Research Protocol for Local Inclusionary Zoning Laws

Prepared by the Cook County Department of Public Health

December 2018
RESEARCH PROTOCOL
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Local Inclusionary Zoning Laws

I. Date of Protocol: July 2019

II. Scope: Collect, code and analyze municipal laws regulating inclusionary zoning. Inclusionary zoning laws mandate developers to create affordable housing if they are building a new development, and identify criteria, such as development size and type for when the affordable housing units are required, as well as allowable alternatives (e.g. land dedication), and criteria for tenants, among other elements. This dataset captures important features of inclusionary zoning laws in effect as of December 1, 2018. Three of the jurisdictions selected for measurement were from Northern Illinois, where the research team was based, and jurisdictions that had been identified as having model policies by national housing experts were also included. The jurisdictions include: Boulder, CO; Burlington, VT; Cambridge, MA; Evanston, IL; Irvine, CA; Highland Park, IL; Lake Forest, IL; San Diego, CA; Santa Fe, NM; and Stamford, CT.

III. Primary Data Collection

   a. Project dates: March 2018 – July 2019

   b. Dates covered in the dataset: Cross-sectional dataset valid through December 1, 2018. The effective date listed for each jurisdiction is the date of the most recent version of the regulation within that municipality.

   c. Data Collection Methods: The staff from Cook County Department of Public Health who built this dataset consisted of two researchers (Researchers) and one supervisor (Supervisor). The 10 total jurisdictions were chosen for their inclusion in best practice documents or due to their origins in the Chicagoland metropolitan region. Four policies (from Boulder, CO; Cambridge, MA; San Diego, CA; and Santa Fe, NM) were included in PolicyLink’s Equitable Development Toolkit. Three policies (Stamford, CT; Irvine, CA; Burlington, VT) were included in a Lincoln Institute of Land Policy report that was suggested as a reference to Cook County Department of Public Health by housing experts at the Chicago Metropolitan Agency for Planning (CMAP). The three local inclusionary zoning policies (Evanston, IL; Lake Forest, IL; Highland Park, IL) were featured in the Metropolitan Planning Council’s Home Grown website, a collection of case studies on housing policies and programs from the Chicagoland area.

   d. Databases Used: Research was conducted using resources from PolicyLink, the Lincoln Institute, and the Metropolitan Planning Council.
i. Full text versions of the laws collected were collected by searching for each municipality’s name and "inclusionary zoning" or "inclusionary zoning policy."

e. Search Terms:
   i. Once all the relevant statutes and regulations were identified for a jurisdiction, a Master Sheet was created for each jurisdiction. The Master Sheet for each jurisdiction includes the most recent statutory history for each statute and regulation. The most recent effective dates, or the date when a version of law or regulation becomes enforceable, were recorded for each relevant statute and regulation.
   ii. All jurisdictions were 100% independently, redundantly researched and coded to confirm that all relevant law were collected by the Researchers are accurate to date.
   iii. Divergences, or differences between the original research and redundant research, were reviewed by the Supervisor and resolved by the Team.

f. Initial Returns and Additional Inclusion or Exclusion Criteria:

   i. The following variables were included in the inclusionary zoning dataset based on key variables identified by the Chicago Metropolitan Agency for Planning in a 2008 Strategy Paper and in the research and gray literature.
      • Year the policy was adopted
      • Whether the policy was mandatory
      • Required set-aside
      • Alternatives to the set-aside
      • Development size threshold
      • Types of new development the policies applied to
      • Developer incentives
      • Preferences for those living in affordable housing units
      • Period of affordability for rentals and owner-owned units
      • Requirements for unit-size ratios
   ii. The following variables were excluded in the inclusionary zoning dataset:
      • Administration of the affordable housing program
      • Requirements for affordable housing units to have equal internal finishes as market-rate units.
      • Affordable housing preferences given to groups of people other than eligible people living in the municipality or eligible seniors.
IV. Coding

a. Development of Coding Scheme: The Team conceptualized coding questions, and then circulated them to legal epidemiology experts for review. When the questions were finalized, the Team entered them into MonQcle, a web-based software-coding platform.

b. Coding methods: Below are specific rules used when coding the questions and responses in the local inclusionary zoning laws dataset:

**Question:** “Does the municipality have an inclusionary zoning policy?”
- Municipalities were coded as “Yes” if there was a law or regulation that imposed requirements on developers to create affordable housing.

**Question:** “When was the policy adopted?”
- The year of the policy adoption, as noted on the policy, was recorded.

**Question:** “Is the policy mandatory for developers?”
- Municipalities were coded as “Yes” if the law that imposed requirements on developers to create affordable housing was mandatory for developers.
- Municipalities were coded “No” if the following the law was optional or voluntary for developers.

