

2025 Legal Update

Monday, May 19, 2025

Presented by Drummond Woodsum Attorneys:



Leah Rachin
lrachin@dwmlaw.com



Ben McCall
bmccall@dwmlaw.com



Ben Algeo
balgeo@dwmlaw.com



16th Annual Maine Code
Conference

Sugarloaf Mountain Resort
May 19, 2025

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

1

1

LEGISLATIVE UPDATE¹

This legislative update relies heavily on the 2025 LD List – 132nd Legislature (First Regular & Special Sessions) prepared by the Maine Municipal Association. Status is current as of May 8, 2025.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

2

2

HOUSING

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

3

3

LD 1829 - An Act to Build Housing for Maine Families and Attract Workers to Maine Businesses by Amending the Laws Governing Municipal Land Use Decisions

STATUS: 4/30/25 Referred to Housing and Economic Development Committee

- Establishes within the court system a three-member Housing Development Resolution Board, to hear appeals regarding final decisions made by municipal reviewing authorities (i.e., boards of appeal, planning boards, site plan review boards, design review boards, historical preservation review boards) that impact housing developments.
- Board must include an attorney and an engineer or surveyor.
- The Board is directed to hear and affirm, reverse or modify final decisions of a municipal review authority, only with respect to errors of law or if the board is persuaded that the decision was unreasonable. Decisions to be reviewed include:
 - subdivisions, site plans, variances, special exceptions, administrative appeals and ordinance administration;
 - the use of innovative land and growth management and interim growth management controls;
 - historic district and conservation commissions;
 - other municipal permits and fees applicable to housing and housing developments; and
 - mixed-use combinations of residential and nonresidential uses.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

4

4

**LD 1829 - An Act to Build Housing for Maine Families and
Attract Workers to Maine Businesses by Amending the Laws
Governing Municipal Land Use Decisions (Cont'd)**

- Provides for an expedited process. An appeal must be filed within 14 business days, with notice provided to the municipal review committee, which must within 14 business days submit to the Board a certified record of its proceedings. The Board is then directed to hold a hearing on the merits of the appeal within 60 days and issue a written decision within 30 days thereafter.
- Appeals of local decisions may also be brought to the Board by any other aggrieved or injured party that demonstrates legal standing.
- Any party that brings an action before the Board waives the right to bring a Rule 80B appeal in Superior Court (waive right to Rule 80B appeal if use this process). No right of appeal of Board decision to Superior Court.
- Appeals to the Board automatically stay any pending Rule 80B appeal.
- Requires local board members to attend training on land use planning offered by a state agency or statewide association representing municipalities within 180 days of appointment.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

5

5

**LD 1829 - An Act to Build Housing for Maine Families and Attract Workers to Maine
Businesses by Amending the Laws Governing Municipal Land Use Decisions (Cont'd)**

- Additionally, the bill also:
 - (1) prohibits municipalities from enacting ordinances that limit the rate of growth of residential development in designated areas;
 - (2) requires municipalities to authorize in all areas where residential development is allowed:
 - (a) two dwelling units per lot if located on a lot not in a designated growth area;
 - (b) four units per lot if located in a growth area;
 - (c) four units on lots served by public water and sewer; and (d) two additional units on a lot with an existing dwelling unit;
 - (3) requires municipalities to allow an affordable housing development to exceed any height restrictions but by no more than 14 feet; and
 - (4) prohibits the establishment or enforcement of ordinances that:
 - (a) include dimensional requirements that differ from those established of single-family units, and
 - (b) establish minimum lot size requirements greater than 5,000 square feet per dwelling.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

6

6

LD 1272 - An Act to Address the Housing Crisis by Reducing Barriers to Building More Accessory Dwelling Units

STATUS: 03/25/25 Referred to Housing and Economic Development Committee

- Allows up to four single family ADUs on a single lot (any combination of single-family, duplex, triplex, or accessory ADUs).
- Exempts only the first accessory dwelling unit on a lot from municipal housing density requirements.
- Prohibits a municipality from adopting an ordinance or other restriction that requires the owner of the lot to reside in one of the units on the lot or requires a fire sprinkler system to be installed in certain ADUs (if located within, attached to, or sharing a wall with an existing dwelling unit if the existing dwelling unit meets fire resistance ratings for town houses without fire sprinkler systems). ADUs that are not located within, attached to, or sharing a wall with an existing dwelling unit are not required to have a fire sprinkler system.
- Amends the definition of "subdivision" from a division of a tract or parcel of land into three or more lots to a division of a tract or parcel of land into five or more lots as of December 31, 2025, requires municipalities to amend their subdivision ordinance that conflicts with the new definition by June 30, 2026.
- Clarifies that an ADU that otherwise complies with applicable state and local zoning requirements must be allowed on a nonconforming lot as long as the unit does not further increase nonconformity.
- Prohibits a municipality from restricting or limiting the owner's ability to separately sell or transfer and ADU located on the owner's lot.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

