

Overlay and Form-based Zoning

Overlay Zoning

What is it:

Housing overlay zones (HOZs) are added layers on top of existing zoning ordinances that provide incentives for developers to build housing, particularly affordable housing, within specific districts.

How does an overlay zone system work?

In essence, an overlay zone ‘floats over’ over existing, designated zone(s) on the zoning map and affixes to a specific parcel only if a developer met certain conditions. For example, a sample city’s AHOZ program might look like this: Single-family zoning standards would apply to all parcels within a designated ‘single-family zone’ and would only allow single-family residences to be built at a set intensity level, *unless* a developer proposed a 100% affordable housing project on a specific development site.

Overlay zones may include a variety of incentives to developers to include affordable units in their projects, such as:

- Increased density bonus
- Increased allowable heights.
- Lower parking requirements
- By-right zoning or administrative project approval
- Streamlined permitting.
- Allowing housing in locations not zoned for residential uses.
- Impact fee waivers
- Lower parking requirements

In locations where the zoning doesn’t allow residential development, HOZs can enable housing construction while avoiding the lengthy process of amending a general plan. A key benefit of overlay zones is that they offer developers flexibility in developing more housing while reducing development costs, without imposing significant costs on the jurisdiction.

Pros:

- Allows significant zoning flexibility to accommodate current needs more appropriately in areas with out-of-date zoning laws.
- Allows for local control of design and construction decisions, permitting each community to tailor their efforts to meet the specific needs of their community.
- Promotes infill development, conserving resources.

Cons:

- May be difficult to pass because of NIMBYism and other local barriers.
- There can be significant up-front costs to state and local jurisdictions.
- Does not necessarily create affordable housing.

Examples:

1. Cambridge, Massachusetts has been struggling to effectively address the issue of affordable housing. To provide an incentive for affordable housing developers, Cambridge adopted an AHOZ in 2020 which allows more density, greater height, and faster administrative approval for housing projects that provide 100% of their housing units at below-market rates. Since the adoption of the Cambridge AHOZ provisions, there are now over 350 affordable units, either constructed or in the development pipeline.
2. Nashville, TN uses Urban Zoning Overlay Districts (UZO) to accomplish a number of goals, one of which includes an affordable housing requirement. To encourage residential development, several districts within the city permit a floor area bonus for mixed-use buildings in which at least 25 percent of the space is for residential use. Affordable units must be included to receive the bonus if the building has more than 10 living units.

References

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Form-Based Codes

What is it? Codes that regulate the size and shape of buildings rather than use.

How do form-based codes work? A form-based code focuses on how development relates to the context of the surrounding community, especially the relationships between buildings and the street, pedestrians and vehicles, and public and private spaces. The code addresses these concerns by regulating site design, circulation, and overall building form.

The code will address topics such as height of the building, lot coverage, density, building types, frontage, and parking.

Three types of form-based codes:

Community-wide/City-wide Form-Based Code: This type of form-based code replaces a conventional zoning code. Several major cities, including Miami, Florida and Denver, Colorado, have completely replaced their conventional zoning codes with a form-based hybrid code.

Parallel Code (Form-Based Code as an Option to Conventional Code): Some communities have developed a form-based code as an alternative option to conventional codes. Arlington County, Virginia and King County, Washington are two such communities that have adopted this type of zoning approach.

Area Specific Form-Based Codes: Many communities have chosen to adopt area-specific form-based codes that apply to only limited areas. They can exist as a permanent code, operating much like an overlay zone. Montgomery County, Maryland uses this type of code for the Columbia Pike Neighborhood.

Three elements of form-based codes can be directly connected to affordable housing development:

- 1) promoting designs that lead to successful housing.
- 2) its ability to work in tandem with housing ordinances; and
- 3) its ability to integrate built environment elements that are connected with sustainability, alternative modes of transportation, and community development

Examples:

1. Montgomery, AL:

The city's regulations made development/redevelopment very difficult within the downtown district. In 2006, the city passed a form-based floating overlay and then in 2014 Montgomery passed a city-wide form-based code to encourage new development.

2. New Town St. Charles, MO:

The city planned to develop a 726-acre lot. They wanted to put different types of affordable housing on the lot. Form based codes replaced previous codes. The code was prepared to fit the extensive analysis of historic patterns in the region.

This development is over 50 percent built-out. The built results range from carriage houses, detached houses, and rowhouses to mews units along a pedestrian passage, small- and medium-sized multifamily buildings, and Main Street buildings that include housing.

3. Iowa City, IA:

The city purchased a 70 acre lot in 1995 to protect the water supply and provide affordable housing. The plan was for 340 units and building types ranging from small-to-large houses, duplexes, up to small and large apartment buildings and live-work/ Main Street buildings. ADUs are allowed by-right but require that the owner of the primary house occupy one of the units.

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