

Factsheet: Housing Overlay Zones

I. What is a Housing Overlay Zone?

Housing Overlay Zones (HOZs) provide a package of incentives to developers who include in their projects homes that people can afford. Based on carrots rather than sticks, HOZs encourage production of affordable homes rather than requiring it. They are called “overlay” zones because they layer on top of established base zoning regulations, leaving in place opportunities for property owners to develop within these existing rules. Rather than imposing restrictions, HOZs present developers with more choices by offering additional benefits to projects that increase the supply of homes that people can afford.

HOZ incentives may include increased density, relaxed height limits, reduced parking requirements, fast-tracked permitting, and exemptions from mixed-use requirements. HOZs may also permit residential construction in zones otherwise restricted to commercial uses. In order to qualify for these incentives, developments must include a certain percentage of homes for lower income households, generally between 25% and 100% of the units.

Ultimately, **the more valuable the developer incentives included in a Housing Overlay Zone, the more effective the HOZ will be in encouraging production of homes that people can afford.** Desirable incentives both motivate developers to take advantage of the HOZ, and reduce development costs to allow construction of more affordable homes. Because zoning decisions have financial value to developers but do not require direct city expenditure, HOZs can create value, which can be used to build more affordable homes without relying on either public or private dollars.

II. What can a Housing Overlay Zone Accomplish?

Housing Overlay Zones can benefit communities, local governments, land owners, and developers. They can:

- Facilitate the development of affordable homes without added financial costs to governments or developers;
- Be tailored for individual jurisdictions, to meet their local needs;
- Provide entry into competitive real estate markets for non-profit developers;
- Ensure clarity and predictability of development standards and processes for both the community and developers;
- Encourage use of scarce land resources to better meet community needs;
- Expand the amount of land available for homes people can afford.

To achieve these goals, HOZ policies are centered around four basic parameters that can be customized to best fit local needs: (1) the **geographic scope** of applicability; (2) baseline **affordability qualifications** for developments to access HOZ incentives; (3) **incentives** given to qualified developments; and (4) the extent of **exemptions from discretionary project-level**

approvals. Determining the most effective balance of these factors will depend on work by local communities; however, in general, more effective HOZs will have broad geographic applicability including in lower-density or commercial zones, meaningful affordability qualifications, valuable incentives, and reliable exemptions from discretionary approvals.

III. Housing Overlay Zone FAQs

Have HOZs been implemented before or are we going out on a limb?

At least seven jurisdictions in California have implemented HOZ policies. In Corte Madera, one of the earliest to adopt, the HOZ policy has already led to a high-quality family apartment complex near jobs and transportation.

Have HOZs been successful in producing affordable housing?

While HOZs are still gaining in popularity, they have already produced homes that people can afford. In Corte Madera, for example, EAH Housing relied on HOZ incentives for a 79-unit family development that opened in 2007.

Won't land owners object if their property is rezoned for affordable housing?

HOZs do not involve *re-zoning* of land. Rather, they create an additional set of development options that land owners can choose to exercise at their discretion. Because existing zoning is left untouched, HOZs do not change existing development opportunities.

Doesn't California's Density Bonus Law already provide incentives for the construction of affordable homes?

California's Density Bonus Law provides for minimum incentives to encourage production of homes that people can afford, but HOZs can provide far greater incentives, as to the number, type and scope of incentives offered. They can offer density bonuses exceeding those provided through the Density Bonus Law, include other incentives such as parking reductions or fast track permitting, and set forth policies such as by-right development. They also create more certainty for developers by providing a full set of incentives at the same time and establishing local commitments to encourage specific types of housing.

Didn't the California courts limit the ability of local governments to require developers to build affordable homes? How is an HOZ different from an Inclusionary Housing requirement?

Two 2009 Court of Appeal cases shed doubt on Inclusionary Housing and in lieu fees related to rental housing. HOZs avoid the pitfalls of these cases because they do not *require* the production of affordable rental homes or payment of fees, as Inclusionary Housing policies do. Instead, HOZs offer incentives that developers can earn in exchange for producing this needed housing. Of course there is no need to choose one or another: HOZ compliment Inclusionary Housing and other housing policies.

What does it take to make a HOZ successful?

Organizing, technical assistance, and political will are all necessary to ensure that a local HOZ becomes an effective tool for generating much needed homes that people from the local community can afford. Political buy-in and community support are also needed to make sure that the HOZ policy has incentives strong enough to lead to real results.