ZONING

Conventional (Euclidean) Zoning & Development Standards
Conventional (Euclidean) zoning has long been viewed as a means of promoting the “health, safety, and general welfare” by separating hazardous, harmful or otherwise noxious land uses from areas where people live. Permitted uses listed within each conventional zoning district are considered compatible with each other by definition in terms of use type and intensity. By categorizing and mapping compatible land uses into residential, commercial, industrial, and agricultural districts, the separation of generally incompatible land uses such as heavy industrial from residential was achieved. However, Euclidean zoning and other development regulations have evolved to limit or prohibit the reuse of older structures for compatible land uses, and ensure that any new development will be suburban, or isolated, in character.

In response to the changing real estate market, driven by changes in economic, social, cultural, and environmental values and conditions, many property owners over time have proposed zoning amendments to suit specific and immediate expectations. When faced with numerous requests for zoning changes, jurisdictions have attempted various techniques to increase the flexibility of zoning to more effectively manage land development without appearing to impair property rights.

Some of these flexible zoning techniques include:
• planned unit developments (PUD);
• planned action ordinances, and
• form-based coding
• overlay zones;

Planned Unit Developments
PUDs are typically associated with large undeveloped tracts of land, and usually include amenities not found in development standards in exchange for higher use intensity (more square footage commercial, or a greater number of residential units).

Planned Action Ordinances
If a city develops a subarea plan (or a neighborhood plan) for adoption, a planned action ordinance could be drafted for concurrent adoption to provide consideration of environmental impacts associated with geographically-defined development area, enabling regulations and infrastructure consistent with that plan. Planned actions may also be applied when considering area-wide zoning changes, including overlay zoning or form-based coding.

Form-Based Coding
A form-based code focuses on identifying clearly valued elements of the existing and an envisioned built environment for a neighborhood block, existing zoning districts, or important commercial arterial streets, and setting specific development regulations to ensure results that meet expressed citizen desires. Form-based codes differ from conventional zoning codes (including overlay zoning), in that form-based codes are prescriptive to building types by location/locale and perhaps include a range of required detail elements, with less attention to specific use. Form-based codes are partly predicated on the assumption that most historic structures and the districts in which they are
located have been capably reused for a variety of purposes that support economic and cultural vitality. Generally, form-based codes are intended to be visual and brief, using simple language.

**Overlay Zones**
Within their zoning ordinances, communities may use overlay zones to protect particular natural or cultural features, such as historic districts, steep slopes, waterfronts, scenic views, agricultural areas, and environmentally-sensitive areas. Overlay zones build on underlying zoning, by establishing additional or stricter standards and criteria than those of the underlying zoning district(s). Overlay zoning can be an effective tool for communities to use in protecting specific resources from development pressures. For example, an overlay zone can be instituted for a specific neighborhood to preserve its character and design by requiring new construction and additions to existing buildings to be compatible with elements of the neighborhood's existing character as represented in architectural features, dimensions and proportions of buildings and relationships between buildings and their sites. An overlay zone can also be applied to areas to promote mixed-use development, affordable housing or higher density residential development near community centers, transit service, or in low-density single-use areas where infrastructure would support increased use intensity.

**Q. What are overlay zones?**

A. Overlay zoning is generally used when there is special public interest that doesn’t coincide with the conventional zoning in that geographic area. It is a mapped area with restrictions in addition to or less than those in the underlying conventional zone. Rather than attempt to create a new zoning category, an overlay zone is superimposed over one or more specified zones. An overlay zone establishes additional development standards, or limits or extends the existing uses. While the underlying zone or zones identify permitted land uses, the overlay zone might provide design restrictions, additional setbacks, or other exceptions to the base district regulations.

