

Comprehensive Planning and Shoreland Zoning:

How to Zone to Meet the Requirements of Both



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Introduction: Comprehensive Planning and Shoreland Zoning

Comprehensive Planning and Shoreland Zoning are two major state resource management programs which delegate primary responsibility for implementation to local governments. Each program has its own requirements and deadlines. Local officials have to determine how to comply with both. This pamphlet illustrates four ways municipalities can coordinate their regulations to meet the requirements of both state programs.

(Municipalities may also want to take this opportunity to integrate floodplain requirements into their land use ordinance. Assistance with

floodplain regulations is available through the Office of Comprehensive Planning.)

Maine's Comprehensive Planning and Land Use Regulation Act ("the Growth Management Act"), 30-A M.R.S.A. Sec. 4311-4344, is administered by the Department of Economic & Community Development, Office of Comprehensive Planning. It requires municipalities (except municipalities within the jurisdiction of the Maine Land Use Regulation Commission) to prepare and adopt a comprehensive plan and an implementation program, including a zoning ordinance. One of the major purposes of the zoning ordinance is to designate **growth areas** (suitable for orderly residential, commercial and industrial development over the next 10 years) and **rural areas** (to be protected



as agricultural, forest, open space and scenic lands).

The deadline for submission of the comprehensive plan varies depending on the municipality's tier and the timing of the offer of state planning assistance. The zoning ordinance portion of the implementation program is to be submitted for review within one year of the deadline for submission of the comprehensive plan, and to be adopted by the municipality within 18 months of that deadline.

All plans and implementing ordinances are to be consistent with the 10 state goals listed in the growth management act, and plans for coastal communities are also to be consistent with the 9 coastal management policies (38 M.R.S.A. Sec. 1801). (For a discussion of these policies, see "Coastal Management Techniques: A Handbook for Local Officials," October, 1988, available from OCP.) In addition, the plan and implementation strategy are to be consistent with other state laws regarding critical natural resources, including the **Shoreland Zoning Act**.

The zoning ordinance alone will not be sufficient to address all of these goals. Municipalities will need to identify which goals are best addressed through a zoning strategy. The remaining goals may more appropriately be addressed through local capital improvements programming, local participation in state grant, loan or incentive programs, economic development programs or other strategies.

A zoning ordinance, like a comprehensive plan, is not a static document. The municipality will probably revise it many times to respond to new issues raised by growth and development, to strengthen provisions that prove inadequate to the task, and to incorporate evolving regulatory techniques. The Growth Management Act requires each municipality to review and revise its growth management program at least every five years, and submit zoning ordinance revisions to DECD for review.

Maine's Mandatory Shoreland Zoning

Act ("Shoreland Zoning"), 38 M.R.S.A. Sec. 435 *et seq.*, is administered by each municipality, with oversight by the Department of Environmental Protection and Board of Environmental Protection. Due to the critical state-wide importance of shoreland areas, the State has required protective zoning in these areas since 1974.

The Act was revised, effective January 1, 1989, with additional technical revisions effective July 14, 1990. The *major revisions*:

- *Increased the area regulated* to include "within 250 feet of the upland edge of a coastal or freshwater wetland, or within 75 feet of the high-water line of a stream." (By definition, "stream" means "a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams . . . to the point where the body of water becomes a river.") This expanded the prior area of regulation which included areas within 250 feet of the normal high-water line of any pond, river or saltwater body;
- *Added a new purpose of protecting commercial fishing and maritime industries in coastal municipalities*, to be implemented through a new functionally water dependent use zone;
- *Added a new purpose of protecting archaeological and historic resources* in shoreland areas;
- *Placed more emphasis on anticipating and responding to the impacts of development in shoreland areas*, particularly including *new, more restrictive mandatory standards for timber harvesting and clearing of vegetation* (which became effective September 30, 1989 independent of municipal adoption of a new ordinance), and *new restrictions on substantial expansions of existing structures* (greater than 30% increase in volume or floor area);
- *Heightened mechanisms for the State to ensure local compliance*, including provisions that the Commissioner has to approve all municipal shoreland ordinances, amendments and

any repeals of ordinances before they become effective; and that all variance requests have to be forwarded to the Commissioner for review, with the municipality required to consider any comments by the Commissioner of the DEP if he determines issuance of a variance would ignore state requirements or would be contrary to the legislative purposes of Shoreland Zoning.

Ordinances in effect on April 18, 1986 can continue in effect until rescinded, amended or changed by municipal ordinance, charter or state law. The Act requires the BEP to adopt new minimum guidelines for municipal shoreland zoning ordinances (adopted February 14, 1990, referred to as the "Guidelines") and requires municipalities to adopt new shoreland zoning ordinances which are no less stringent than the BEP Guidelines by Dec. 31, 1991.

