



# Planning Implementation Tools Overlay Zoning



Center for Land Use Education

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## TOOL DESCRIPTION

Overlay zoning is a regulatory tool that creates a special zoning district, placed over an existing base zone(s), which identifies special provisions in addition to those in the underlying base zone. (see Figure 1). The overlay district can share common boundaries with the base zone or cut across base zone boundaries. Regulations or incentives are attached to the overlay district to protect a specific resource or guide development within a special area.

## COMMON USES

### *Natural Resource Protection*

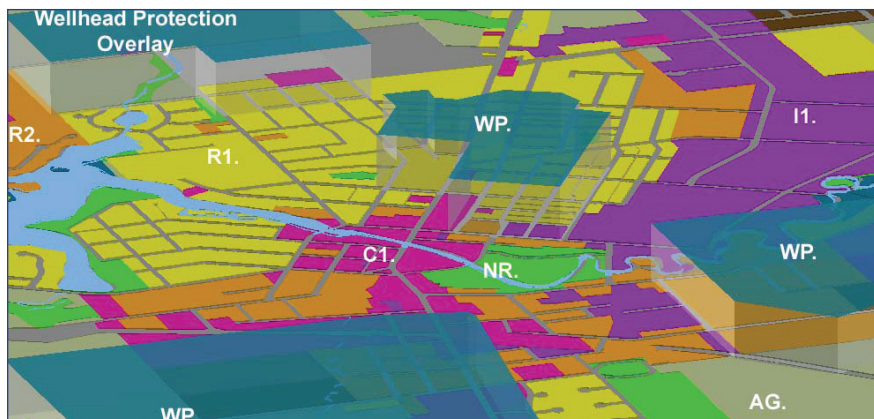
Overlay districts can manage development in or near environmentally sensitive areas, such as groundwater recharge areas (e.g. to ensure water quality and quantity), special habitat (e.g. species or feature protection) or floodplains (e.g. prevent flood damage). Common requirements may include building setbacks, density standards, lot sizes, impervious surface reduction and vegetation requirements. Structure requirements could include building floor height minimums and flood-proofing to high water level.

### *Development Guidance*

Overlay zones may also be applied to protect historical areas or encourage or discourage specific types of development. Land within the historic overlay district may be subject to requirements that protect the historical nature of the area (e.g. materials, façade design, or color). A community might use incentives along a transit corridor to encourage higher development densities, target uses or control appearance.

### *Potential Uses*

- ◆ Create a walkable community, connect pathways
- ◆ Preserve/enhance a special district
- ◆ Encourage economic development
- ◆ Preserve/enhance rural character
- ◆ Protect quality of surface water
- ◆ Protect groundwater quality and quantity
- ◆ Manage stormwater
- ◆ Preserve forestry integrity
- ◆ Preserve sensitive area/wildlife habitat
- ◆ Protect aesthetics of the natural environment
- ◆ Preserve farmlands



*Figure 1. A wellhead protection overlay has special provisions in addition to the requirements of the base municipal zones in order to protect nearby wells from contaminants*

## IMPLEMENTATION

### CREATION

Any governmental unit with the power to create zoning districts can create an overlay district. There are three basic steps to creating an overlay district:

- 1. Define the purpose of the district.** The district should have a clearly defined purpose e.g. to protect drinking water, preserve historical character, minimize erosion from storm water runoff, etc.
- 2. Identify the areas that make up the district.** Mapping district boundaries will depend on the natural or cultural resources and the geographic areas that relate to achieving the purpose of the district. For example, if the purpose of the zone is to protect groundwater, important groundwater recharge areas and areas prone to pollution, such as fractured bedrock or areas with a high groundwater table should be mapped..
- 3. Develop specific rules that apply to the identified district.** In a groundwater recharge district for example, provisions may restrict development or require development guidelines that capture and filter water runoff..

“When reviewing a project of any size in the overlay zone, it is important that the development be consistent not only with the goals and objectives of the overlay but with the long-term goals and strategies of the overall municipal comprehensive plan.”

It is critical that the zoning provisions offer clear guidance to both property owners and the governing body charged with approving proposals. Zoning requirements must be applied equally over all properties within the district. The ordinance not only must comply with any state and federal regulations, but must also be consistent with the goals, objectives, and policies of the municipality’s comprehensive plan.

It is important that the local governing body involve the public to clarify issues and explain the reasons behind mapping district boundaries. An educational program targeting developers and affected property owners will help increase awareness and compliance with the new requirements.

The procedures for adopting an overlay district are the same as for adopting a zoning or rezoning provision. The overlay provisions as well as changes to the zoning map must be approved by the local governing body for adoption.