7

7

LD 1247 - An Act to Restrict Municipal Ordinance Requirements Regarding Housing Developments

STATUS: 03/25/25 Referred to Housing and Economic Development Committee

- If a housing development is served by a public, special district, or other centrally managed water system and the system is located in an area where dwelling units are allowed, a municipality must allow the development of a unit on a lot with a minimum size of 5,000 square feet and may not require more than two off-street parking spaces for every three units.
- Municipalities are also prohibited from establishing dimensional standards that: (1) are more restrictive than those for single-family dwelling units in effect on October 1, 2023; (2) impose road frontage standards greater than 50 feet and front, rear or side setbacks greater than 10 feet.
- Developers must provide written verification that each unit is connected to adequate sewer and water services, before the municipality can certify the development for occupancy.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

8

8

**LD 1662 - An Act to Amend the Laws Regarding Zoning and
Land Use Restrictions to Limit Certain Requirements to
Municipalities with Populations of More than 10,000**

STATUS: 4/15/25 Referred to Housing and Economic Development Committee

- This bill limits the applicability of the housing and zoning related recommendations from the Commission to Increase Housing Opportunities in Maine (LD 2003) adopted as PL 2021, c. 672, to municipalities with populations over 10,000.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

9

9

**LD 1385 - An Act to Consider Municipalities Meeting
Regional Housing Goals in Awarding Transportation Grants**

STATUS: 4/01/25 Referred to Housing and Economic Development Committee

- This bill requires the DOT to consider a municipality's past actions and future plans toward meeting regional housing production goals when considering the award of discretionary grants.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

10

10

LD 1806 - An Act to Create a Residential Rental Unit Registry

STATUS: 4/25/25 Referred to Housing and Economic Development Committee

- Creates a residential rental unit registry and directs the Secretary of State to publish on its website a searchable database of affordable rental units that are available for rent.
- The owner of a rental unit must register annually with the secretary and provide, among other information, a process by which a municipality can receive residential rental unit data pertaining to that municipality.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

11

11

LD 1476 - An Act to Support Maine's Homeless Shelters by Imposing a Fee for Booking Hotels, Short-term Rentals and Recreational Vehicle Camping Reservations

STATUS: 4/17/25 Referred to Housing and Economic Development Committee

- Beginning January 1, 2026, bill would impose a \$2 fee on the rental of living quarters in a lodging place or the rental of a recreational vehicle camping site, with the generated revenue credited to the Department of Health and Human Services to fund initiatives that support the operation of homeless shelters.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

12

12

LD 1534 - An Act Enabling Municipalities to Protect Tenants and Stabilize Rents

STATUS: 4/08/25 Referred to Housing and Economic Development Committee

- Authorizes municipalities to adopt ordinances imposing limits on annual rent increases for a residential dwelling unit which may not exceed the annual change in the Consumer Price Index or 5% of the base rent, whichever is lower.
- Allows municipalities to adopt ordinances that limit the eviction of a tenant for just cause, which includes nonpayment of rent, a substantial violation of a term of tenancy, criminal activity, or the removal of the unit from the rental market.
- Beginning January 15, 2026, municipalities adopting ordinances must annually submit a report to Maine State Housing Authority, including a copy of the ordinance, number of units impacted by the ordinance, and any other information considered necessary by the authority.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

13

13

LD 1184 - An Act to Require Municipal Reporting on Residential Building Permits, Dwelling Units Permitted and Demolished and Certificates of Occupancy Issued

STATUS: 3/20/25 Referred to Housing and Economic Development Committee
(Divided report from HEDC 4/22/25)

- Directs municipalities to provide an annual report on certain housing data to DECD for use in administering the Housing Opportunity Program, including data on residential building permits, dwelling units permitted and demolished, and certificates of occupancy or other approvals of housing units issued and certain affordability data.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

14

14

LD 997 - An Act to Allow Residential Use Development in Commercial Districts

STATUS: 03/11/25 Referred to Housing and Economic Development Committee
(Work session 5/9/25)

- Prohibits a municipality from prohibiting a residential use on a lot solely because the lot is zoned for commercial use.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

