Local Examples from Other Cities of Inclusionary Zoning and Commercial Fee in Lieu Affordable Housing Programs

The following attachment provides a summary of local experiences with inclusionary zoning and commercial fee in lieu programs to create affordable housing. The cities of Redmond, Kirkland and Seattle are highlighted as larger communities within the immediate market area who are permitting similar scale residential and commercial developments.

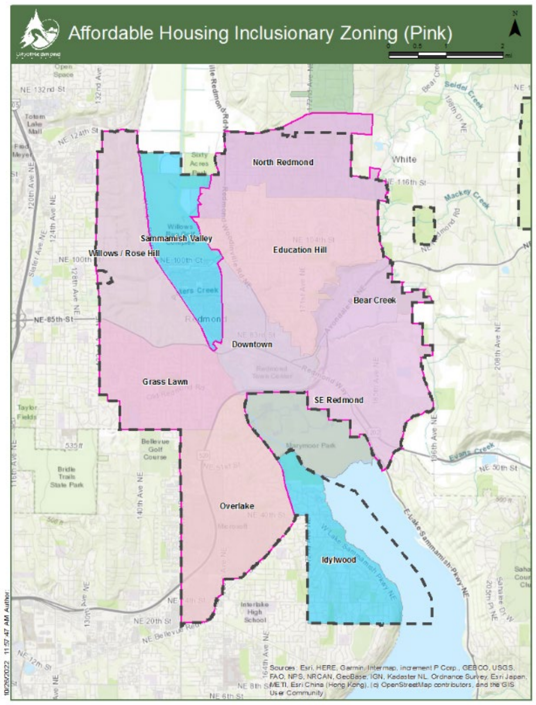
ARCH-member cities

Nine A Regional Coalition for Housing (ARCH) member cities have adopted affordable housing programs in their land use codes, as shown in the table below. Six cities have mandatory programs, with one additional city in the process of considering transitioning its program to a mandatory program. Programs generally require affordability of rental units for the life of the project, and homeownership units for 50 years.

City	Type of Land Use Program	Affordability	Notes
Bellevue	Voluntary	80% AMI	Ability to overlap with Multifamily Tax Exemption (MFTE); Commercial fee-in-lieu allowed in East Main
Bothell	Mandatory	50-80% AMI	Enacted 2021; includes commercial
Issaquah	Voluntary in some areas, Mandatory in others	50-80% AMI	Requirements have mostly been achieved through development agreements
Kenmore	Voluntary	50-80% AMI	Currently considering mandatory
Kirkland	Mandatory	50-100% AMI	8-year MFTE included
Mercer Island	Voluntary	60-90% AMI	
Newcastle	Mandatory	50-80% AMI	
Redmond	Mandatory	50-80% AMI	Optional MFTE for deeper affordability
Sammamish	Mandatory plus Voluntary	80% AMI	Mandatory with additional voluntary option on top

Redmond

The City of Redmond was an early leader in adopting and expanding inclusionary zoning for residential development, first applying a mandatory 10% set-aside when it up-zoned the Downtown subarea in 1993. Affordability was first set at 80% AMI, with developers having the option of exchanging one unit affordable at 50% AMI for two units affordable at 80% AMI. Between 1994 and 2014, inclusionary zoning was expanded to cover all but two neighborhoods. In 2017, the Marymoor subarea was up-zoned to promote transit-oriented development ahead of future light rail expansion, with requirements established for 10% of units affordable at 50% AMI for rental and 70% AMI for ownership. Rental projects complying with the inclusionary program in Marymoor were also made eligible for an 8-year tax exemption under the city's newly established Multifamily Tax Exemption program. In the Downtown and Overlake neighborhoods, the MFTE program was designed to "buy down" inclusionary rents from 80% AMI to 60% AMI for an 8-year exemption. Twelve-year exemptions come with set-asides of 10% at 65% AMI plus 10% at 85% AMI (also for the life of the project).



