

**How To Prepare A
LAND USE ORDINANCE**

**A Manual for Local Officials
Maine State Planning Office
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Prepared With Assistance from Rothe Associates**

State Policy Relating to Commercial Landfill Facilities Moratoria

Section 4359 merely affirms the importance of state and municipal control over the establishment and substantial expansion of commercial landfill facilities. The law states that a municipality may, under its home rule authority, enact a moratorium on a new facility or a substantial expansion of an existing facility.

Rate of Growth Ordinances

Section 4360 contains two important provisions relating to rate of growth ordinances:

1. Ordinance review and update. This subsection requires a municipality that enacts a rate of growth ordinance to review and update the ordinance at least every 3 years to determine whether it is still necessary, and how the ordinance can be adjusted to meet current conditions.
2. Differential ordinances. Subsection 2 states that a municipality may enact rate of growth ordinances that set different limits on the number of building or development permits that are permitted in designated growth and rural areas.

Section 4360 also contains ordinance requirements and clearly allows municipalities to establish different growth caps for different areas, or to establish a growth cap in rural areas but no cap in growth areas.

Shoreland Zoning Act

Maine's Shoreland Zoning Act (Title 38 MRSA Sections 435-449) requires that each municipality regulate the land area within 250 feet of the normal high water mark of any great pond, river or salt water body, within 250 feet of the upland edge of a coastal or fresh water wetland (with some exceptions) and within 75 feet of the high water line of a stream. Municipalities are required to administer and enforce local ordinances that are consistent with the State's Shoreland Zoning Guidelines. The law gives the Maine Department of Environmental Protection the responsibility of periodically updating the Guidelines.

You can either include shoreland zoning provisions in the land use ordinance or keep them as a separate ordinance. This manual does not include shoreland zoning provisions, but does include an outline of a town-wide ordinance that would apply to all land areas of your community, including the 250-foot shoreland zone. Your community will have to determine the best method for integrating these two ordinances. For some municipalities, it may be more appropriate to have two separate ordinances that regulate the shoreland area (a shoreland zoning ordinance and a town-wide land use ordinance), while other municipalities may want to integrate the shoreland requirements into their town-wide ordinance.

Check with the Maine Department of Environmental Protection for the latest version of the Shoreland Zoning Guidelines when drafting an ordinance that includes shoreland zoning provisions.