**Question:** “What is the required set-aside?”
- Where the law required 5% of all units in a new development to be affordable housing units, “5%” was coded. Set-asides that applied retroactively were not included. In jurisdictions that prescribed different set asides, such as for units in transit-oriented development (TOD) versus those that were not in TOD areas, or for rented versus owned units, multiple percentages were coded and noted in the caution note.
- Where the law required 10% of all units in a new development to be affordable housing units, “10%” was coded. Set-asides that applied retroactively were not included. In jurisdictions that prescribed different set asides, such as for units in transit-oriented development (TOD) versus those that were not in TOD areas, or for rented versus owned units, multiple percentages were coded and noted in the caution note.
- Where the law required 15% of all units in a new development to be affordable housing units, “15%” was coded. Set-asides that applied retroactively were not included. In jurisdictions that prescribed different set asides, such as for units in transit-oriented development (TOD) versus those that were not in TOD areas, or for rented versus owned units, multiple percentages were coded and noted in the caution note.
- Where the law required 20% of all units in a new development to be affordable housing units, “20%” was coded. Set-asides that applied retroactively were not included. In jurisdictions that prescribed different set asides, such as for units in transit-oriented development (TOD) versus
those that were not in TOD areas, or for rented versus owned units, multiple percentages were coded and noted in the caution note.

- Where the law required 25% of all units in a new development to be affordable housing units, “25%” was coded. Set-asides that applied retroactively were not included. In jurisdictions that prescribed different set asides, such as for units in transit-oriented development (TOD) versus those that were not in TOD areas, or for rented versus owned units, multiple percentages were coded and noted in the caution note.
- If the policy did not state a set-aside, then “Not stated” was coded.

**Question:** “Are alternatives to the set-aside allowed?”

- Municipalities were coded as “Yes” if the law that allowed developers alternatives, such as a fee-in-lieu, land dedication, the construction or provision of off-site units, or an alternative proposal, as an alternative to constructing affordable housing units in a new development.
- Municipalities were coded “No” if alternatives were not mentioned or explicitly forbidden.

**Question:** “What alternatives are allowed for the set-aside?”

- Where the law allowed for a fee-in-lieu as an alternative to construction of units within a development, “Fee-in-lieu” was coded.
- Where the law allowed for the creation of affordable housing in off-site units separate from the new development as an alternative to construction of units within a development, “Off-site units” was coded.
- Where the law allowed for a land dedication as an alternative to construction of units within a development, “Land dedication” was coded.
- Where the law allowed for an alternative proposal to construction of units within a development, “Alternative proposal” was coded.

**Question:** “What is the fee-in-lieu of used for?”

- Where the law allowed for a fee-in-lieu as an alternative to construction of units within a development, and that fee-in-lieu was specifically designated to a fund that supported the creation or maintenance of affordable housing “Affordable Housing Fund” was coded.
- If the law did not explicitly state if the fee-in-lieu would be contributed to an Affordable Housing Fund, then “Not stated” was coded.

**Question:** “Are off-site units required to have equal community amenities?”

- Where the law required off-site units as an alternative to construction of units within a development, but did not require that those off-site units provide equal community amenities to the new development that was being constructed “No” was coded.

**Question:** “What is the development size threshold?”

- Where the law required that developments with between zero and four housing units fall under the affordable housing requirements, “0-4” was
coded. Voluntary thresholds were not coded for. For municipalities that identified multiple thresholds for different development types, such as developments in transit-oriented development areas, each range was coded.

- Where the law required that developments between five and nine housing units fall under the affordable housing requirements, “5-9” was coded. Voluntary thresholds were not coded for. For municipalities that identified multiple thresholds for different development types, such as developments in transit-oriented development areas, each range was coded.

- Where the law required that developments with 10 to 49 housing units fall under the affordable housing requirements, “10 or more units” was coded. Voluntary thresholds were not coded for. For municipalities that identified multiple thresholds for different development types, such as developments in transit-oriented development areas, each range was coded.

- Where the law required that developments with 50 or more housing units fall under the affordable housing requirements, “50 or more units” was coded. Voluntary thresholds were not coded for. For municipalities that identified multiple thresholds for different development types, such as developments in transit-oriented development areas, each range was coded.

- When the law did not state the development threshold, then “Not stated” was coded.

**Question:** “What types of new development fall under the policy?”

- Where the law required that residential developments fall under the affordable housing requirements, “Residential” was coded.

- Where the law required that mixed-use developments fall under the affordable housing requirements, “Mixed-use” was coded. Policies that used language such as “at least one non-residential use” were considered to be referring to mixed-use developments.

**Question:** “What is the income requirement for rental units?”

- Where the law stated that the upper limit for the income target for owned units of affordable housing was up to and including 65% of some measure of the area’s median income, “Up to 65% median income” was coded.

- Where the law stated that the upper limit for the income target for owned units of affordable housing was up to and including 80% of some measure of the area’s median income, “Up to 80% median income” was coded.

- Where the law stated that the upper limit for the income target for owned units of affordable housing was up to and including 120% of some measure of the area’s median income, “Up to 120% median income” was coded.

- Where the law stated that the upper limit for the income target for owned units of affordable housing was up to and including 150% of some
measure of the area’s median income, “Up to 150% median income” was coded.

- Where the law did not state an income target for owned units of affordable housing, “Income targets for rental units not specified in the law” was coded.

Question: “What is the income requirement for owned units?”

