented in North Carolina will likely be locally versus state initiated. There are two reasons for this

TABLE 1. Program Demographic Data

Program	Population	Median Household Income	Median Home Value	Median Rent
Boulder, CO	94,673	\$44,748	\$304,700	\$818
Burlington, VT	33,889	\$33,070	\$131,200	\$618
Chapel Hill, NC	48,715	\$39,140	\$229,100	\$690
Davidson, NC	7,139	\$78,370	\$270,000	\$718
Fairfax County, VA	969,749	\$81,060	\$233,300	\$998
Longmont, CO	71,093	\$51,174	\$177,900	\$769
Montgomery, MD	873,341	\$71,551	\$221,800	\$914
Santa Fe, NM	62,203	\$40,392	\$182,800	\$707

Source: 2000 Census

conclusion. First, there is no known concerted effort underway in the North Carolina General Assembly to follow the examples of California or New Jersey to enact legislation requiring or pressuring local governments to increase their supply of affordable housing. Second, ongoing efforts by Triangle-area local governments to have the General Assembly grant them limited authority to implement inclusionary zoning have all been unsuccessful.²⁸ Thus there appears to be little chance that state-level action will be taken on this policy matter in the near future.

WHAT IS THE VALUE OF EXAMINING LOCALLY INITIATED INCLUSIONARY ZONING PROGRAMS?

Our work, along with other research in this field finds that as a group, locally initiated inclusionary zoning programs are more effective than their state-initiated counterparts (see Appendix C, Research Methodology). This guide therefore focuses on successful locally initiated programs that can serve as models for North Carolina local governments and others.²⁹ Eight locally initiated programs from six states, each with differing community and programmatic characteristics, were selected for study and are listed below. Any local government initiating its own inclusionary zoning program is advised to examine these programs well. For a more detailed examination of each program, see the program profiles presented throughout this guide.

- Boulder, Colorado. Revised ordinance adopted 2000: 150 affordable homes
- Burlington, Vermont. Ordinance adopted 1990: 103 affordable homes
- Chapel Hill, North Carolina. Policy first implemented in 1995: 111 affordable homes
- Davidson, North Carolina. Ordinance adopted 2001: 138 affordable homes created.
- Fairfax County, Virginia. Ordinance adopted 1990: 2,341 affordable homes
- Longmont, Colorado. Ordinance adopted 1995: 623 affordable homes
- Montgomery County, Maryland. Ordinance adopted 1974: 11,210 affordable homes
- Santa Fe, New Mexico. Ordinance adopted 1998: 237 affordable homes

