



Helping Communities face the challenges and impacts of growth while maintaining their character and sense of place.

Overlay Districts

iTRaC is the Nashua Regional Planning Commission's new approach to community planning that focuses on integrating transportation, land use and environmental planning. The program was developed to assist communities in dealing with the challenges of growth in a coordinated way that sustains community character and a sense of place.

What is an Overlay District?

Overlay districts are a land use planning tool used to create a special zoning "layer" placed on top of the base (primary) zoning district. The overlay district standards may supplement or supersede those of the underlying base zoning districts. Overlay districts may share common zoning boundaries, include or cross multiple zoning boundaries of the base districts, or may stand-alone where no underlying district exists in order to manage development or the character in particular areas of a community. Overlay districts fall into three general categories:

- ◆ Transportation
- ◆ Environmentally-sensitive areas
- ◆ Special development areas

How do Overlay Districts Work?

Overlay districts, like the underlying base zoning district, consist of a designated physical area (boundaries), that is accurately described in text (zoning ordinance), and visually depicted by mapped boundaries (zoning map).

One of the most common overlay districts is the Wetlands Conservation District. It typically spans the entire community. A definition of wetlands is provided, and those wetlands found within the community fall under the requirements of the wetlands overlay district. More stringent requirements regarding building setbacks, buffers, disturbance, and land uses, are just a few of the parameters that supersede the underlying base (primary) zoning district.

Another type of overlay district, that may only cover a small portion of the base zoning district, is a Tax Increment Financing District (TIFD). Milford has the "West Milford TIFD" covering 20 parcels. In this case, the overlay district supplements the underlying commercial-industrial zoning district. Parcels in the overlay district utilize an advisory board who promote development to expand infrastructure through incremental taxes as incentives to developers, while maintaining positive tax revenue for the community.

One of the considerations for adding complexity to zoning ordinances by utilizing overlay districts is administration. The Wetlands District example above is straight forward and easy for a planning board and code enforcement officer to administer. The TIFD District requires the appointment of a dedicated board and involves professional planning staff to administer.

AUTHORITY

RSA 674:16, Grant of Power

RSA 674:17, Purposes of Zoning Ordinances

RSA 674: 20, Districts

RSA 674:21, Innovative Land Use Controls

Zoning Overlay Districts (Purpose) must be consistent with the local master plan, and comply with other applicable Federal, State and local laws, regulations and rules.

Potential Overlay Districts

- Transportation Oriented Development (TOD)
- Airport / Railroad - Commuter Rail Corridors
- Floodplain / Wetland / Biological areas
- Aquifer / Wellhead / Source Water Protection
- River Corridor
- Wildlife Corridor
- Scenic Corridors, Vistas
- Agriculture - Farmland Protection
- Mixed-use Development
- Planned Unit Development (PUD)
- 55+ / Elderly Housing
- Conservation Open Space
- Workforce Housing
- Main Street
- Community Character



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Overlay Districts (continued)

Implementation

- ✓ **Define the purpose of the overlay district.**
A clear purpose should be defined such as; protect groundwater and quality; encourage economic development; or preserve sensitive areas and wildlife habitat. The purpose should be consistent with your master plan. Update the master plan if necessary.
- ✓ **Identify the areas of the community included in the district.**
Areas that make up the overlay district need to be clear to everyone. Textual and graphic representation of boundaries should match. The use of Geographic Information Systems (GIS) for mapping is recommended. Where local capability is limited, your regional planning commission (RPC) can provide mapping services.
- ✓ **Develop the standards that will apply to the overlay district.**
It is important to include the public to clarify issues and explain the reasons for the proposed ordinance. Reviewing model or existing overlay district ordinances is helpful and can save time and money by not "reinventing the wheel." Use the information already available and tailor it to your specific situation. A typical ordinance will include: Authority; Findings; Purpose; Definitions; Boundaries; Permitted/Prohibited Uses; and Exceptions. Standards vary with each purpose.
- ✓ **Finalize draft ordinance and proceed with adoption**
Town Counsel review of proposed ordinances is recommended. Follow the public hearing process leading to Town Meeting/Ballot, as adoption of ordinances is by the legislative body (Voters). See RSA 675:3, Method of Enactment... and RSA 675:6, Notice Requirements for Public Hearing.

Considerations

- ✓ Can the intended purpose be accomplished within the existing zoning structure? Weigh the benefits and potential impacts of amending existing language versus an additional ordinance.
- ✓ The public necessity, fairness to property owners, and impact on property values are generally the biggest concerns. Imposing higher standards or restricting land use on certain properties can raise equal protection and takings issues. Equal treatment and provisions for hardship (special exception or variance) lessens the chance of a court challenge.
- ✓ Multiple overlays can be confusing to land owners, developers and the general public. Be sure it is the best method to address the purpose. Education is helpful in understanding and gaining support for adoption at Town Meeting.
- ✓ Does the governmental body support the proposed overlay district and will there be a financial impact to administer the ordinance?
- ✓ A well written ordinance is easily understood, easier to administer, and reduces the likelihood for enforcement and compliance issues.



Source: <http://www.uwsp.edu/cnr/landcenter/pdffiles/implementation/OverlayZoning.pdf> (Note: Image best viewed in color.)

In the example above, the Wellhead Protection (WP) overlay is on top of the base zoning districts: Residential (R1, R2) Commercial (C1); Industrial (I1); Agricultural (AG); Non Residential (NR)