15

15

LD 970 - An Act to Prioritize Affordable Housing by Expediting Reviews for Affordable Housing Projects Applying for Fundings from the Maine State Housing Authority

STATUS: 03/07/25 Referred to Housing and Economic Development Committee
(Work session 5/06/25)

- When a project involves the construction of affordable housing, funding or credits for which are being sought from the Maine State Housing Authority, this bill requires a municipal licensing authority to provide notice to an applicant as to the completeness of the application within 30 days after receipt.
- If notice is not provided, the application is deemed complete.
- Once complete, the municipality must act on the application within 120 days.
- Also requires the DEP to act on site location of development permits for affordable housing construction within 30 days after receipt of the permit application.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

16

16

**LD 949 - An Act to Clarify Licensing Jurisdiction for
Manufactured Housing Communities**

STATUS: 03/05/25 Referred to Housing and Economic Development Committee (Work session 4/29/25)

- Requires a municipality to accept a license issued by the Manufactured Housing Board as evidence a manufactured housing community meets all requirements to operate.
- Also prohibits a municipality from assessing additional fees for a manufactured housing community to operate or from assessing a fee for any type of permit for manufactured housing if the manufactured housing or the installation is governed by rules of the U.S. Department of Housing and Urban Development or the Manufactured Housing Board.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

17

17

**LD 731 - An Act to Prohibit Municipalities from Barring the
Creation of Homeless Shelters**

**STATUS: 02/25/25 Referred to Housing and Economic Development Committee
(Work session 04/28/25)**

- Prohibits municipalities from enacting or enforcing ordinances that prohibit the creation or operation of a homeless shelter.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

18

18

LD 916 - An Act to Promote Investment in Housing**STATUS: Carried over**

- Proposes to promote investment in the development of housing by offering tax abatements to corporate entities that donate to community development financial institutions that support housing development.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

19

19

**LD 319 - An Act to Allow Residential Housing on
Church Property Located in Commercial Zones****STATUS: Carried over**

- Proposes to allow the development of residential housing on church property located in commercial zones.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

20

20

**LD 632 - An Act to Allow a Local Option Sales Tax on
Short-term Lodging to Fund Affordable Housing**

STATUS: DEAD

- Bill authorizes municipalities to impose a 2% sales tax on taxable lodging sales for the sole purpose of funding affordable housing programs.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

21

21

**LD 1453 - Resolve, to Establish the Innovative
Factory-Made Housing Working Group**

STATUS: 4/08/25 Referred to Housing and Economic Development Committee

- Creates a 36-member Innovative Factory-made Working Group, including one member with experience in building and zoning laws and a member representing local code enforcement officers.
- Directs the working group to:
 - (1) consider methods to encourage development of these communities;
 - (2) update state statutes and rules to meet the current need for innovative housing technologies;
 - (3) examine scoring metrics used by the Maine State Housing Authority to create incentives for encouraging development;
 - (4) consider workforce challenges faced by home builders;
 - (5) consider feasibility of new housing technologies, including potential cost savings;
 - (6) consider pathways for implementing new housing technologies on a statewide scale; and
 - (7) examine the successes and failures of the industry in Maine and other states and countries.
- Directs the working group to submit its recommendations to the Joint Standing Committee on Housing and Economic Development by December 3, 2025.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

22

22

**LD 1375 - Resolve, to Establish a Working Group to
Address Regulatory Barriers to Housing Construction**

STATUS: 03/28/25 Referred to Housing and Economic Development Committee

- Directs the DECD to convene a working group, represented by organizations with building and engineering expertise, to examine and recommend solutions for regulatory barriers to housing construction.
- DECD must submit its report to the Joint Standing Committee on Housing and Economic Development by December 31, 2025.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

23

23

LD 546 - Resolve, to Require the Preparation of Preapproved Building Types

STATUS: Carried over

- Directs the Bureau of Resource Information and Land Use Planning to contract with an appropriate consultant to:
 - (1) establish between five and eight building types that municipalities may adopt as preapproved building types to reduce the time associated with processing permit applications;
 - (2) develop preapproved building types with units that can be rented at 30% of the county's area median income;
 - (3) ensure public engagement in developing the building types;
 - (4) work with the Office of the State Fire Marshal to determine compliance with life safety codes; and
 - (5) create a catalog of preapproved building types.
- Bureau must submit report to Legislature no later than November 4, 2026 with recommended legislation to ensure that when a municipality adopts preapproved building types, applications for permits must be deemed administratively approved when the development is located along existing streets or within designated growth areas served by public water and sewer.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