NOTES

1. Nico Calavita and Kenneth Grimes, "Inclusionary Housing in California: The Experience of Two Decades," *Journal of the American Planning Association* 64 (Spring 1998): 150–68.
2. The societal benefits of desegregating economic and often racially homogenous suburban development should not go unnoticed. See Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, MA: Harvard University Press, 1993), and David Rusk, *Inside Game/Outside Game: Winning Strategies for Saving Urban America* (Washington, DC: Brookings Institution Press, 1999).
3. The federal government has contributed the largest percentage of housing assistance, followed by state and then local governments.
4. Triangle J Council of Governments, Center for Affordable Living, *Housing Opportunity in the Triangle* (Research Triangle Park, NC, January 2003).
5. There appear to be both market and societal reasons for this. Typically it is not economically viable for developers to build affordable homes for rent or purchase by very low-income families (50 percent or below area median income) without receiving direct financial subsidies from local government. In addition, many local governments promote their programs from a public policy standpoint as workforce housing that is needed for teachers, police, and other essential workers. Also, because affordable housing has a social stigma, programs avoid NIMBY and developer opposition that might arise if large numbers of homes were targeted for very low-income families. Finally, many homeowners may resist living in a development in which a significant portion of the residents are renters, believing that these individuals have less of a personal stake in the neighborhood. Christopher Swope, "Little House in the Suburbs," *Governing Magazine*, April 2000, 18–22.
6. Triangle Regional Principles Project, *Local Inclusionary Housing Programs* (Research Triangle Park, NC: Triangle J Council of Governments, January 2001).
7. Boulder, Colorado; Chapel Hill, North Carolina; and Burlington, Vermont; are examples.
8. Mark White, "Inclusionary Zoning: Discussion Paper." Written for the Town of Chapel Hill, North Carolina Development Ordinance Update, 12 September 2001, 1–22.
9. David Owens, "Local Authority to Implement Smart Growth Programs in NC," *Wake Forest Law Review* 35, no. 3 (2000): 672–705.
10. Alan Mallach, *Inclusionary Housing Programs: Policies and Practices* (New Brunswick, NJ: Center for Urban Policy Research, Rutgers University, 1984).
11. A highly productive inclusionary zoning program in Loudoun County, Virginia, recently was upended due to local concerns that it was adding to excessive housing growth through the granting of density bonuses. As attitudes toward development began to shift in county, the goal of affordable housing was subsumed within the conflict over growth and, ultimately, lost out.
12. Triangle Regional Principles Project, *Local Inclusionary Zoning Program—Strategy Brief* (Research Triangle, NC: Triangle J Council of Governments, January 2001).
13. This is the primary model being implemented in Davidson, North Carolina.
14. Joyce Siegel, *The House Next Door* (Baltimore, MD: Innovative Housing Institute, 1998).
15. Burlington, Vermont, reported committing as little as 10 percent and Chapel Hill, North Carolina, less than one-quarter FTE.
16. One of the incentives used in Longmont, Colorado, is fast-track permitting, which accelerates approval of building permits based on the inclusion of affordable homes. Although the program has been "more labor intensive" than Longmont officials "originally thought it would be," the incentives have been used to leverage more affordable housing units than required.
17. The Triangle Region Inclusionary Zoning Task Force.
18. The greater Washington, DC, metro area is an excellent example of this. Fairfax and Loudoun County, Virginia, and Prince George's County, Maryland, all adopted an ordinance that closely mirrored an earlier ordinance passed in neighboring Montgomery County, Maryland. Karen Brown, *Expanding Affordable Housing through Inclusionary Zoning: Lessons from the Washington Metropolitan Area* (Washington, DC: Brookings Institution Center on Urban and Metropolitan Policy, 2001). Longmont and

PROFILE OF AN INCLUSIONARY ZONING PROGRAM

MONTGOMERY COUNTY, MARYLAND

Population: 873,341

Median household income: \$71,551

Median home value: \$364,195

Date ordinance enacted: 1974

Inclusionary homes built or permitted: 11,210

Fee in-lieu contributions: \$1,228,000

Community Overview

Montgomery County, Maryland, located north of Washington, D.C., is the most populous jurisdiction in the state. Montgomery's towns and cities include Bethesda, Chevy Chase, Rockville, and Wheaton. Montgomery County is home to nineteen major federal agencies, including the National Institutes of Health. These agencies, and the \$3 billion in annual contracts they award to Montgomery County firms, have helped create the second and third largest biotechnology and information technology (IT) sectors in the country. Montgomery also has one of the highest rated public school systems in the nation.

Over the past forty years, Montgomery has transformed from a quaint, Washington, D.C., bedroom community to a major urban center approaching one million residents. Although Montgomery County is becoming "built-out," it is not necessarily "built-over." The county has set aside approximately one third of its land mass as "green space," including a 93,000-acre agricultural preserve established to protect farmland.

Montgomery's resolve to address the issue of affordable housing began with the creation of an innovative housing authority in the 1960s. In 1974, the county began one of the nation's first and most successful inclusionary zoning programs—the Moderately Priced Dwelling Unit Program (MPDU). The MPDU Program has become a model for communities around the country.

Program Overview

The MPDU program requires any development of thirty-five or more market-rate homes, with a density greater than one home per acre, to set-aside 12.5–15 percent as affordable housing.¹ Affordable homes are required to be built on site with alternatives available in exceptional cases only. A density bonus of up to 22 percent is available to developers by right. The affordable homes are marketed to households earning 65 percent or less of the Area Median Income (AMI). The sale price of affordable homes is controlled for ten years, the rental price for twenty years. The program reserves the right to purchase 40 percent of the affordable homes in a development prior to initial sale or rental. In addition, the program can purchase the affordable homes on the first sale after the control period has expired. To date, more than 1,600 homes have been purchased and are maintained by the county's housing authority (Housing Opportunities Commission) as permanently affordable.