### ADMINISTRATION

Consideration of the overlay district standards can be incorporated into the existing subdivision or site plan review process for large-scale residential developments and most commercial development. Because smaller-scale development will often require only a building permit, it may be necessary to include provisions for a streamlined form of site plan review for these projects. This review could be administered by a municipal board or commission or by a zoning administrator or building inspector. Long-term compliance can be addressed in the existing procedures for current zoning compliance.

## *Report Card: Overlay Zoning*

<b>Cost</b>	<b>Money or staff resources required to implement tool.</b>
<b>A</b>	Assuming a zoning ordinance currently exists, the cost to create the district should be similar to the potential cost to modify the existing ordinance. Little if any additional staff would be required to administer the new zoning provisions.
<b>Public Acceptance</b>	<b>The public's positive or negative perception of the tool.</b>
<b>B</b>	Zoning provisions for the overlay zone in addition to base zoning rules may be confusing to the public without some education.
<b>Political Acceptance</b>	<b>Politician's willingness to implement tool.</b>
<b>B</b>	Political willingness will depend upon the provisions within the ordinance.
<b>Equity</b>	<b>Fairness to stakeholders regarding who incurs costs and consequences.</b>
<b>B</b>	The tool can be perceived as fair if all properties within the zone are treated equally and the criteria for delineating the zone are straightforward and justified.
<b>Administration</b>	<b>Level of complexity to manage, maintain, enforce, and monitor the tool.</b>
<b>B</b>	An overlay district can be integrated into the administration of the existing zoning ordinance. An additional process may need to be established for small projects needing only a building permit. Reviewer training will be needed. A well-written ordinance and clear boundaries will simplify compliance.
<b>Scale</b>	<b>The geographic scale at which tool is best implemented.</b>
<b>Municipal to Regional</b>	The tool is most often implemented at a municipal or county scale. Wisconsin's shoreland zoning program is an example of statewide overlay zoning that is administered locally.

**GRADING EXPLANATION**

A - Excellent

B - Above Average

C - Average

D - Below Average

F - Failing

Comments and grades were derived from a Delphi process conducted with practicing planners and educators in 2005

## WISCONSIN EXAMPLES

### Town of Empire, Fond du Lac County

The Town of Empire, Fond du Lac County WI has developed a Critical Areas Overlay (CAO) District that minimizes development in areas prone to unwanted soil erosion and groundwater contamination, and on sites difficult to develop in a safe manner. It also preserves unique and valuable geologic and other natural resource features such as the Niagara Escarpment and woodland. The ordinance specifies a ridgeline buffer, lists prohibited uses, states grading restrictions for roads, requires vegetative screening of buildings on the ridge, preserves existing vegetation and significant rock outcroppings and limits impervious surface.

### City of Green Bay

The City of Green Bay WI has an Urban Parking Overlay District as part of its downtown redevelopment effort to encourage building reuse and infill. It allows structures to share parking areas and receive parking credit for available stalls within a given distance from a building..

### City of Oshkosh

The City of Oshkosh WI has a Highway 41 Corridor Overlay which applies to lots abutting frontage roads adjacent to the highway. It regulates building architecture, orientation and setbacks as well as landscaping, signage, utilities, waste storage and driveways.

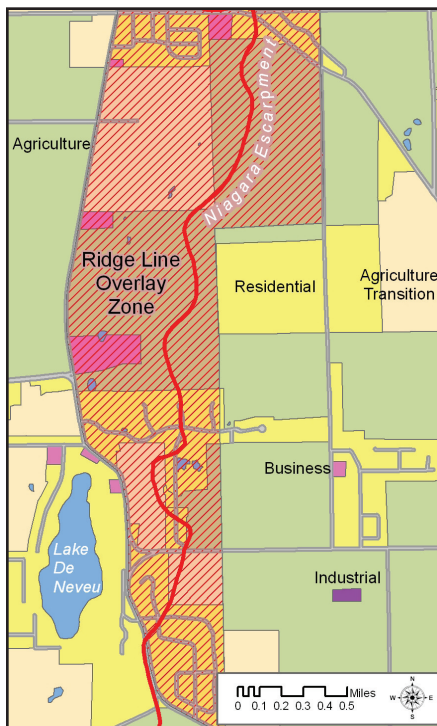


Figure 2. Town of Empire overlay zoning example

## FOR MORE INFORMATION

Gravin, Elizabeth (Summer 2001). "Making Use of Overlay Zones". Planning Commissioners Journal, Issue 43, 16-17.

Hoch, Charles J., Dalton, Linda S., & So Frank S. – editors, (2000). The Practice of Local Government Planning, 3rd edition. International City/County Management Association, Washington, D.C., pp 359-360.

Pace University Land Use Law Center, White Plains, NY. Overlay Zoning, SERIES III: Innovative Tools and Techniques, Issue Number 2. Available at <http://www.law.pace.edu/landuse/boverlay.html>

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