

ZONING FOR AFFORDABLE HOUSING

Overlay Zoning Districts

Strategy description

Overlay zoning districts are created to promote certain types of development in an area. New zoning provisions are adopted that apply in the district in addition to the provisions of the already-existing zoning ordinance. The provisions of an overlay district can be more restrictive or more expansive than those contained in the underlying zoning. For example, the overlay district may provide zoning incentives and waivers to encourage affordable housing development.

Target population

The target population can depend on the specific intended result of an overlay zoning district. Overall, however, an overlay zoning district seeks to improve the well-being of all the residents and other property owners that live or work within the district. Overlay zoning districts that specifically seek to address affordable housing needs target those seeking affordable housing opportunities.

How the strategy is administered

Overlay zoning districts are passed and administered on a town-by-town basis. While the state may promote their use, oversee their implementation on a statewide level, and provide funding, each local jurisdiction is ultimately responsible for their passage and for specific design and implementation efforts. State and local governments may provide other incentives, such as density bonuses, infrastructure financing assistance, and assistance with public education costs.

How the strategy is funded

Prior to enacting an overlay zoning district in a given community, the state or local jurisdiction will likely need to provide funding for outreach and planning to communities interested in using the strategy. Funding for specific projects once an overlay zoning district is passed will be provided by the developer as usual. However, the state or local jurisdiction may also provide a source of funding for infrastructure development within the overlay zoning district.

Extent of use of the strategy

Overlay zoning districts are widely used throughout the country. However, a large number of such districts do not appear to include promotion of affordable housing as a goal.

Locations where the strategy is being used

- In Massachusetts, overlay zoning districts are used in a number of locations that allow mixed-use development, with a density for apartment buildings of at least 20 units per acre and for single-family homes of at least eight per acre.

- 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, a number of 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.

Strategy results

Massachusetts' Overlay Zoning District program is expected to result in the construction of 33,000 new housing units – both market rate and affordable – within the Overlay Zoning Districts between 2003 and 2013. The program offers school reimbursement incentives to help offset the increased cost of education within the OZD communities.

Pros and cons to using the strategy

Pros:

- Allows significant zoning flexibility to more appropriately accommodate current needs 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.

Sources of information about the strategy

- “Building on Our Heritage: A Housing Strategy For Smart Growth and Economic Development,” a publication of the Commonwealth Housing Task Force from The Center for Urban and Regional Policy at Northeastern University, October, 2003. Available at: <http://www.tbf.org/uploadedFiles/HousingReport.pdf>
- Metropolitan Government of Nashville & Davidson County website: http://www.nashville.org/mpc/uzod_adopt6.htm

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Affordable Housing Districts

Strategy description

Affordable housing districts are areas targeted for affordable housing development. Within these areas, special zoning rules encourage a variety of housing types and allow for greater densities in order to maximize the number of units produced. Affordable housing districts can also include financial incentives to owners of rental property and homeowners, such as tax breaks, waivers or amortization of fees, and deferrals on special assessments.

Target population

Targets low- and moderate-income renters and homebuyers in areas that have limited affordable housing or where the cost of developing it is high.

How the strategy is administered

Local governments designate a specific area as an Affordable Housing District. Incentives are provided to developers for building affordable housing within the district.

How the strategy is funded

No additional funding is required to establish the district; developers who construct the new affordable housing units may receive property tax concessions and other incentives funded with general revenues.

Extent of use of the strategy

Limited use.

Locations where the strategy is being used

- Grand Forks, ND first established affordable housing districts in 2002. In exchange for special concessions on tax assessments and land standards, developers in these areas agree to build higher density, smaller entry-level homes.
- Corte Madera, CA created an affordable housing mixed-use district that tripled density and required at least 50 percent of units to be affordable. The district now includes a 79-unit affordable housing project, several mixed-income projects, and accessory dwelling units.

Strategy results

- Prior to Grand Forks' efforts to establish affordable housing districts, only 14 affordable units were built in the entire city. Since 2002, of the 106 homes built in the affordable housing districts, over 57 percent meet affordable housing target prices.¹⁹

Pros and cons to using the strategy

Pros:

- Reduced zoning restrictions provide incentives for developers to build affordable housing.
- Promotes infill development and increased density, both of which conserve land and resources.
- The application process for developers seeking zoning variances is generally more relaxed and flexible.

Cons:

- It may be hard to win support of residents of communities where there currently is little affordable housing.