Distinguishing Characteristics

As the forebearer of a generation of inclusionary housing programs, Montgomery's ordinance contains several innovative features that have since become commonplace. Arguably most significant is the ingenuity of developers and program staff in designing architectural forms of affordable housing that are compatible with market-rate homes. This compatibility has become one of the defining features of inclusionary zoning programs. These outcomes were achieved in part through the program's flexibility and its "win-win" approach. For example, Montgomery's program takes seriously the goal of reimbursing developers (through density bonuses and fee waivers) who provide affordable homes. While some developers still doubt they break-even, others are firm supporters of the program and acknowledge its social, if not personal, economic benefit. This win-win approach has allowed the program to remain intact for nearly thirty years.



Affordable townhomes in the Wyndcrest project

Montgomery's control period of ten years (for sale) and twenty years (for rental) has led to the conversion of thousands of MPDU homes from affordable to market-rate. With thirty years of rapid, suburban growth nearing an end, it is unlikely that these affordable homes will be replaced. While Montgomery recently amended its threshold for its program from developments with fifty units or more to those with at least thirty-five homes, the program administrator reported in the study questionnaire that extending the control period is one change that should be considered.

Program Highlight

Montgomery's design standards require affordable homes to be similar or identical in exterior appearance to adjacent market-rate homes. This has helped prevent the stigmatization of the affordable homes and has become a defining feature of inclusionary zoning programs across the country.

"[Affordable housing] supporters continue to see their program as an emblem of civic pride. They note that while new subdivisions in most suburban areas have become fortresses for the upper middle class, Montgomery's have become famous for the economic diversity of their residents, many of them minorities or immigrants buying their first home."
—*Governing Magazine*

Advice from Montgomery County

"The [program] should be flexible to try and have developers on your side. The builders have to see that it is not going to be a detriment to the subdivision. You must have political consensus to get the [program] approved."

Note

1. The exact affordable set-aside requirement is determined by the amount of density bonus used in the development.

most recently Denver, Colorado, also modeled their ordinances after Montgomery County. A similar situation exists in California, where local governments modeled their ordinances after receiving recommended guidelines from the state. Calavita and Grimes, "Inclusionary Housing in California."

19. Montgomery County, Maryland; Newton Massachusetts; and Davis, California; are some of the earliest programs.

20. Local zoning practices that either intentionally or unintentionally effectively prevent the construction of lower cost housing (especially multi-family housing) within a local jurisdiction constitute what is known as exclusionary zoning. The effect of exclusionary zoning is to prevent low-income families, often representing racial minorities, from gaining access to housing in the community. See Mallach, *Inclusionary Housing Programs*, for an overview of exclusionary zoning, legal challenges to exclusionary zoning, and the link to inclusionary zoning programs in New Jersey. See Calavita and Grimes, "Inclusionary Housing in California," for an overview of the California experience.

21. Local and regional "need" are determined by the state. See Spencer M. Cowan and Lanier Blum, "State 'Fair Share' Programs" (Research Triangle Park, NC: Triangle Regional Principles Project, Triangle J Council of Governments: June 2001).

22. Southern Burlington County NAACP v. Township of Mt. Laurel (Mt. Laurel II), 456 A.2d 390 (N.J. 1983).

23. Among the significant elements of the decision was the holding that "affirmative governmental devices . . . including lower-income density bonuses and mandatory set-asides" were required if the opportunity for lower-income housing was to be realistic. That language was couple with the doctrine known as the "builder's remedy," under which lower courts were henceforth instructed to grant zoning relief, and even building permits, to a builder or landowner who, acting in good faith, "vindicates the constitutional obligation in Mount Laurel-type . . . provided that the proposed project includes an appropriate portion of low- and moderate-income housing." Massachusetts and several other New England states have since passed the "builder's remedy" into law.

24. Calavita and Grimes, "Inclusionary Housing in California," 165. These programs lack what Alan Mallach calls "good faith" on the part of local governments to implement inclusionary zoning or what program representatives in this study have identified as "political will" and "political consensus."

25. States with inclusionary zoning programs include California, New Jersey, Massachusetts, Connecticut, Vermont, Maryland, Virginia, North Carolina, Colorado, and New Mexico. The number of programs and the number of affordable homes created by them are authors' estimates.

26. Mallach, *Inclusionary Housing Programs*, 11.

27. Meredith Judy, assistant planner, town of Davidson, interview with author, 28 January 2003.

28. See Senate Bill 1001 of the 2001 session and Senate Bill 493 of the 2003 session of the North Carolina General Assembly.

29. Programs are deemed successful if they are of at least two years duration, have 100 or more affordable homes and no apparent polices, practices, or regulations that actively contravene the program's goals.