Municipalities are expressly authorized to zone in the shoreland area in the absence of a comprehensive plan and municipal zoning ordinance. However, if they exist, the shoreland zoning ordinance should be consistent with both the comprehensive plan and municipal zoning ordinance.

Whether or not a comprehensive, town-wide zoning ordinance exists, the shoreland zoning ordinance **must be consistent with the Mandatory Shoreland Zoning Act. But that does not require word-for-word adoption of the model ordinance included in the Guidelines.** Municipalities may always impose more restrictive standards. In addition, a shoreland zoning ordinance may be partially or completely different from the Guidelines so long as the proposed ordinance is at least equally effective in achieving the purposes of the Shoreland Zoning Act. Special local conditions (especially in urbanized areas) may justify a different set of standards than are included in the minimum Guidelines. In addition, different formats or regulatory approaches may be approved if they further the goals of the act. These deviations may be justified based on the type of development that has already occurred in the shoreland zone, the local environment, and the regulatory framework established in other ordinances, partic-

ularly a comprehensive zoning ordinance. The DEP plans to adopt "policies" to guide it in determining whether a local ordinance is consistent with the Shoreland Zoning Act and the Guidelines.

By statute, the shoreland zoning ordinance for a coastal community is to be consistent with the Coastal Management Policies. To implement the Coastal Policies, the Guidelines call for the establishment of a new Commercial Fishing/Maritime Activities (CFMA district). Municipalities are encouraged to create one or more shoreland zoning districts that protect water dependent uses from incompatible development, particularly if existing comprehensive or harbor plans support such actions. However, recognizing that zoning for the protection of water dependent uses can be a complex task, the DEP will not require a municipality to establish one or more CFMA districts until it completes a comprehensive plan under the Growth Management Act. Additionally, the DEP will not require municipalities to zone all current water dependent use sites into a CFMA district. Nor will the DEP require all sites meeting the water depth, slope and protection from wind and waves criteria to be placed in a CFMA district. Nonetheless, municipalities will be required to look closely at local and regional needs regarding commercial fishing and maritime uses and demonstrate that appropriate measures are being taken to protect these uses from incompatible development.

How Can The Town Respond to Both Comprehensive Plan and Shoreland Zoning Requirements?

There is no one solution. The best approach will vary according to what the municipality already has to work with and how far it has advanced in the comprehensive planning process. For example, a town will not be able to adopt a town-wide zoning ordinance unless it has a comprehensive plan which supports that ordinance.

Some towns only have shoreland zoning. Some towns have completed their comprehen-

sive plans but have not yet implemented them through town-wide zoning. Other towns already have comprehensive plans and town-wide zoning.

This pamphlet identifies **four basic options** for integrating comprehensive and shoreland zoning ordinances. The options vary depending on whether the comprehensive zoning ordinance or the shoreland zoning ordinance forms the basis for the town-wide regulation, and the technique used to integrate the shoreland standards. DECD and DEP are willing to accept each of these approaches so long as the resulting municipal ordinance(s) are well thought-out, form a unified response to the challenge of land use regulation, and comply with the requirements of the Growth Management Act and Shoreland Zoning Act. Options 2 or 3 are most likely to meet these standards; options 1 and 4 will require extra caution to overcome the built-in disadvantages. Option 3 will have the highest burden to prove compliance with the Shoreland Zoning Act since it deviates the furthest from the Guidelines, but it can comply if it is skillfully drafted.

For purposes of illustration, a coastal community has been used as an example in the following options to show how a CFMA district would be incorporated.

OPTION 1:

Two Separate, Non-Overlapping Ordinances

For this option, the comprehensive zoning ordinance is designed so that it includes all of the land and water in the municipality **except** the shoreland zone. A separate shoreland zoning ordinance applies to the shoreland area as defined in the Act (those areas within 250 feet of the normal high-water line of any great pond, river or saltwater body, within 250 feet of the upland edge of a coastal or freshwater wetland, or within 75 feet of the high-water line of a stream). The area controlled by each ordinance is separate and non-overlapping.

Figure 1 illustrates how the comprehensive zoning ordinance and shoreland zoning ordinances would appear when shown on a single

