



OLR RESEARCH REPORT

January 22, 2013

2013-R-0037

CLASSIFICATIONS FOR SHORELINE AREAS

By: Janet L. Kaminski Leduc, Senior Legislative Attorney
Kristen L. Miller, Legislative Analyst II

You asked for a description of Rhode Island's shoreline classifications and whether other nearby coastal states (Maine, Massachusetts, New Hampshire, New Jersey, and New York) have a similar classification system.

SUMMARY

Rhode Island classifies its shoreline areas for zoning purposes. The two main classifications are tidal waters and coastal barriers. Tidal waters are further broken down into six categories. Each category corresponds to the activities that are permitted in that area (e.g., construction, dredging, recreational facilities), as described in Table 1. Coastal waters are broken down into three categories: undeveloped, moderately developed, and developed. There are associated building restrictions for each category, as described in Table 2.

Maine requires municipalities to classify its shoreline areas for zoning purposes. The state maintains a draft model ordinance with minimum standards to be included in the local ordinances. The model ordinance divides the shoreland zone into six land use districts: resource protection, limited residential, limited commercial, general development, commercial fisheries/maritime activities, and stream protection. Table 3 describes the land use districts and permitted land use activities for each.

Massachusetts, New Hampshire, New Jersey, and New York do not appear to have similar classification systems.

RHODE ISLAND

Rhode Island's Coastal Resources Management Council (CRMC) manages the state's coastal development (R.I. Gen. Laws § 46-23). According to Janet Freedman, Rhode Island state geologist, CRMC regulations classify shoreline areas for zoning purposes. The two main classifications are tidal waters and coastal barriers. Each classification is further delineated and each designation corresponds to the activities that are allowed in the area.

Tidal Waters

Under Rhode Island regulations, tidal waters are broken into six categories. The categories are linked to the characteristics of the shoreline. Type 1 waters abut shorelines that are in a natural, undisturbed condition. Type 2 waters are adjacent to predominantly residential areas. (Approximately 70% of the waters along Rhode Island's 420 miles of shoreline are Type 1 or Type 2 waters.) Type 3 waters are dominated by commercial facilities that support recreational boating. Type 4 waters include the open waters of Narragansett Bay and the Long Island and Rhode Island Sounds, where a balance exists between fishing, recreational boating, and commercial traffic. Type 5 waters include port areas where commercial and recreational activities co-exist. Type 6 waters are where water-dependent industrial and commercial activities take place.

Table 1 describes each type of tidal water and the associated activity restrictions and uses.

Table 1: Categories of Tidal Waters and Related Restrictions

Category	Description	Restrictions and Allowed Activities
Type 1	Conservation area	<p>Type 1 lands are to be preserved. Activities and uses that degrade the area are prohibited.</p> <p>Specifically, the mooring of houseboats and floating businesses, construction of recreational boating facilities, filling below mean high water, point discharge of substances other than properly treated runoff water, and the placement of industrial or commercial structures (excluding fishing and aquaculture) are prohibited.</p> <p>Activities and alterations, including dredging, dredged material disposal, and grading and excavation on abutting shoreline features, are prohibited unless needed to preserve or enhance the area as a natural habitat for native plants and wildlife or for a beach renourishment project.</p> <p>Structural shoreline protection facilities (e.g., seawalls, bulkheads, or similar structures) are not permitted.</p>
Type 2	Low-intensity use	<p>Type 2 waters are to be maintained while allowing for low-intensity uses that will not detract from the area.</p> <p>The following activities are prohibited in Type 2 waters: new or deepened dredging channels and basins, new or deepened dredged channels and basins at existing marinas that expand capacity by more than 25%, new marinas and expanding existing marinas by more than 25% of their capacity, mooring houseboats and floating businesses, industrial and commercial structures and operations (excluding fishing and aquaculture), and filling.</p> <p>Existing marinas may undertake maintenance activities, such as maintenance dredging and dock reconfiguration.</p> <p>Residential boating facilities, public launching ramps, and structural shoreline protection facilities are allowed, provided there is no adverse impact to coastal resources, water dependent uses, or the public's use and enjoyment of the shoreline and waters.</p>