The widespread application and early adoption of an inclusionary framework in Redmond has yielded meaningful results, helping to create a total of 68 projects with 850 permanently affordable rental and ownership units included in mixed-income settings. While most of the city's development has focused on multifamily rental housing, the adoption of inclusionary requirements in single family areas has also been notable, helping to create some of the only new affordable homeownership opportunities in the region. In addition, the strategy of layering MFTE has helped to deliver units with deeper affordability, with over half of production serving households earning up to 50% or 60% AMI.

Under Redmond's zoning code, developers do not have an automatic option to pay a fee-in-lieu of providing affordable units. However, the code allows the city to approve "alternative compliance" when it determines that doing so will create a better affordable housing outcome. This has been used in very limited circumstances, with ARCH helping the city to evaluate the amount of the proposed fee and identifying a location for investment of funds to ensure a much greater housing outcome.

Under Redmond's Comprehensive Plan policies, consideration of affordable housing is a part of every rezone, giving the city an opportunity to capture even greater public benefits each time it authorizes new development capacity. The city has continued to experience a robust pipeline of development projects, and has noted future opportunities to expand the program to commercial development, as well as continue to evaluate the effectiveness of combining MFTE and inclusionary programs.

Kirkland

The City of Kirkland first enacted a voluntary density/floor-area-ratio (FAR) bonus in 2004, offering developers a 2:1 density bonus and flexibility in development standards in exchange for housing affordable at 50% AMI for rental and 70% AMI for homeownership. The same year, it authorized a 10-year tax exemption in exchange for a 12.5% set-aside at 50% AMI for rental and 70% AMI for homeownership.

After the voluntary program did not yield any results, in 2009 the city determined that it would take a different approach, converting to a mandatory program as it up-zoned most multifamily areas of the city with density or height increases. The revised program required 10% of units affordable at 50% AMI for rental and 80% or 100% AMI for homeownership. The MFTE program was also amended to align with the inclusionary program, with an 8-year option that mirrored inclusionary requirements, and a 12-year option that required an additional 10% of units affordable at 80% AMI. In 2012, the city up-zoned the east end of its Central Business District (CBD) and expanded inclusionary requirements to that area.

Year	Event
2004	Voluntary density bonus (2:1), 10-year MFTE: 12.5% set-aside, 50% AMI (rental) or 70% AMI (homeownership).
2009	Up-zoned <u>most</u> multifamily areas, *converting voluntary affordability to mandatory*: 10% set-aside, 50% AMI (rental), 80% AMI or 100% AMI (homeownership).
	Amended MFTE to replace 10-year with:
	Inclusionary zones: 8-year: 10% set-aside, 50% AMI. 12-year: additional 10% at 80% AMI.
	Other zones: 8-year: 10% set-aside, 80% AMI. 12-year: additional 10% at 50% AMI.
2012	Up-zoned east end of CBD; mandatory 10% 50% AMI (rental) or 100% AMI (homeownership).

Kirkland has also applied the program to areas that are adding single family developments, helping to create a small but growing portfolio of affordable ownership homes. Like Redmond, Kirkland also does not allow payment of fees in lieu of providing affordable units, except to satisfy the obligation to provide a fraction of a unit less than 0.66.

Multifamily production was more limited in Kirkland until the late 2010s, and some areas of the city such as Totem Lake and the western part of the CBD were exempted from inclusionary requirements, resulting in the city realizing a relatively smaller share of affordable units compared to Redmond. However, Kirkland's approach has been notable for its focus on deeper affordability, achieving a greater share of 50% AMI units than any other ARCH-member incentive program (roughly 59% of the program's output).

The city is also committed to expanding the strategy, with an explicit policy in its Comprehensive Plan to "require affordable housing when increases to development capacity are considered." Most recently, the city has secured significant agreements to provide affordable housing payments from commercial development, and is continuing to study how to amplify affordable housing outcomes in its current 85th Street Station Area Plan, including from both residential and commercial development.

Seattle

Voluntary Incentive Zoning

Seattle's experience with incentive zoning dates back to the 1970s, when the city established incentives for development projects providing on-site amenities. In 1985, the city's Downtown Plan put in place framework policies that included significantly expanding Downtown housing opportunities for people of all income levels. In 2001, the city overhauled the incentive zoning framework and for the first time required that the majority of extra floor area for Downtown office and hotel developments be achieved with payment of an in-lieu fee for affordable housing and childcare.

