



April 7, 2008

To: City of Hallowell Comprehensive Plan Committee

From: Antje Kablitz, Planning Decisions Inc.

RE: Hallowell Zoning Regulations

As the Comprehensive Plan Committee moves forward from the inventory phase to the policy development phase, we want to insure that all members feel comfortable with certain topics and concepts. The topic of Land Use Regulation is at the top of this list. The development of a future land use plan/map is a key component of the comprehensive planning process.

This memo outlines the dominate type of land use regulation – Zoning Ordinances. It gives an overview of what is typically including in zoning and where Hallowell stands in relationship to these concepts. It also includes a reference chart that shows what is currently within Hallowell’s code and what is under discussion by the ORC committee.

ZONING ORDINANCES

Zoning Ordinances are the standard municipal land-use control measures. They regulate how and where development occurs within a community. Zoning comes out of the desire to regulate the uses allowed on a particular piece of land. The goal is to allocate uses to specific areas of a community in order to promote and support compatibility. As such, the community is divided into a series of hierarchical zones from residential, to commercial, to industrial.

Typically, there are two parts to any zoning ordinance. The first part is a zoning map. These maps are detailed enough to show how each parcel in a community is zoned. The second part is the zoning regulatory text, which describes how developed can take place in each zone and the specific uses allowed. Each zone typically includes text regarding:

1. **Site Layout:** This indicates the parameters of a given lot and how a structures can be situated on a lot. This may include:

- lot area,
- frontage (width of a lot),
- depth (length of a lot)
- setbacks (distance from structure to front, rear, and side lot lines),
- maximum site coverage (the footprint of the building)
- placement of driveways/curb cuts,
- parking requirements,
- screening/buffering requirements,
- size and placement of signage.



2. **Structure Characteristics:** This describes the general physical characteristics of new structures such as heights, number of stories, and maximum floor area (typically calculated by floor area ration (FAR) – the ratio of floor area to site area)
3. **Uses:** Typically broken down by permitted and conditional uses, this section of the zoning ordinance lists how structures may be put to use.
Permitted Uses are authorized uses and require no additional permitting or review outside of conformance with the specific zone regulations.
Conditional Uses are allowed only after approval from regulatory bodies such as planning board or code enforcement.
4. **Performance Standards:** These guidelines establish criteria to limit the negative impact of use on a given area. Often these are used to help control the impact an industry or businesses may have on the community such traffic or noise.
5. **Procedural Guidelines:** These guidelines specify how municipalities determine whether a structure conforms to the zoning ordinance. They include outlying the purpose and intent of the zone (why it was established) and the review and appeals process.

The following are additional land use regulations used by municipalities to further identify and control uses in areas deemed “significant”. This includes regulations regarding shoreland, resource protection, floodplain, and historic areas. In many cases, these regulations are addressed in a “**Zoning Overlay District**”. These districts are superimposed on existing zones and add additional restriction and/or review onto the development process.

1. **Shoreland & Resource Protection:** All municipalities in Maine are mandated to include shoreland zoning provisions within their land use codes. In addition, all local shoreland regulations must meet the standards set forth in the *Maine Shoreland Zoning Act* (38 MRSA, sections 435-499). The State standards apply to great ponds, rivers, freshwater and coastal wetlands, as well as streams though the provisions differ for each.

Within the overall shoreland areas, the State requires that some areas be designated *Resource Protection (RP) Areas*. RP Areas are essentially non-development districts within the shoreland area. Development in these areas is required to be restricted as in many cases they contain soils and conditions unsuitable for construction.



Within all the state defined shoreland areas not designated as RP areas, development is allowed. Land use in these areas is subject to State standards for density, setbacks, and performance standards. Municipalities are required to address the issues within local ordinance. All local shoreland standards must be reviewed and approved by the State.

Other state measures with regard to development include the *Natural Resources Protection Act (NRPA)* and *DEP Site Location Development Review*. NRPA includes DEP reviewed performance standards for developments on environmentally sensitive lands. Site Location Development Review kicks in on large-scale development projects (like shopping malls) where DEP reviews the site with regards to impacts from traffic, runoff, and other environmental mitigation factors.

2. Floodplain Management

Floodplain management provisions are designed as preventive measures to reduce the cost of recovery from flooding disasters. Most communities address floodplain issues by taking part in the National Flood Insurance Program (NFIP). NFIP enables property owners to purchase flood insurance in communities that have state/city floodplain management regulations in place. The regulations mitigate the impact of development in designated flood prone areas as defined by FEMA 100 year flood maps. Regulations can include restrictions on new development and material and construction standards for repair and redevelopment of existing buildings.