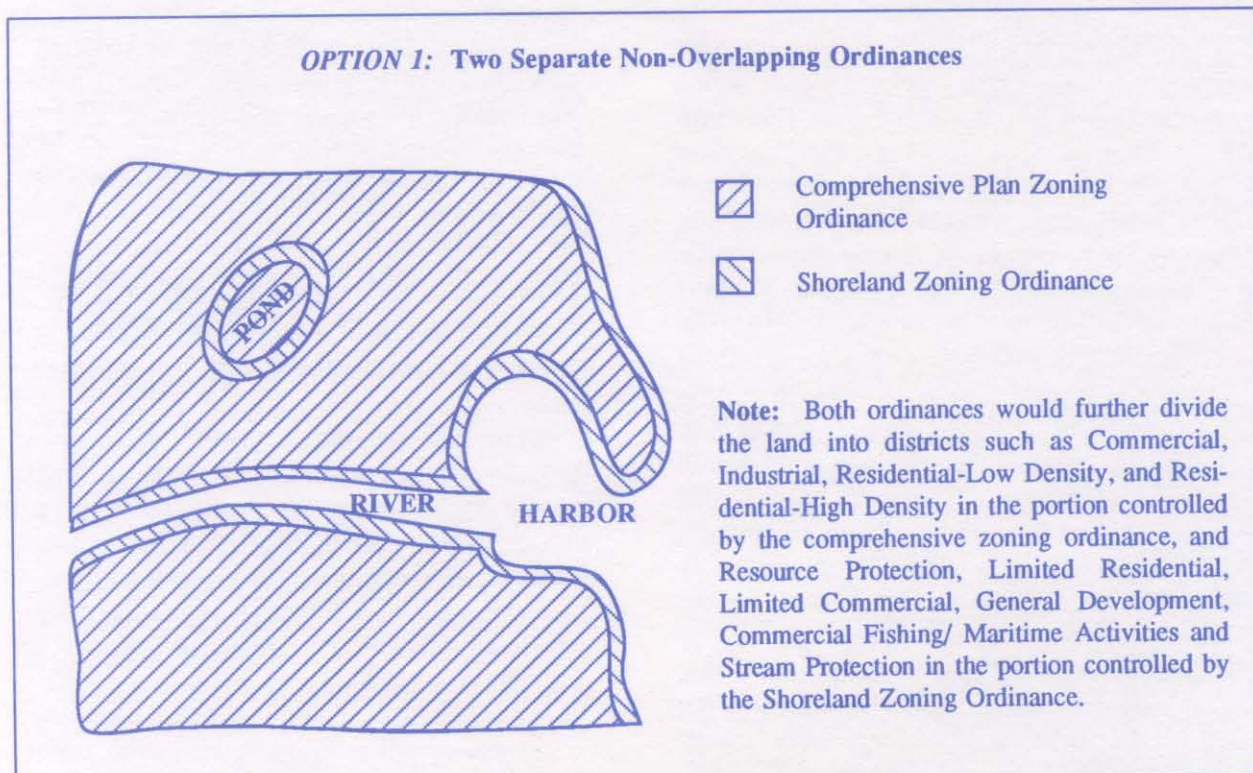


Figure 1

map. Note that there is no overlap. Within each area, the ordinance and more detailed map would further divide the area into zoning districts.

Advantages: This may be the simplest to implement. The municipality can adopt the Shoreland Zoning Guidelines with only minor modifications.

Disadvantages: This scheme may result in inconsistent regulation of land on either side of an arbitrary 250 foot boundary. In addition, the review will be more complicated for parcels that straddle the 250 foot boundary line. The municipality runs the risk that the two regulatory ordinances will not be sufficiently coordinated to promote state and coastal goals. Use of this option will satisfy the letter of the state requirements and may shorten the length of the planning process, but may forfeit the chance to design a well thought out, community-initiated, comprehensive regulatory response which responds to unique local problems and opportunities. Unless the two ordinances are carefully coordinated, this option risks giving insufficient attention to the issues of growth vs. rural in the shoreland zone, promotion of shoreline access and recreational opportunities, and, in coastal communities, achievement of coastal goals which require an integrated approach toward upland and shoreland areas.

How to Implement: Follow the comprehensive planning process and develop an implementation strategy as outlined in the Growth Management Act (see also "How to Prepare a Land Use Ordinance", DECD), but design the comprehensive zoning ordinance and related map of zoning districts so that the mapped districts only extend to the upland boundary of the shoreland zone. Use the "Guidelines for Municipal Shoreland Zoning Ordinances" as the basis for the shoreland zoning ordinance, making careful decisions about all of the "NOTE"s appearing in the Guidelines. Map the shoreland zone so that it just meets the comprehensive zoning ordinance districts.

OPTION 2:

Town-Wide Zoning with Shoreland Overlay

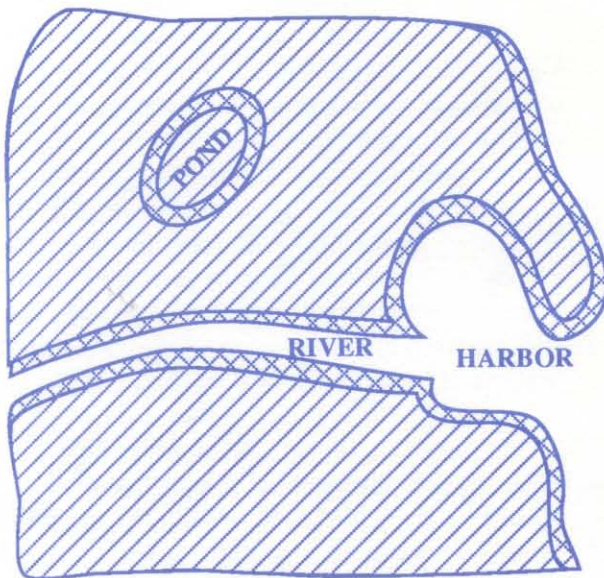
For this option, the comprehensive, town-wide zoning ordinance is drafted to apply to all of the land and water in the municipality. As part of that comprehensive zoning ordinance, a shoreland overlay district (which consists of multiple shoreland overlay zones) is included. Parcels of land may be in both an underlying zoning district and in an overlay district. Applicants for review will have to meet the most stringent requirements of both the underlying and overlay zone.