In 2005-2006, a new framework was adopted that expanded incentives to residential developments in high-rise zones and allowed developers to achieve extra floor area by paying a fee-in-lieu of providing units on-site. In 2009, the city established another framework for areas outside of Downtown, following up with up-zones to implement the program in Midrise and Highrise zones (performance option only), South Downtown, and South Lake Union. Not long after, in 2012, a new "suffix zone" incentive zoning framework was established and implemented through up-zones from 2012-2016 in North Beacon Hill, Othello, Roosevelt, West Seattle Triangle, Greenwood/Phinney Ridge, North Rainier, Bitter Lake, and Lake City (performance option only, same as in Midrise and Highrise).

Under these programs, the city was able to generate meaningful voluntary cash contributions mainly from high-rise commercial projects in Downtown and South Lake Union, and generate some affordable units in mid-rise developments outside those areas. However, many questioned whether fee levels were being set at adequate levels, while others were concerned that the performance option largely created units with higher AMI limits compared to those funded with in-lieu fees and were too few (averaging 6% of each development's total units) to make a noticeable difference in Seattle's rental submarkets. The programs had also become complicated to administer because of the differing requirements across many zones and types of development.

Commercial Linkage Fee and Mandatory Housing Affordability (MHA)

Following the rezone of South Lake Union, city leaders began to express an interest in shifting strategies and undertook a series of studies to look at refining or replacing the existing program with a commercial linkage fee and/or inclusionary zoning options. In 2014, the Council adopted a resolution establishing the intent to adopt a commercial linkage fee program, under which fee levels be based on nexus studies of the impact of new jobs on affordable housing demand.

The following year, Seattle's Mayor and a group of stakeholders announced a framework for a citywide mandatory affordable housing program for commercial and residential developments. This provided a starting point for formal framework legislation and subsequent implementing re-zones, some of which were already in the planning phase. To ensure the application of the program in all multifamily and commercial zones, the city then undertook a major effort to re-zone all of its growth areas, completing the process in 2019.

Under the new Mandatory Housing Affordability ("MHA") program, affordability requirements vary by zone, with the lowest set-asides in Downtown and South Lake Union, and set-asides between 5-11% in most other neighborhoods, depending on the type of market area (low, medium or high cost) and the scale of the up-zone that was provided. Income levels are set at 60% AMI for rental units (40% AMI for micro units), and 80% AMI for ownership units. To date, the average set-aside percentage in projects that have provided units on-site is 7% of the total units. The city does not allow MHA units to overlap with units provided under its MFTE program, which continues to be well-utilized.

Under MHA, developers still have the option of paying a fee in lieu of performance, and this continues to be the preference of most developers. Fee levels vary widely depending on the zone, with fees applied to the total gross floor area (with some exemptions). This is a key distinction from the prior incentive zoning, which applied fees only to "bonus" square footage above a "base" allowed under the maximum FAR and/or height in the zone.

Compared with previous voluntary programs, the city is generating significantly greater affordable housing outcomes, as shown in the chart below.

Year	MHA On-Site Units	Residential Payments	Commercial Payments
2017	15	$37,949	$62,856
2018		$13,245,917	$16,124
2019	54	$12,480,115	$3,140,051
2020	20	$59,069,931	$7,935,448
2021	107	$73,577,686	$5,933,837
2022 YTD	49	$42,903,413	$8,767,725
Grand Total	**245**	**$201,315,012**	**$25,856,041**

Seattle has a long history of investing public funds into affordable housing, with voter-approved levies for housing going back to 1981. MHA payments have allowed the city to significantly increase its investments in all types of affordable housing, including rental and for-sale projects, and new partnerships with for-profit developers. In 2021, the city awarded $57 million in MHA funds to projects that will contain roughly 1,000 affordable units. The year before, the city awarded $53 million in MHA funds to the development of over 700 affordable units.