Table 1 (continued)

Category	Description	Restrictions and Allowed Activities
Type 3	High-intensity boating	<p>Type 3 waters are to be preserved, protected, and enhanced for high-intensity boating and supporting activities. Other activities and alterations will be allowed, provided they do not significantly interfere with the recreational boating activities.</p> <p>Allowed activities include (1) marinas, mooring areas, public launching ramps, and other facilities that support recreational boating and enhance the public's access to tidal waters and (2) boatyards and other businesses that service recreational boaters.</p>
Type 4	Multipurpose waters	<p>Type 4 waters include (1) the open waters of Narragansett Bay and the sounds, which support a variety of commercial and recreational activities while maintaining fish and wildlife habitat, and (2) open waters adjacent to shorelines that could support water-dependent commercial, industrial, or high-intensity recreational activities. Traditional activities and new water-dependent uses will, where possible, be accommodated. But fishing grounds and fishery habitats will be protected from alterations and activities that threaten their vitality.</p>
Type 5	Commercial and recreational harbors	<p>Type 5 waters are adjacent to waterfront areas that support a variety of tourist, recreational, and commercial activities.</p> <p>The following uses are allowed: (1) berthing, mooring, and servicing recreational craft, commercial fishing vessels, and ferries; (2) water-dependent commerce, including businesses that cater to tourists; (3) maintenance of navigational channels and berths; and (4) activities that maintain or enhance water quality and scenic qualities, including the preservation of historic features.</p> <p>Activities that significantly detract from or interfere with the above uses will be modified or prohibited.</p>
Type 6	Industrial waterfronts and commercial navigation channels	<p>Type 6 waters accommodate commercial and industrial water-dependent activities.</p> <p>The following uses are allowed: (1) berthing, loading and unloading, and servicing of commercial vessels; (2) construction and maintenance of port facilities, navigation channels, and berths; and (3) construction and maintenance of facilities needed to support commercial shipping and fishing activities.</p> <p>Activities that significantly detract from or interfere with the above uses will be prohibited.</p>

Source: R.I. Admin. Code §§ 16-2-1:200 to 16-2-1:200.6

Coastal Barriers

Coastal barriers are islands or spits of land comprised of sand or gravel that are parallel to the coast and separated from the mainland by a coastal pond, tidal water body, or coastal wetland. There are three classifications of coastal barriers: undeveloped, moderately developed, and developed.

Undeveloped barriers are essentially free of commercial and industrial buildings, houses, surfaced roads, and structural shoreline protection facilities. Moderately developed barriers are essentially free of houses, commercial and industrial buildings and facilities that contain surfaced roads, recreational structures, and structural shoreline protection facilities. Developed barriers contain houses and commercial and industrial structures; they may also contain surfaced roads and structural shoreline protection facilities.

The CRMC prohibits the construction or expansion of new infrastructure or utilities on all barriers, including water, gas, and sewer lines.

Table 2 lists each classification and any restrictions that apply.

Table 2: Categories of Coastal Barriers and Related Restrictions

Category	Restrictions
Undeveloped	<p>CRMC goals are to preserve, protect, and where possible, restore these features as conservation areas and buffers that protect salt ponds and mainlands from storms.</p> <p>Alterations to undeveloped barriers are prohibited, except to protect, maintain, restore, or improve the feature as a natural habitat for native plants and wildlife. Structural shoreline protection facilities are prohibited.</p> <p>With the exception of boardwalks and certain snow fencing, all residential and non-water-dependent recreational, commercial, and industrial structures on undeveloped barriers physically destroyed 50% or more by storm-induced flooding, wave, or wind damage cannot be rebuilt, regardless of insurance coverage.</p>

Table 2 (continued)