Figure 2 illustrates Option 2, applied to the same municipality as used to illustrate Option 1. It shows the same area within the shoreland zone. However, the comprehensive, town-wide zoning districts extend throughout the entire town, including the shoreland area. Instead of a separate shoreland zoning ordinance, the shoreland areas are designated as overlay zones within the comprehensive zoning ordinance.

Advantages: This option emphasizes a comprehensive approach and integrates the shoreland zoning regulations into the context of the land use regulations for the rest of the town. It allows more opportunity for developing unified policies to further state and coastal goals since the underlying districts extend throughout all areas of the municipality.

Disadvantages: It requires a comprehensive zoning ordinance to be developed first, so it may be difficult for municipalities that do not already have a comprehensive zoning ordinance to use this approach to meet the December 31, 1991 DEP deadline for adoption of a shoreland zoning ordinance. It may be somewhat confusing to shoreland applicants who have to meet the requirements of two different districts, but should not be any more confusing than having different parts of a single parcel of land subject to two different ordinances, as would be the case in Option 1.

OPTION 2: Town-Wide Zoning With Shoreland Overlay



☒ Comprehensive Zoning Ordinance

☒ Shoreland Overlay

Note: The comprehensive zoning ordinance extends to all areas under the shoreland overlay. The underlying ordinance would further divide all of the land into zoning districts such as Farmland, Residential-Low Density, Residential-High Density, Commercial-Downtown, Commercial-Village, Industrial and Resource Protection. The shoreland overlay would divide land within the overlay area into Shoreland-Resource Protection, Shoreland-Limited Residential, Shoreland-Limited Commercial, Shoreland-General Development, Commercial Fisheries/Maritime Activities and Shoreland-Stream Protection.

Figure 2

How to Implement: Follow the comprehensive planning process and develop a town-wide comprehensive zoning ordinance first, following the process outlined in "How to Prepare a Land Use Ordinance", DECD. Then using the goals and policies developed through that process, integrate the shoreland zoning overlay zone, based on the "Guidelines for Municipal Shoreland Zoning Ordinances."

For example, referring to the illustration above, note that in this municipality, the town-wide comprehensive zoning ordinance divides the municipality into seven districts: *Residential-High Density*, *Residential-Low Density*, *Commercial-Downtown*, *Commercial-Village*, *Industrial*, *Farmland*, and *Resource Protection*. (These are referred to as the "underlying" districts.)

The Residential-High Density, Commercial-Downtown and Industrial are the "growth areas" where orderly development will be encouraged. The Residential-Low Density, Commercial-Village, Farmland and Resource Protection

districts are the "rural areas" where growth is discouraged and protection is provided for agricultural, forest, open space and scenic lands.

In addition, for the entire shoreland area, the municipality is divided into a series of shoreland overlay zones, which are not necessarily tied to the boundaries of the underlying zones. These shoreland overlay zones include:

Shoreland Resource Protection (S-RP), which applies to all areas within the shoreland zone that the "Guidelines for Municipal Shoreland Zoning Ordinances" (Section 13 A.) indicate should be in this district. There may be several S-RP districts in the town, and, depending on the characteristics of the land, they may be located in portions of any of the seven underlying districts;

Shoreland Limited Residential (S-LR), which applies to the shoreland zone of the underlying Farmland and Residential-Low Density districts which are appropriate for residential use and are not already designated S-RP. It

may also apply to portions of the underlying Residential-High Density district which should be required to meet the more restrictive S-LR requirements in the sensitive shoreland area;

Shoreland Limited Commercial (S-LC), which applies to areas within the shoreland zone that have already developed in mixed residential, business and commercial uses and are zoned Commercial-Village in the comprehensive zoning ordinance. These are areas where lower intensity business and commercial uses which are some distance from the downtown and are located on a Great Pond will be allowed to continue, but new development or sprawl beyond those boundaries will not be permitted;

Shoreland General Development (S-GD), which applies to areas within the shoreland zone of the underlying Commercial-Downtown and Industrial districts, except for areas that are more appropriate for S-RP or Commercial Fisheries/Maritime Activities (CFMA, below). It may also include portions of the Residential-High Density district.