- Where the law stated that the upper limit for the income target for rented units of affordable housing was up to and including 75% of some measure of the area’s median income, “Up to 75% median income” was coded.
- Where the law stated that the upper limit for the income target for rented units of affordable housing was up to and including 100% of some measure of the area’s median income, “Up to 100% median income” was coded.
- Where the law stated that the upper limit for the income target for rented units of affordable housing was up to and including 120% of some measure of the area’s median income, “Up to 120% median income” was coded.
- Where the law stated that the upper limit for the income target for rented units of affordable housing was up to and including 150% of some measure of the area’s median income, “Up to 150% median income” was coded.
- Where the law did not state an income target for owned units of affordable housing, “Income targets for owned units not specified in the law” was coded.

Question: “What types of developer incentives are offered?”

- Where the law identified developer incentives for complying with the law, and specifically identified a density bonus as an incentive, “Density bonus” was coded.
- Where the law identified developer incentives for complying with the law, and specifically identified a reduction of permitting and processing fees as an incentive, “Fee reduction” was coded.
- Where the law identified developer incentives for complying with the law, and specifically identified reductions in the amount of required parking as an incentive, “Parking bonus” was coded.
- Where the law identified developer incentives for complying with the law, and specifically identified an expedited permitting process as an incentive, “Expedited process” was coded.
- Where the law identified developer incentives for complying with the law, and specifically identified the creation of non-residential units as an incentive, “Creation of non-residential units” was coded.
- Where the law identified developer incentives for complying with the law, and specifically identified the credits for the developer to use in other developments as an incentive, “Credits” was coded.
 Where the law did not identify incentives for developers, “None” was coded.

**Question:** “What is the period of affordability for rental units?”

- Where the law stated that rental units must be maintained as affordable housing units for ten years after it was designated as affordable housing before they are converted to market-rate units, “10” was coded.
- Where the law stated that rental units must be maintained as affordable housing units between 11 and 25 years after it was designated as affordable housing before they are converted to market-rate units, “11-25” was coded.
- Where the law stated that rental units must be maintained as affordable housing units for 30 years after it was designated as affordable housing before they are converted to market-rate units, “30” was coded.
- Where the law stated that rental units must be maintained as affordable housing units for 55 years after it was designated as affordable housing before they are converted to market-rate units, “55” was coded.
- Where the law stated that rental units must be maintained as affordable housing units for 99 years after it was designated as affordable housing before they are converted to market-rate units, “99” was coded.
- When law stated that rental units must always or permanently be maintained as affordable housing units, or that stated that rental units must be maintained “in perpetuity” as affordable housing units, they were coded as “In perpetuity”.

**Question:** “What is the period of affordability for owned units?”

- Where the law stated that owned units must be maintained as affordable housing units for 99 years after it was designated as affordable housing before they are sold as market-rate units, “99” was coded.
- Where the law stated that owned units must always be maintained as affordable housing units, “In perpetuity” was coded.

**Question:** “Are there preferences given for who can live in the affordable housing units?”

- Where the law gave preference to eligible individuals living in the municipality that the inclusionary zoning policy applied to, “Yes, people living in the municipality” was coded.
- Where the law gave preference to people working in the municipality, “Yes, people working in the municipality” was coded.
- Where the law gave preference to people working in specific professions, “Yes, specific professions” was coded.
- Where the law gave preference to eligible seniors or older adults, “Yes, seniors” was coded.
- Where the law did not give preference to any specific group, “No” was coded.

**Question:** “Is a different ratio of affordable unit sizes allowed?”
• Where the law required that the ratio of affordable unit sizes (i.e. the provision of single, 1-bedroom, and 2-bedroom units) be equal to the market-rate housing, “Yes” was coded.
• Where the law did not require that the ratio of affordable unit sizes be equal to the market-rate housing, “No” was coded.

V. Quality Control

a. Quality Control – Coding

i. Original coding: Quality control of the original coding consisted of the Supervisor exporting the data into a Microsoft Excel document each day the Researchers completed coding to examine the data for any missing entries, citations, and caution notes.

ii. Redundant coding: The redundant coding process is 100% independent, redundant coding by two Researchers of each jurisdiction. Redundant coding means that each jurisdiction (a record) is assigned and coded independently by the two Researchers. Divergences, or differences between the original coding and redundant coding, are resolved through consultation and discussion between Researchers and Supervisor.

Quality control of the redundant coding consisted of the Supervisor exporting the data into a Microsoft Excel document each day the Researchers completed redundant coding to calculate divergence rates. 100% of the records were redundantly coded throughout the life of the project.

After coding the first five jurisdictions (Batch 1), the rate of divergence was 23.2% on November 28, 2019. A coding review meeting was held and the team identified how to consistently code for different situations. All divergences were resolved.

After coding the second five jurisdictions (Batch 2), the rate of divergence was 15.7% on June 26, 2019. A coding review meeting was held and the team identified how to consistently code for different situations. All divergences were resolved.

iii. Final data check: Once all of the coding and quality control was completed, the Researchers checked the final coding results. Prior to publication, the Supervisor downloaded all coding data into Microsoft Excel to do a final review of coding answers, statutory and regulatory citations, and caution notes. All unnecessary caution notes were deleted, and all necessary caution notes were edited for publication.