**Q. How are overlay zones most commonly used?**

A. There are a number of reasons why a community would consider new zoning requirements to be met. Overlay districts are used to achieve various planning objectives, such as preservation of unique characteristics or physical amenities, or management of health and safety issues. Examples of overlay zoning districts follow:

- **Natural Resources** – conservation of view corridors, recreation corridors, wildlife corridors, hillside preservation, extractive resources area regulations, and watershed protection guidelines.

- **Open Space Preservation** – allowing the clustering of housing units (some zoning codes also allow bonus units) to minimize alteration to views, maximize areas to be left open or undeveloped, or maintain lifestyle expectations. Recreation linkages can also be addressed.
Historic Preservation – architectural criteria are developed to address design, materials, and special uses to enhance or protect historic districts or culturally significant areas. In addition, special control of signage is usually addressed.

Economic Development – protect, enhance, or develop an enterprise zone or downtown district.

Specific Plans – Planned Action Ordinances (PAOs) or Planned Unit Developments (PUDs) specify certain standards that could deviate from the underlying zoning district. These standards could address open space requirements, minimum lot sizes, density, or roadway requirements. Proposed future conditions for a town center could also be defined and illustrated in a specific plan.

Q. Is it possible to have more than one overlay zone in an area?

A. Yes, but as the number of overlay zones increases, the complexity of compliance also increases. Therefore, single overlays are suggested to decrease the potential of regulatory and administrative complications.

Q. What are two ways to use overlay zoning?

A. Overlay zones typically provide an extra layer of regulation. However, overlay zones can also be used to provide exceptions to the conventional zoning district. For example, an enterprise overlay district in a central business district may allow for additional floor area ratios, parking waivers, and additional uses not otherwise allowed.

Q. What if there is a conflict between the requirements of the overlay zone and those of the conventional zoning?

A. In such cases, the requirements of the overlay zone district apply. For instance, if a restaurant is located in a commercial district with an Historic District overlay zone, there might be a conflict in signage requirements. Conventional zoning would most likely have restrictions for signage regarding allowed square footage and might not allow signage that hangs perpendicular to the building or the use of neon. The Historic District zoning district might be more flexible to allow these choices if they reflect the heritage of past years.

Q. Are there any size restrictions for overlay zones?

A. No, the boundaries are determined by criteria. Boundaries may cover several traditional zones or only small portions of one zone. For example, an Historic District overlay zone may encompass a residential neighborhood immediately adjacent to the town center with commercial zoning along roadway corridors. This overlay may cover just a few blocks. Another overlay zoning district could traverse the jurisdiction to protect a floodway or mountain range.
Q. Can an overlay zone can be developed without identifying specific geographic boundaries?

A. Yes, it is possible to create an ordinance that may enable the use of a zone by interested parties, but does not define the specific boundaries. In developing this type of overlay zone, the criteria for placing an overlay zone over a conventional zone or zones are listed in the community’s enabling ordinance. For example, in Colorado Springs, qualifications include: protecting surrounding development to ensure an easy transition between different uses. In addition, many communities also list the criteria necessary for an area to qualify for overlay zoning, such as a recreation space, or being an ecological land form like a wetland, or forest.

Q. Are there any tips on writing an overlay zone ordinance?

A. The process of developing an overlay zone ordinance is similar to that of conventional zoning, but can be confusing because the uses of overlays are so varied. Included in a typical ordinance format are:

- “Title” – Short, descriptive titles are generally easier to understand and identify.

- “Purpose” – This section usually contains (1) a definition of the overlay zone; and (2) discussion of why the overlay zone is necessary in this area.

- “Boundaries” – Boundaries can be defined using the official zoning map, street names, or area dimensions. Sometimes, the boundary may only be a list of specific buildings. If no boundaries exist, the criteria discussed earlier would be found in this section.

- “Restrictions of the Overlay Zone” ordinance might define here exactly what the restrictions are in order to reduce confusion.

- “Designation” – Overlay zones are generally noted by adding an extra letter to the letter which signifies the underlying zone, i.e., OHS for Highway Service District and OA for Agricultural District.

Note
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