**DRUMMOND WOODSUM’S 2024 LEGAL UPDATE**

**SUPPLEMENT TO MBOIA POWER POINT PRESENTATION**

**MAY 21, 2024**

**SHORELAND ZONING/ENVIRONMENTAL PROTECTION**

**LD 2101 - An Act to Strengthen Shoreland Zoning Enforcement** (Signed by the Governor April 9, 2024)

* Authorizes LUPC and municipalities to take certain actions when a violation occurs on land in a shoreland zone, including:

(1) Denying, suspending or revoking a permit for further development of land on which a violation occurred until it is corrected and any penalties and court awarded fees are paid;

(2) Filing a civil action against the owner or occupant to recover unpaid penalties, the cost to correct the violation, and court costs and reasonable attorney's fees; and

(3) Claiming a lien against the land on which the violation occurred if LUPC or municipality is the prevailing party in the civil action.

* Before taking any action, LUPC or municipality must provide owner or occupant written notice of the violation and 10 days to correct the violation.
* A suspension or revocation of a permit remains in effect during any appeal of the suspension or revocation to a municipal board of appeals.
* The bill also requires persons selling property to disclose any actual or alleged violations of shoreland zoning statutes, ordinances, rules or regulations.

**LD 2059 - An Act Regarding Processing of Applications Under NRPA to Ensure Consistency with Shoreland Zoning Laws** (Signed by the Governor February 15, 2024)

* Authorizes the Commissioner of DEP to return as incomplete a NRPA application if the Commissioner finds there is a reasonable likelihood that the proposed activity would be inconsistent with the minimum municipal shoreland zoning guidelines.
* If Commissioner returns an application, Commissioner may require any resubmitted application to be accompanied by a municipal approval demonstrating compliance with the minimum guidelines.

**LD 2058 - An Act Regarding Compliance with Environmental Permit and License Application Requirements** (Signed by the Governor February 29, 2024)

* Allows DEP to refuse to accept a permit or license application if it was submitted *after* the activity requiring the permit or license has begun if the applicant knowingly violated a requirement to obtain a permit or license for the activity, or the applicant previously violated a requirement to obtain a permit or license within 5 years prior to submitting the application.

**LD 2030 - An Act to Exempt Certain Emergency Activities and Structure Elevation Increases in Flood Zones From Permit Requirements Under the Natural Resources Protection Act** (Emergency Legislation - Signed by Governor March 12, 2024)

* Enacted on emergency basis as a result of multiple storms causing widespread flooding and damage to public and private property and the need to respond/repair quickly.
* Exempts the following activities from permit requirements under NRPA:
	+ - Emergency activities in, on, over, or adjacent to a river, stream or brook necessary to alleviate flood events, provided that the government authority overseeing such activity notifies DEP prior to conducting it and maintains communication with DEP (and the resource must be restored following the flood event to prior existing condition to the greatest extent practicable, as determined by DEP);
		- Increase in the height of a pier, wharf or dock located in, on or over a coastal wetland where its height is increased by no more than the amount necessary for the bottom of the lowest horizontal structural component to be 4 feet above base flood elevation. (The deck of the pier, wharf or dock may be extended into the upland only as necessary to accommodate the heigh increase allowed, and, the reconstructed structure must meet PBR standards.)
		- Elevate building foundation if:
			* (1) It is: (a) located on a pier dock or wharf in, on, or over a coastal wetland; (b) adjacent to a protected natural resource; or (c) in a coastal sand dune;
			* (2) Erosion control measures are taken to prevent sedimentation;
			* (3) The amount of fill is limited to minimum amount necessary to maintain integrity of building;
			* (4) The building remains entirely in the existing footprint;
			* (5) The post-elevation building height complies with municipal ordinance; and
			* (6) If in a coastal dune, the foundation after being elevated allows for free movement of water, wind and sand and building does not exceed 35 feet after elevation
				+ Such elevation may include reasonable access (i.e., steps or ramps)
		- Repair a pier, wharf, or dock in, or over a coastal wetland if: (1) erosion control measures are taken to prevent sedimentation; (2) there is no additional intrusion into the wetland; and (3) fill is not placed in or adjacent to the wetland; and (4) the dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to repair except that the height may be increased by no more than the amount necessary for the bottom of the lowest horizontal structural component of the deck to be 4 feet above base flood elevation.
			* + NOTE: This repair provision does not apply if the repair involves more than 50% of the structure unless the municipality requires a permit for the activity, which has been granted.
* Authorizes the DEP through NPRA permit by rule process to reconstruct or replace a pier, wharf or dock in, on or over a coastal sand dune system if it was in existence on January 1, 2024 and the reconstructed or replaced structure is built on pilings, posts or similar supports that allow for the free movement of water, wind and sand under the deck, and it otherwise meets PBR standards.

**SMARTH GROWTH**

**LD 1673 - Resolve, Establishing a Working Group to Coordinate Collaboration Among State Agencies for the Purpose of Promoting Smart Growth and Development in High-Use Corridors** (Became law without Governor’s signature March 26, 2024)

* Resolve directs the Director of the Office of Policy Innovation and the Future (GOPIF) to convene a working group consisting of the commissioners from various state agencies, including DOT, DEP,DECD, the Department of Agriculture, and Conservation and Forestry, and MSHA to design a plan for agency coordination to maximize state resources and promote smart growth, walkable neighborhoods, mixed-use development and mixed-income housing in high-use corridors near higher-density downtowns, village centers or crossroads through infilling and redevelopment of underutilized lands.
* Working group is also required to propose a plan for technical assistance grants to municipalities for the development of ordinances and zoning regulations governing high-use corridors including model transit-oriented development zoning ordinances.
* Directs GOPIF to submit a report by January 15, 2025 with the group’s findings and recommendations to committees having jurisdiction over housing matters.

**HOUSING**

**LD 492 - An Act to Repurpose Vacant Shopping Mall and Retail Space to Mixed-use Housing and Retail** (Became Law without Governor’s signature January 7, 2024)

* Enacts 30-A M.R.S. § 4364-C(3), which provides, as necessary to meet statewide regional housing production goals, a municipality may adopt ordinances allowing the development of residential units in buildings on property zoned for commercial use including vacant or partially vacant retail space.
* This provision provides that an ordinance establishing a limit on the number of residential units within a building in a location zoned for commercial use, whether previously adopted or adopted pursuant to this subsection, must be proportional to the space available for residential units.

**LD 1294 - An Act Regarding the Ordinances Governing Residential Units Located in Buildings in a Location Zoned for Commercial Use** (Signed by Governor March 14, 2024)

* Revised the previously enacted 30-A M.R.S. § 4364-C(3) under LD 492 (see directly above) by changing the mandatory “must” language highlighted above to discretionary “may” language.