Sources of information about the strategy

- “Sample Affordable Housing District Regulations,” Urban Planning Associates Inc., Little Rock, AR, September 2003. Available at: http://www.planyourcity.com/Man_Housing3.pdf
- “Central Florida Workforce Housing Toolkit,” Orange County (FL) Government website. Available at: <http://www.orangecountyfl.net/cms/WorkforceHousing/default.htm>

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Changes in Zoning to Encourage Affordable Housing

Strategy description

Exclusionary zoning regulations create barriers to the development of a diverse housing stock in many communities. A variety of zoning changes can be used to create more opportunities for affordable housing. Some of these include:

Providing a range of lot sizes to allow a variety of housing types

- Minimum-density requirements, so that land zoned for multifamily housing cannot be developed as single-family housing
- Zoning for multifamily housing, accessory dwelling units, and live/work units
- Rezoning underutilized industrial and/or commercial areas for residential use. Many cities have seen a decline in manufacturing and other types of industrial uses that are not likely to return and have a limited supply of land for housing, but have not rezoned land to reflect this new reality.
- Eliminating or reducing minimum lot sizes, buffer requirements, square footage and setback requirements, and restrictions of the number of units in a single building
- Eliminating septic and wetlands requirements that are more stringent than state requirements
- Reducing parking requirements for affordable housing developments, particularly those near public transportation
- Revising zoning rules that discourage affordable housing development to prohibit “*undue* adverse impacts” instead of “adverse impacts” on current property owners
- Using unified codes that eliminate separate subdivision requirements
- Avoiding broad interpretations of zoning rules that prohibit development that “changes the character of an area.” Such rules are sometimes interpreted to mean that all denser housing types are prohibited.

History of the strategy

Zoning that discourages affordable housing development has been used in towns and cities for decades. For example, the 1975 New Jersey Supreme Court’s decision in the *Mount Laurel* case specifically recognized that zoning rules were being used to exclude affordable housing. Changes in zoning to reverse exclusionary effects of zoning have been used as a strategy to encourage affordable housing for almost as long.

Target population

- Changes in zoning target different populations, depending on the specific zoning change. Some reduce barriers to multifamily development, targeting primarily renters; most target homebuyers at all income levels.

How the strategy is administered

Community stakeholders, including developers, local business owners, landowners, affordable housing advocates, and others may all petition for or advocate for zoning changes. A legislative body must pass the changes, whether that is a planning commission or a local government.

How the strategy is funded

No funding is necessary other than for enforcing new zoning codes.

Extent of use of the strategy

- Zoning changes are widely used to promote increased development of affordable housing.

Locations where the strategy is being used

- The city of Fremont, CA established a multifamily zone to encourage multifamily developments in the city. Among other incentives, the city offers reduced minimum lot setbacks, reduced increased maximum lot coverage, reduced on-site parking standards, and reduced minimum street widths.
- By enacting zoning policies that support a diversity of housing types, Cambridge, MA accommodates mixed-income developments such as Auburn Court. The development includes a mix of one-, two- and three-bedroom units, flats and duplexes for a total of 137 housing units.
- Cincinnati, OH revised its zoning code to allow 2,000 and 4,000 square foot lots in older neighborhoods. It also reduced requirements for side yards and setbacks.

Pros and cons to using the strategy

Pros:

- Reduces costs of building residential housing generally by permitting more efficient use of land.
- Improves diversity of the housing stock, creating units affordable to households at a range of incomes.
- Smaller lots and more dense development help protect environmentally sensitive areas that might have otherwise been used for development.
- May reduce transportation costs because residents may have shorter commutes and live closer to other amenities.

Cons:

- Changes in zoning can require a lengthy process.
- Zoning changes can meet strong resistance from local homeowners who fear that a change would drive property values down, or change the make-up of the community, or negatively affect community services.

Sources of information about the strategy

- Lubell, Jeffrey, “Increasing the Availability of Affordable Homes: A Handbook of High-Impact State and Local Solutions,” prepared by the Center for Housing Policy, 2006. Available at: http://www.nhc.org/pdf/pub_hwf_solutions_01_07.pdf
- “Developing Affordable Housing,” City of Fremont, CA website: <http://www.ci.fremont.ca.us/Construction/DevelopAffordableHousing/default.htm>
- “Toolkit for Affordable Housing Development,” developed by the Washington Area Housing Partnership, 2005. Available at: <http://www.mwcog.org/uploads/pub-documents/9VpbXg20060217144716.pdf>
- Gerrit Knaap, Stuart Meck, Terry Moore, and Robert Parker, “Zoning as a Barrier to Multifamily Housing Development,” American Planning Association Planning Advisory Service Report 548, 2007.

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