24

24

SUBDIVISION

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

25

25

LD 1396 - An Act to Amend Maine's Municipal Subdivision Standards to Increase the Number of Dwelling Units on or Divisions of a Tract of Land Before the Tract is Considered a Subdivision

STATUS: 04/01/25 referred to Committee on Housing and Economic Development (work session 5/6/25)

- Amends the definition of "subdivision" within the land use laws to exclude from the definition the creation of up to four lots or dwelling units on a parcel of land.
- The addition or creation of an attached or unattached ADU does not constitute a lot.
- Amends the exception to the subdivision law for a division of a new or existing structure into three or more dwelling units by allowing the creation of any number of dwelling units, whether by creation of a condominium or through redevelopment of the interior of the structure.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

26

26

**LD 128 - An Act to Support Permitting of Certain Multifamily Housing
Developments Under Site Location of Development Laws**

**STATUS: 01/08/25 Referred to Housing and Economic Development Committee
(work session tabled 5/6/25)**

- Amends the definition of "subdivision" for purposes of the site location of development laws to allow lots that include detached residential housing designed to accommodate up to four families, including accessory dwelling units, instead of just single-family housing.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

27

27

**LD 161 - Resolve, Directing the Department of Agriculture, Conservation and
Forestry to Convene a Stakeholder Group Tasked with a Comprehensive
Overhaul and Modernization of the State Subdivision Laws**

**STATUS: 1/14/25 Referred to Committee on Housing and Economic Development Committee
(work session tabled 5/6/25)**

- Directs DACF to convene a nine-member stakeholder group to review Maine's subdivision laws.
- One member of the group must be either a municipal official with experience with subdivision law or a currently employed code enforcement officer.
- DACF must submit its report with recommendations to the Legislature by December 3, 2025.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

28

28

SHORT TERM RENTALS

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

29

29

LD 1181 - An Act Regarding the Designation of Short-term Rental Units as Commercial or Residential in Use

**STATUS: Referred to Committee on Housing and Economic Development on 3/20/25
(works session 05/09/25)**

- Clarifies that a municipality may require the assessor to assign a land use code to a short-term rental unit that designates the rental unit as a commercial or a residential use.
- Defines "commercial in use" as a short-term rental unit that is not claimed as the primary residence of the owner and a "residential in use" as a short-term rental unit that is claimed as the primary residence of the owner.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

30

30

**LD 746 - An Act to Authorize a Local Option Sales Tax on Short-term
Lodging to Fund Municipalities and Affordable Housing**

STATUS: Referred to Committee on Taxation on 2/25/25 (divided report 3/27/25)

- Authorizes municipalities to impose a 2% sales tax on taxable lodging sales. The tax assessed is payable to the state, with 10% of the revenue transferred to the Maine State Housing Authority, 2% to cover administrative costs, with remaining funds remitted to the generating community.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

31

31

MUBEC/NFPA/RADON

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

32

32

LD 603 - An Act to Ensure That the Exemption of Certain Agricultural Buildings from the Maine Uniform Building and Energy Code Includes Maple Sugarhouses

STATUS: Referred to Committee on Taxation on 2/25/25 (divided report 3/27/25)

- Authorizes municipalities to impose a 2% sales tax on taxable lodging sales. The tax assessed is payable to the state, with 10% of the revenue transferred to the Maine State Housing Authority, 2% to cover administrative costs, with remaining funds remitted to the generating community.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

33

33

LD 1005 - An Act to Allow Municipal Fire Departments with Trained Personnel to Conduct Sprinkler Plan Reviews

STATUS: Referred to Committee on Criminal Justice and Public Safety on 03/11/25 (work session tabled 04/16/25)

- Allows a municipal fire department to conduct a sprinkler plan review if the municipal employee conducting the review is certified as a plan reviewer by the NFPA and the municipal fire department establishes a review process to ensure compliance with all applicable codes and standards.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

34

34

**LD 659 - An Act to Reduce Housing Costs by Not Requiring
Fire Sprinkler Systems for Single-family Homes and Duplexes**

**STATUS: Referred to Committee on Housing and Economic Development on 02/20/25
(05/01/25 reported out ONTP)**

- Prohibits a municipality from adopting or enforcing any provision of a building code that requires the installation or use of fire sprinkler systems in a single-family dwelling or duplex.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