Commercial Fisheries/Maritime Activities District (CFMA), which applies primarily to the shoreland portions of the underlying Commercial-Downtown and Industrial districts that are appropriate for functionally water dependent uses, as further outlined in the "Guidelines for Municipal Shoreland Zoning Ordinances," Section 13, E. Additional CFMA districts (each of which can be as small as a single parcel so long as there is a consistent rationale for how parcels are identified) may also be designated in the other underlying zones (except Resource Protection) for parcels which are currently occupied by or suitable for active, functionally water dependent uses.

Shoreland Stream Protection District (S-SP) which applies to all areas not otherwise located in the shoreland zone but which are within 75 feet of a stream, as defined in the Guidelines. It can include land within all of the underlying zones. (In the alternative, where the town already has a town-wide zoning ordinance, this could be incorporated as a strict 75 foot set-

back requirement within each zone rather than as a separate overlay district.)

In summary, the land in the shoreland area would be included in two different zoning districts, one designated as part of the town-wide comprehensive zoning scheme and one designated as a shoreland overlay zone. Landowners outside of the shoreland zone would not be included in a shoreland overlay district, so they would not have to apply for shoreland zoning approvals. Applicants in the shoreland zone wishing to develop their land would have to meet the most restrictive requirements of each district. The review process for compliance with each could be conducted simultaneously. The municipal attorney or other planning professional will need to review the procedures outlined in the "Guidelines" and make appropriate modifications so that the review procedures for comprehensive zoning and shoreland zoning would be compatible.

OPTION 3:

Town-Wide Zoning With Shoreland Performance Standards

For this Option, the town develops a comprehensive, town-wide zoning ordinance that applies to all of the land and water in the municipality, following the steps outlined in "How to Prepare a Land Use Ordinance" by DECD. That **conventional, use-based zoning ordinance** will designate which areas are appropriate for different types and intensities of land uses, such as high- and low-density residential, commercial, or industrial uses, and establish some standards for new development (e.g., minimum lot size, maximum height, setback requirements, parking requirements). In furtherance of the use policies expressed in the Shoreland Zoning Act, this town-wide zoning ordinance may include one or more **Commercial Fishing/Maritime Activities districts** (in coastal communities) and **Resource Protection Districts**. In addition, since the primary intent of the Shoreland Zoning Act is to protect natural systems in the environmentally sensitive shoreland area, the comprehensive zoning ordinance will include **performance controls** for

the shoreland area in the form of a **Shoreland - Performance Overlay District (S-POD)**, a single overlay district applicable to the entire shoreland area. These performance regulations, incorporated within the text of the zoning ordinance, will set standards for the shoreland area based not on types of uses permitted, but rather on the allowable **impacts of development** in that area, regardless of the use. An applicant must meet the use and dimensional requirements of the conventional zoning ordinance and, for land in the shoreland area, the performance standards of the S-POD. *Figure 3* illustrates

regardless of use, are addressed more directly through shoreland performance standards.

Disadvantages: A municipality will not be able to use this approach to comply with the Shoreland Zoning Act unless it has developed its comprehensive zoning ordinance. In addition, since the resulting ordinance will use a completely different approach than the "Guidelines for Municipal Shoreland Zoning Ordinances," the municipality will have the burden of proving to DEP that the proposed ordinance is equally or more effective in