Category	Restrictions
Moderately Developed	<p>New development is prohibited, except to restore, protect, and improve natural habitat.</p> <p>Existing roads, bridges, utilities, and shoreline protection facilities can be maintained. Existing recreational facilities can be altered, rehabilitated, expanded, or developed according to specified standards. For example, (1) expansion or development cannot occur within any flood zone designated as "V" on the most recent federal insurance rate maps; (2) activity must be confined to the existing "footprint of disturbance;" (3) proposed expansions of existing recreational structures must be limited to an area equal to 25% of the square footage of the ground floor area; and (4) all relevant setback and buffer zone requirements must be met.</p>
Developed	<p>The construction of new buildings is prohibited on developed barriers on which only roads, utility lines, and other forms of public infrastructure were present as of 1985.</p>

Source: R.I. Admin. Code § 16-2-1:210.2

MAINE

Maine's [Mandatory Shoreland Zoning Act](#) (Me. Rev. Stat. Ann. tit. 38, § 435 et seq.) requires municipalities to adopt, administer, and enforce local ordinances to establish land use controls in the shoreland zone. The shoreland zone includes all land within 250 feet of coastal wetlands and tidal waters. The purpose of the law is to protect and conserve the shoreland area through controlling land uses and structure placement.

Municipalities must adopt a local shoreland zoning ordinance and map to implement the law. They must identify all shoreland areas and then establish specific zones or districts within those areas. The state maintains draft model ordinance with minimum standards to be included in the local ordinances ([Guidelines for Municipal Shoreland Zoning Ordinances](#)). The state's Department of Environmental Protection must review and approve municipal ordinances. If a municipality fails to adopt a shoreland ordinance, the state adopts the model ordinance for it.

Municipalities are encouraged to use local planning documents and consider local needs when adopting their ordinances. They can adopt a more stringent ordinance or one that differs from the state’s model ordinance as long as it is at least equally effective at achieving the purposes of the shoreland zoning law. All land use activity must comply with the standards described in the ordinance, including obtaining any required permits.

The model ordinance divides the shoreland zone into six land use districts: resource protection, limited residential, limited commercial, general development, commercial fisheries/maritime activities, and stream protection. Most towns establish districts for resource protection, general development, limited residential, and stream protection.

Table 3 describes each land use district and the basic description for them. Development requirements, such as minimum setbacks and height and lot coverage limits, vary depending upon the district involved.

Table 3: Land Use Districts and Allowed Land Use Activity

Shoreland Zoning District	Allowed Land Use
Resource Protection	Undeveloped land that is: <ul style="list-style-type: none"> • within the 100-year floodplain on rivers and tidal waters, • land next to wetlands and salt meadows and marshes that is of value for waterfowl habitat, • at least two acres of steep slopes, • at least two acres of wetland vegetation but not part of a water body, or • on a river or tidal water subject to severe erosion
Limited Residential	Suitable for residential and recreational development
Limited Commercial	Suitable for low intensity, mixed residential and light commercial use (e.g., village area), but not industrial use
General Development	Areas of at least two acres for manufacturing, fabricating, trade, wholesaling, retailing, intensive recreation, or other industry. General Development I districts are areas that have previous development. General Development II areas are currently undeveloped but a town wants development to occur in the area.
Commercial Fisheries/Maritime	Areas with uses that are dependent on waterfront locations (e.g., working harbors)
Stream Protection	Streams located outside of the 250 foot boundary

Source: Maine Shoreline Zoning Handbook for Shoreland Owners, available at <http://www.maine.gov/dep/land/slz/citizenguide.pdf> (last viewed January 18, 2013).

ADDITIONAL RESOURCES

“Protecting the Public Interest through the National Coastal Zone Management Program: How Coastal States and Territories Use No-Build Areas along Ocean and Great Lake Shorefronts,” A Report of the National Coastal Zone Management Program, National Oceanic and Atmospheric Administration, May 2012 (updated July 2012) (available at coastalmanagement.noaa.gov/resources/docs/nobuildareas.pdf (last viewed January 18, 2013)).

OLR Research Reports:

- [2012-R-0046](#), Coastline Construction Restrictions
- [2012-R-0074](#), Seawall Construction Laws in East Coast States

JKL/KLM:mp