35

35

**LD 427 - An Act to Prohibit Mandatory Parking Space
Minimums in State and Municipal Building Codes**

**STATUS: Referred to Committee on Housing and Economic Development on 02/04/25
(05/01/25 divided report)**

- Prohibits the state or municipalities from adopting or enforcing any rule, code or ordinance, including MUBEC, that imposes a minimum parking requirement on new development, land use or occupancy of land or a building.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

36

36

LD 1232 - An Act to Require Radon Testing for Certain Commercial and Residential Construction

STATUS: 03/25/25 referred to Committee on Housing and Economic Development (04/22/25 work session tabled)

- Requires a radon permit where a building permit is required for either new construction or renovation to a commercial building or new residential construction.
- A person registered by the DHHS to test radon must apply for the permit and conduct testing. If radon mitigation measures are required, the person designing and installing the mitigation measures must be registered by the department.
- Exempts residential construction in a municipality without a building code or performed by a homeowner acting as a general contractor and who performs more than 50% of the framing and finishing of the structure.
- Penalties for violations are \$1,000 for commercial construction and \$500 for residential construction.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

37

37

LD 741 - An Act to Increase Preparedness for Solar Power Adoption in Maine

STATUS: Referred to Committee on Housing and Economic Development on 02/25/25 (divided report 05/01/25)

- Requires the Technical Building Codes and Standards Board to ensure that the MUBEC includes standards for the construction of new commercial buildings contained in Appendix CB of the 2021 edition of the International Energy Conservation Code.
- Requires the board to define "new commercial buildings" to exclude buildings that have received all necessary permits and approvals before July 1, 2026, and any buildings that receive funding from the Maine State Housing Authority.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

38

38

LD 445 - An Act to Stimulate Housing Production by Increasing the Threshold Before Participation in the Maine Uniform Building and Energy Code Is Mandatory

STATUS: Dead

- This bill increases from 4,000 to 10,000 the population threshold for municipalities mandated to enforce the Maine Uniform Building and Energy Code.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

39

39

ENVIRONMENTAL

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

40

40

Stormwater/Water Pollution
LD 401 - An Act to Support Removal of Overboard Discharge Systems

STATUS: Signed by Governor 4/25/25

- Amends the laws governing pollution control in the following ways:
 - (1) requires the seller of residential real property to disclose the use of an overboard discharge system and provide a summary of the transfer requirements for such a system;
 - (2) changes proportion of the cost of a municipal or quasi-municipal pollution abatement construction program for which DEP may pay;
 - (3) changes the income limits for individual pollution abatement projects serving single-family dwellings, seasonal dwellings or commercial establishments for which the DEP may pay a percentage of the cost; and
 - (4) requires that in order to be eligible for grant funding, the owner of an overboard discharge system and contractor must certify that removal project has been completed, including proper abandonment, and the local plumbing inspector must certify that an alternative disposal system has been installed.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

41

41

Stormwater/Water Pollution
LD 1550 - Resolve, Directing the Department of Health and Human Services to Amend Its Rules to Protect Water Quality by Reducing Nutrient Pollution from Septic Systems

**STATUS: 04/10/25 Referred to Committee on Health and Human Services
 (work session 5/6/25)**

- Directs DHHS to amend rules governing subsurface wastewater disposal by:
 - (1) amending design standards for disposal fields to address short circuiting by reducing nutrient loading from septic tank effluent through natural processes;
 - (2) applying amended design standards only to soil profiles that pose a high risk of short circuiting; and
 - (3) providing that an area of land suitable for the installation of a disposal field may not be rendered unsuitable due to any changes in the rule amended pursuant to this resolve.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

42

42

<p align="center"><u>Stormwater/Water Pollution</u> LD 646 - Resolve, Establishing the Commission to Study Unregulated Storm Water Pollution</p>
<p>STATUS: Carried over</p> <ul style="list-style-type: none"> Creates the Commission to Study How to Address Unregulated Storm Water Pollution, which includes a representative from municipal government, and directs the commission to study and analyze existing scientific literature and data on storm water pollution and how it has/will affect the state's waters, habitats and species along the coast. Report to be submitted to Legislature no later than December 3, 2025. <hr/> <p>800.727.1941 dwmlaw.com <small>Copyright 2025 Drummond Woodsum. All rights expressly reserved.</small></p>