3. Additional Land Use and Zoning Review Tools

- *Subdivision Regulations (Land Subdivision)*

Subdivision regulations control how blocks of land are converted into lots. Before lots can be sold, a municipality must approve a map (plat) showing how the land will be subdivided including proposed streets, lot lines, and easements for utilities. A community can stipulate certain improvements to the lots before lots can be sold or developed. Stipulations include linking streets and providing sewer, water, and drainage facilities that meet city standards. Typically, the subdivision design has to be compatible with guidelines set out by the underlying zoning and the policies of the current comprehensive plan.



- ***Historic Preservation Provisions***

Many communities protect their major historic features through land use regulations. Provisions are usually developed for a specific area where historic character dominates the existing land use pattern. The regulations may include guidelines for new and established structures.

- ***Site Plan Review***

Site plan reviews are most often used on larger-scale developments. They are designed to allow City officials to assess the impact of a project on the community including circulation patterns, parking needs, and the adequacy of buffers.

- ***Planned Unit Development (PUD)***

Planned Unit Developments are large-scale parcels (usually with one owner) that have been identified as areas for potential unified development. The owner has the opportunity to forgo the existing zoning regulation and create an alternative set of controls that reflect the proposed uses. Typically, a PUD is a mixed-use development designed to provide residential and commercial services that benefit the new project and the existing community.



HALLOWELL ZONING ORDINANCE

Hallowell's current zoning ordinance is based on the system outlined above. It includes a series of hierarchical zones focused on residential, commercial, and industrial areas along with shoreland, resource protection, floodplain, and historic regulations. Hallowell also has land subdivision regulations in place that regulate the division of any parcel into three or more lots.

Zoning in Hallowell can be viewed along rural and urban lines. *Rural zones* are the most restrictive in the community and allow very little development without review. The Rural Residential Zone affords the largest lot sizes and allows uses constant with a rural feel including a blend of farm and residential uses. Commercial zones in this area are restricted to conditional uses only. *Urban zones* reflect existing patterns of development. Urban residential zones vary in permitted uses based on the desired density. Conditional uses include non-residential uses that are compatible with the density and surrounding uses. Urban commercial zones focus on (1) downtown small-scale uses compatible with the existing historic character and (2) outlying commercial areas allowing for a wider range of uses including commercial centers and some light manufacturing. Some zones in Hallowell allow for Planned Unit Developments.

Hallowell has additional land use provisions in place for resource protection, shoreland, open space, floodplain, and historic areas.

1. *Resource Protection* and *Open Space* zones restrict activities in certain areas of the City to non-invasive activities, primarily preservation and recreational uses.
2. *Shoreland* areas are protected through a "shoreland overlay district" with standards that meet current state regulations.
3. *Floodplains* are regulated in accordance with state and national guidelines. Federal Management Agency (FEMA) and the 1994 "Flood Insurance Rate Map" define the areas affected and development is regulated through a Flood Hazard Development Permit.
4. A *Historic Overlay District* defines historic areas in Hallowell. Planning Board approved construction, remodeling and demolition permits are required for properties. Property owners must submit a "Historic District Certificate of Appropriateness Form" to gain project and material approval. The criteria for approval is based on the U.S. Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*.

Land use regulatory framework for Hallowell

Tool	Function	State role	Hallowell adoption	Hallowell Enforcement	Comment
Zoning	Regulate uses, lot dimensions, structures, by geography	Set broad parameters	Council	Planning Board	Hallowell's is traditional; large lots in rural, smaller in urban areas
Shoreland Zoning	Regulate development within 250 feet of water	Set specific standards	Council	Planning Board	No local flexibility.
Natural Resource Protection (NRPA)	Performance standards for developments on environmentally sensitive lands	DEP administers	No role	No role	Can be delegated to municipality to enforce
Site Location of Development	Regulates large developments for traffic, runoff, etc.	DEP administers	No role	No role	Requires extensive planning – permitting can be delegated to qualified municipality
Floodplain Management	Regulates development within the flood plain	Oversee program	Council	Code Officer	No local flexibility.
Land Subdivision Regulation	Regulate the division of land into developable lots	Technical assistance	Council	Planning Board	Hallowell's is traditional
Historic Preservation Provisions	Maintain character of historic buildings, neighborhoods	Technical assistance	Council	Planning Board	Questions about Hallowell's ordinance, enforcement
Site Plan Review	Regulate the layout of new developments of a certain size or significance	Technical assistance	No local law	“ “	Hallowell is currently considering a law