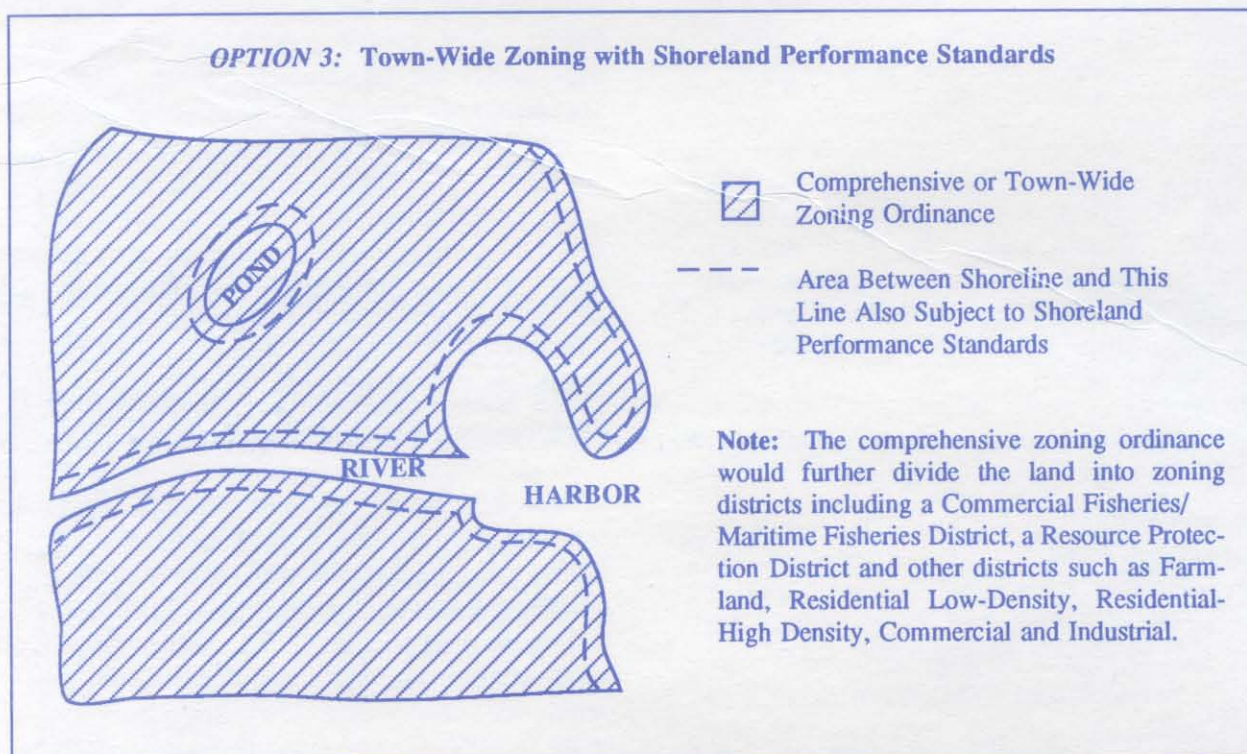


Figure 3

how Option 3 would appear on a zoning map.

Advantages: The requirements of the Growth Management Act and the Shoreland Zoning Act are integrated into one less confusing ordinance with one set of procedures. The entire municipality is regulated according to one comprehensive scheme. The issues of growth/rural areas, type, intensity and location of development are addressed within the comprehensive planning context. The issues of protecting environmentally sensitive areas,

achieving the purposes of the Mandatory Shoreland Zoning Act. While this Option might require more involved discussions with and review by the DEP to obtain initial approvals, once in place, it may be easier for applicants to understand and for the municipality to administer. The DEP has agreed that this Option can meet the requirements of the Shoreland Zoning Act if well-designed.

How to Implement: Follow the comprehensive planning process and develop a town-

wide comprehensive zoning ordinance first, following the process outlined in "How to Prepare a Land Use Ordinance", DECD. To incorporate the use-related purposes of the Shoreland Zoning Act, the comprehensive zoning ordinance should include a Commercial Fishing/Maritime Activities (CFMA) district (in coastal communities only) and should include Resource Protection Districts as described in the DEP Guidelines. While these districts should be patterned after the "Guidelines" and should be designed to serve the same purpose, the regulations for these districts can be modified to be more restrictive or to respond to unique local conditions. For example, the municipality may want to adopt two different water dependent use districts, one designed for commercial fishing activities and one designed for recreational uses, to minimize conflicts between those uses.

The municipality will then need to draft the Shoreland-Performance Overlay District (S-POD). The goal in drafting this district is to incorporate those requirements in the "Guidelines" which are critical to the protection of the environmentally sensitive shoreland zone and to incorporate those as performance standards, but to omit the portions which are use-based or procedural. For example, the portions of the Guidelines which establish districts based on land use, address use restrictions in particular districts, or establish procedures for review will not need to be included in the S-POD. Those issues will already be addressed in the use-based portion of the conventional zoning ordinance (which will include the use-based portion of the Guidelines dealing with the Commercial Fishing/Maritime Activities zone).

While the municipality will need to have the S-POD drafted by its own counsel or consulting planner, a S-POD might follow this format: ("Section" refers to that provision in the "Guidelines")

- **Section 1 (Purpose)** (omitting the phrases "to protect commercial fishing and maritime industries" and "land uses"); **Section 2 (Authority)**; **Section 3 (Applicability)**; **Section 4 (Effective Date and Repeal of Formerly**

Adopted Ordinance); and **Section 8 (Amendments)** should form the beginning of the S-POD text, except that they should be **modified to refer to the S-POD section**, not the entire zoning ordinance.

- **Section 5 (Availability)**; **Section 6 (Severability)**; **Section 7 (Conflicts with Other Ordinances)** and **Section 10 (Interpretation of District Boundaries)** should be reviewed to ensure that they are adequately addressed by general provisions in the comprehensive zoning ordinance. They should be **omitted in the S-POD section** since they will already be addressed in the general ordinance.

- **Section 9 (Districts and Zoning Map)** should be **omitted** since it will already be covered in the comprehensive zoning ordinance. The **general listing of districts and provisions on official zoning maps should include the S-POD**. However, there should be a statement similar to 9.D for the boundaries of the S-POD.