43

43

<p align="center"><u>PFAS</u> LD 1786 - An Act to Require DEP to Provide Certain Information Regarding Perfluoroalkyl and Polyfluoroalkyl Substances to the Public and Private Drinking Water Well Owners</p>
<p>STATUS: 04/24/25 referred to Committee on Environment and Natural Resources (public hearing 5/5/25)</p> <ul style="list-style-type: none"> Requires DEP to post on its website the more stringent of the current federal EPA standards or the state maximum contaminant level for PFAS in drinking water, measured in parts per trillion. Requires DEP to provide information regarding PFAS when it has knowledge or suspects that a private drinking water well may be contaminated by PFAS or when the owner of a private drinking water well requests the information. <hr/> <p>800.727.1941 dwmlaw.com <small>Copyright 2025 Drummond Woodsum. All rights expressly reserved.</small></p>

44

44

<p style="text-align: center;"><u>PFAS</u></p> <p style="text-align: center;">LD 493 - An Act to Expand Testing for Perfluoroalkyl and Polyfluoroalkyl Substances to Private Drinking Water Wells</p>
<p>STATUS: Referred to Committee on Health and Human Services on 2/6/25 (work session 5/8/25)</p> <ul style="list-style-type: none"> • Requires landlords to test well water for PFAS when residential buildings are supplied by a private drinking water well and to disclose to the buyer of residential property that uses a private water supply to disclose a water test that indicates the presence of PFAS. • Adds PFAS to the list of contaminants in DHHS's Services uniform testing recommendations for private drinking water wells. <hr/> <p>800.727.1941 dwmlaw.com <small>Copyright 2025 Drummond Woodsum. All rights expressly reserved.</small></p>

45

45

<p style="text-align: center;"><u>PFAS</u></p> <p style="text-align: center;">LD 1604 - An Act to Protect Groundwater and Surface Waters from Perfluoroalkyl and Polyfluoroalkyl Substances from Landfill Leachate</p>
<p>STATUS: 04/10/25 referred to Committee on Environment and Natural Resources (5/7/25 work session held – divided report)</p> <ul style="list-style-type: none"> • Requires a person licensed by DEP to maintain a record of and annually report data regarding the origin, volume, and final disposition of leachate collected from a solid waste landfill. • Prohibits the discharge of wastewater containing leachate collected from a solid waste landfill unless the effluent satisfies PFAS limits adopted by department rule. • Requires solid waste landfill that has installed a landfill leachate collection system to ensure that its leachate is tested on a quarterly basis by an independent third-party entity for PFAS contamination. • Testing results must be made available on the department's website and if DEP receives a written request from an abutter to the landfill (with a private drinking water well), licensee is required to conduct sampling and analysis for PFAS. <hr/> <p>800.727.1941 dwmlaw.com <small>Copyright 2025 Drummond Woodsum. All rights expressly reserved.</small></p>

46

46

Recycling

LD 1633 - An Act to Promote the Recycling and Reuse of Construction Materials

**STATUS: 04/11/25 referred to Committee on Environment and Natural Resources
(committee voted 05/07/25 ONTP)**

- Directs DEP to establish a streamlined process for certification of a construction materials reclamation facility.
- Such a facility is defined as one that exclusively accepts construction and demolition debris and sorts, refurbishes and sells materials reclaimed from the debris for reuse in construction.
- Establishes the non-lapsing Construction Materials Reclamation Fund to provide funding to any public or private entity to support development and certification of reclamation facilities and public outreach and education initiatives regarding those facilities.
- Beginning January 1, 2026, this fund will receive a new \$10 per ton fee imposed on the landfill disposal of construction and demolition debris and residue from the processing of the debris.
- Establishes a new state goal requiring by January 1, 2036, to reduce by 25% the total tonnage of construction and demolition debris annually disposed of at solid waste landfills.

800.727.1941 | dwmlaw.com
Copyright 2025 Drummond Woodsum. All rights expressly reserved.

47

SHORELAND ISSUES

LD 1763 - An Act to Regulate Nonwater-dependent Floating Structures on Maine's Waters

STATUS: 04/23/25 referred to Committee on Inland Fisheries and Wildlife (public hearing held 4/30/25)

- Prohibits placement or use of a nonwater-dependent floating structure in, on or over inland waters or coastal waters. As defined in the bill, a "nonwater-dependent floating structure" is a waterborne structure that is supported wholly or partially by the structure's own buoyancy and that supports a nonwater-dependent use.
- "Nonwater-dependent uses" are defined as those uses that can function in a location other than the surface waters of the state and that do not require, for their primary purpose, location on submerged lands or direct access to inland waters or coastal waters.
- Exceptions for functionally water-dependent uses, swimming structures, water toys, ice fishing shacks and aquaculture facilities.
- Clarifies that the regulation of houseboats (defined as a kind of motorboat or vessel) and homemade watercraft (again, a vessel) are under the laws regulating watercraft.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

49

49

LD 413 - An Act Regarding Disclosure by Sellers of Residential Real Property of Notices of Shoreland Zoning Ordinance Violations

STATUS: Passed to be enacted by both House and Senate

- Requires sellers of residential properties to disclose the following information relating to shoreland violations: (1) NOV's issued by a municipal official or state agency; (2) pending enforcement actions; (3) litigation; (4) any court judgment; and (5) any settlement or consent agreement.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

50

50

LD 228 - An Act to Allow Coastal Seawalls to Be Raised by up to 2 Feet in Order to Accommodate Predicted Sea Level Rise

STATUS: Referred to Committee on Environment and Natural Resources on 1/16/25
(recommended OTP-AM on 5/6/25)

- Amends the NRPA by authorizing DEP to approve a permit or permit by rule for a one-time increase in the height of a seawall or similar structure in a coastal sand dune system, as long as: (1) the seawall is in existence on January 1, 2025; (2) the height of the seawall is increased by no more than two feet; and (3) the seawall otherwise meets all applicable requirements.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

51

SOLAR

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

52

LD 935 - Resolve, Directing the Department of Environmental Protection to Report on Air and Soil Chemical and Metal Levels and on Soil Testing on Solar Panel Farm Sites

**STATUS: Referred to Committee on Environment and Natural Resources on 3/5/25
(divided report 4/9/25)**

- Directs DEP to submit two reports to the Joint Standing Committee on Environment and Natural Resources by December 3, 2025 providing information on:
 - (1) levels of chemicals and metals, both airborne and in soil; and
 - (2) before and after installation soil testing conducted by the department on solar panel farm sites.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

53

53

LD 830 - An Act to Protect Maine's Scenic Beauty by Requiring Solar Panel Fields to Be Hidden from View

**STATUS: Referred Committee on Environment and Natural Resources on 3/4/25
(divided report 5/26/25)**

- Amends the site location of development laws to require that, prior to approving a solar project, the DEP finds that the proposed development will be surrounded by a barrier designed to conceal the development from view from abutting properties.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

54

54

LD 451 - An Act to Require Testing of Solar and Wind Energy Developments for Perfluoroalkyl and Polyfluoroalkyl Substances Contamination

**STATUS: Referred to Committee on Energy, Utilities, and Technology on 2/4/25
(unfinished business 5/7/25)**

- Requires operators of solar and wind energy developments to test for PFAS contamination at the development site in accordance with rules adopted by DEP.
- If PFAS contamination is discovered, DEP must issue a written determination as to whether the contamination was reasonably caused by the construction, operation or components of the development.
- If DEP determines the contamination was reasonably caused by solar or wind energy development, then the development no longer meets the eligibility requirements as a renewable resource or renewable capacity resource for the purposes of energy procurement or other contracting under state statutes or for participation in state net energy billing programs.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

55

55

LD 92 - An Act Regarding the Management of the Waste Components of a Solar Energy Development upon Decommissioning

**STATUS: Referred to Committee on Energy, Utilities and Technology on 1/8/25
(divided report 2/26/25)**

- Amends the solar energy development decommissioning laws by requiring that the recycling or disposal of waste components of a solar energy development occurs within 90 days of the physical removal of the waste components from the development.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

56

56

CANNABIS

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

57

57

LD 1840 - An Act to Amend the Maine Medical Use of Cannabis Act

STATUS: 04/30/25 referred to Committee on Veterans and Legal Affairs
(public hearing 5/5/25)

- Changes provisions of the Maine Medical Use of Cannabis Act governing local regulation by prohibiting the DAFS, except where explicitly authorized or directed by law, from requiring a registered caregiver, registered dispensary, cannabis testing facility or manufacturing facility to use a form issued by the department to comply with the requirements of the law.
- Prohibits the department from denying an application, if prior to January 1, 2026, a municipality authorized a cannabis facility without having adopted a warrant article or ordinance allowing operation of the facility within municipal boundaries.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

58

58

LD 1669 - An Act to Establish the Cannabis Advisory Council

**STATUS: 04/17/25 referred to Committee on Veterans and Legal Affairs
(public hearing 5/8/25)**

- Creates the 10-member Cannabis Advisory Council, including one member who is a municipal official from an opt-in community, to determine:
 - (1) how interested parties can work together to improve and maintain the quality of the state's medical and adult use cannabis industry; and
 - (2) address matters of interest to the industry, including changes to the tracking system contract, public health protection, and federal legalization.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