- **Section 11 (Land Use Requirements)** and **Section 12 (Non-Conformance)** should be **modified to apply only to the S-POD**. In the alternative, the Purpose and General provisions of Section 12 may more appropriately belong in the provisions applicable to the entire comprehensive zoning ordinance, but the remaining provisions (Non-conforming Structures, Non-Conforming Uses and Non-Conforming Lots) should be modified for the S-POD so they apply to all land within that overlay district.

- **Almost all of Section 13 (Establishment of Districts)** will be **omitted** from the S-POD text. Sections 13 A (Resource Protection District) and E (Commercial Fisheries/ Maritime Activities District) will already have been used as the basis for use-based underlying districts in the general part of the comprehensive zoning ordinance so will not be repeated in the S-POD overlay zone. **Section 13F, Stream Protection District should be translated into a performance standard** applicable to the S-POD overlay zone, which requires a strict 75 foot setback from all streams (as defined in the Guidelines) for all structures, campgrounds, parking facilities.

ties or mineral exploration or extraction facilities, and restricts other uses within that setback as according to the Table of Land Uses in Section 14 of the Guidelines. Since the Table will not be part of the S-POD, the land uses permitted in the stream protection area should be detailed in the text of the performance standard in narrative form.

- **Section 14 (Table of Land Uses)** should be omitted, but some of the information can be rearranged to apply to the S-POD. For example, one of the performance standards can state that the following activities are allowed in the S-POD: Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking; motorized vehicular traffic on existing roads and trails; forest management activities, timber harvesting and clearing of vegetation for approved construction and other allowed uses (except for timber harvesting in the resource protection district and clearing of vegetation in the resource protection district or within 75 feet of a stream, which require a permit from the Code Enforcement Officer); fire prevention activities; wildlife management practices; soil and water conservation practices; surveying and resource analysis; emergency operations; agriculture, except in the resource protection district; service drops to allowed uses; and signs. In contrast to activities, specific uses such as mineral exploration and extraction, aquaculture, 1-, 2-, and multi-family residences, commercial, industrial, governmental, institutional, marinas, etc. and the conditions under which they will be permitted will be addressed in the underlying zoning.

- **Section 15 (Land Use Standards)** will form the heart of the S-POD performance standards. They will need to be modified slightly to indicate that the standards apply to the extent that the use they address is permitted in the underlying district, and that they only apply to land in the S-POD. In addition, the municipality will want to review the land use standards and discretion delegated to the Planning Board to determine whether they will result in the desired scale and pattern of development, and adequate setbacks, as noted in the

Guidelines. The municipality will also want to review the minimum lot standards (area and frontage) specified in the Guidelines to determine their compatibility with existing patterns of development. In intensely developed areas, for example, municipalities may choose to establish lot sizes in accordance with existing development patterns. Any deviation from the DEP's minimum guidelines must be justified by the municipality and receive approval from the DEP. Deviations from the minimum standards are more likely to receive approval for areas adjacent to tidal waters rather than non-tidal waters. References to the "shoreland zone" should be changed to the "Shoreland-Performance Overlay District." References to particular zoning districts, e.g., Commercial Fishing and Maritime Activities, General Development District, etc., should be reviewed to ensure consistency with the actual names of the underlying zoning districts which are closest in function.

- **Section 16 (Administration)** sets out procedures which do not need to be included in the S-POD if they are already addressed in the general provisions of the comprehensive zoning ordinance. The variance provisions of the Guidelines do need to be incorporated in the zoning ordinance, keeping the same standards and procedures for notification to DEP.

- **Section 17 (Definitions)** should be reviewed and incorporated into the comprehensive zoning ordinance to the extent that a term appears there or in the S-POD.

OPTION 4:

Shoreland Zoning Plus "General Residential District" As Basis for Comprehensive Zoning

Develop the revised shoreland zoning ordinance based on the Guidelines and then, using those districts (resource protection, limited residential, limited commercial, general development, and commercial fisheries/maritime activities districts) plus a new general residential district, extend those district boundaries landward throughout the entire municipality to develop the comprehensive zoning ordinance.

**OPTION 4: Shoreland Zoning Plus "General Residential District"
as Basis for Comprehensive Zoning Ordinance**

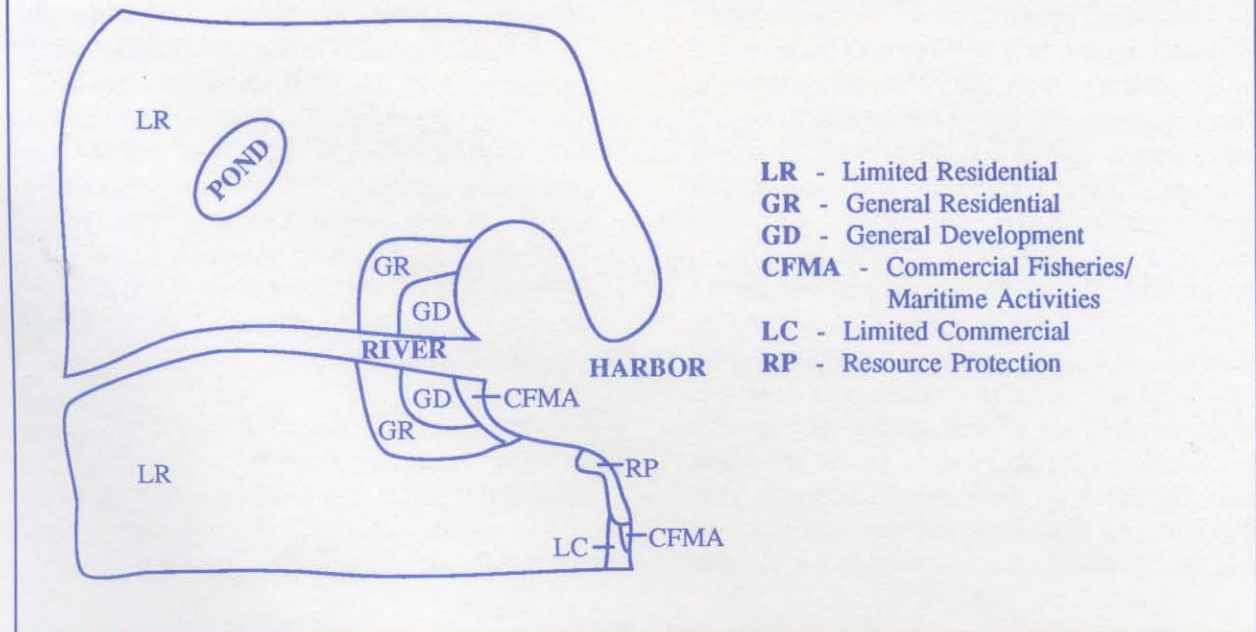


Figure 4

Figure 4 shows the comprehensive zoning ordinance map for Option 4.

Advantages: This approach might be of use for a municipality that needs to comply with the Shoreland Zoning Act before it will have a chance to develop its comprehensive plan. The Shoreland Ordinance could be completed first, and then amended later to extend throughout the town as the town-wide ordinance.

Disadvantages: Since the Guidelines are oriented to natural resource protection in shoreland areas, they will give a town inadequate guidance on upland land-use issues such as groundwater protection in non-shoreland aquifer recharge areas, inclusion of affordable housing, control of strip commercial development, reducing the sprawl of residential development, protecting upland open space, and preventing the loss of village character. Any municipality using this approach will need to analyze its land-use problems carefully and supplement the Guidelines with additional techniques to address these different issues in non-

shoreland areas.

How to Implement: Use "Guidelines for Municipal Shoreland Zoning Ordinances" as the basis for the shoreland zoning ordinance, making careful decisions about the options pointed out in the Guidelines by "NOTE". Then follow the comprehensive planning process including the development of an implementation strategy as outlined in the Growth Management Act. When the town reaches the point of drafting the comprehensive zoning ordinance, start with the Shoreland Zoning Ordinance as the basis, and amend it to apply to the entire town.

Among the necessary amendments will be the addition of a new zoning district, "General Residential District" or a similar district that would allow for some inland residential growth; this district might incorporate planned residential development standards to encourage clustering of structures, preservation of significant views, and protection of an equivalent amount of open space that would otherwise be taken up by large-lot zoning. The comprehensive plan

will identify rural areas (e.g., resource protection, limited residential, limited commercial and stream protection) and growth areas (general development, commercial fishing/maritime activities and general rural). The existing shoreland zoning text will have to be reviewed for consistency with the state comprehensive planning goals and in coastal areas, the coastal management goals. Where the existing shoreland zoning text is inadequate to address those comprehensive plan goals, additional provisions will need to be added. In addition, the existing shoreland zoning text should be reviewed to determine when a second set of standards should be included for development outside of the shoreland zone. For example, Guidelines Section 15 will need to be amended to indicate which apply only in the shoreland area. Different standards for minimum lot size, prohibited uses, parking and similar items outside the shoreland area will need to be adopted.

Additional Information

The primary documents referred to are: State of Maine Department of Environmental Protection, "State of Maine Guidelines for Municipal Shoreland Zoning Ordinances," effective date March 24, 1990, available from DEP, Shoreland Zoning Unit, State House Station #17, Augusta, Maine 04333 and Office of Comprehensive Planning, Department of Economic and Community Development, "How to Prepare A Land Use Ordinance: A Manual for Local Officials," May, 1990, prepared by Maine Tomorrow, available from DECD, State House Station 130, Augusta, Maine 04333.

DEP and OCP each have other publications available on comprehensive planning and shoreland zoning. Information and technical assistance are also available through coastal coordinators and regional planning agencies.

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Additional copies are available from the Office of Comprehensive Planning, State House Station 130, Augusta, ME 04333, [207] 289-6800.



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