59

59

LD 1535 - An Act to Reduce Illegal Cannabis Operations by Requiring Permits for High Electrical Usage

**STATUS: 04/08/25 referred to Committee on Energy, Utilities and Technology
(work session 5/8/25)**

- Requires permit (from either the municipality (if it has an electrical inspector) or from the state, if not) for the installation or upgrade of electrical service to a total of 300 amperes or more in a residential building.
- Requires a transmission and distribution electric utility to report suspicious power use to the code enforcement officer when:
 - (1) a 300-ampere or more total service is installed, or an existing service is upgraded;
 - (2) a transformer malfunctions;
 - (3) a transformer larger than 25 kilovolt-amperes is installed or upgraded to 25 kilovolt amperes for a residential customer;
 - (4) there is a month-to-month increase in power consumption greater than 500% for a residential customer; or
 - (5) the transmission and distribution utility finds evidence that power diversion or theft has occurred.
- The report must state the reason for the power increase if known by the transmission and distribution utility.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

60

60

**LD 1365 - An Act to Allow Consumption of Adult Use
Cannabis in Locally Approved Hospitality Lounges**

**STATUS: 03/10/25 referred to Committee on Veterans and Legal Affairs
(public hearing 5/8/25)**

- Authorizes the operation of cannabis hospitality lounges open to persons at least 21 years of age for the consumption of adult use cannabis and products, as well as edible products that do not contain cannabis.
- Authorizes municipalities to adopt ordinances governing licensing or other approval requirements applicable to cannabis hospitality lounges.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

61

61

**LD 347 - An Act to Provide Qualifying Municipalities a Percentage of
Adult Use Cannabis Sales Tax and Excise Tax Revenue**

**STATUS: Referred to Committee on Veterans and Legal Affairs on 1/30/25
(5/7/25 ONTP)**

- Establishes the Local Government Cannabis Revenue Fund and requires that 12% of the revenue generated from the sales and excise taxes assessed on adult use cannabis and related products be distributed to municipalities where cannabis establishments are operating.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

62

62

LD 1559 - An Act to Authorize Medical Cannabis Farmers' Markets	
<div><div>STATUS: Dead</div><div><ul style="list-style-type: none">Directs the state to equally distribute 10% of the funds transferred to the Adult Use Cannabis Public Health & Safety and Municipal Opt-in Fund to municipalities that permit the operation of some or all adult use cannabis establishments.</div></div>	
<div><div>800.727.1941 dwmlaw.com</div><div>Copyright 2025 Drummond Woodsum. All rights expressly reserved.</div></div>	63

63

VARIANCES	
<div><div>800.727.1941 dwmlaw.com</div><div>Copyright 2025 Drummond Woodsum. All rights expressly reserved.</div></div>	64

64

**LD 907 - An Act to Amend the Law Governing Zoning Ordinance
Variances for Persons with Permanent Disabilities**

**STATUS: Referred to Committee on Housing and Economic Development 3/5/25
(committee recommended OTP-AM on 5/7/25)**

- Amends statute governing zoning adjustments (30-A M.R.S. § 4353(4-A)) by removing restrictions on the size and type of vehicle a person with a permanent disability may own in order for that person to obtain a zoning ordinance variance to construct a structure for the storage and parking of the vehicle.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

65

65

**LD 1143 - An Act to Update Language on Setback Variances for Single-family
Dwellings and Variances from Dimensional Standards**

**STATUS: Referred to Committee on Housing and Economic Development 3/18/25
(work session 5/9/25)**

- Changes references to a “single-family dwelling” to a “dwelling” in the law regarding setback variances.
- Amends statute governing variances from dimensional standards (30-A M.R.S. § 4353(4-C) to allow a variance when there is a practical difficulty, and the property is not wholly located within a shoreland area.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

66

66

DANGEROUS BUILDINGS

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

67

67

LD 1417 - An Act to Strengthen the Authority of Local Officials to Enforce Provisions Regarding Dangerous and Nuisance Properties that Constitute a Threat to Public Health and Safety

**STATUS: 04/01/25 referred to Committee on State and Local Government
(work session held 4/30/25, recommended ONTP)**

- Expands the authority of local municipal health and code enforcement officials to enforce laws pertaining to properties that are dangerous, nuisance or abandoned and that constitute a threat to public health or safety (expands beyond just structures/buildings and adds “property”).
- Allows enforcement through summary process in court (17 M.R.S. § 2859) and 30-A M.R.S. § 3016-A.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

68

68

GROWTH MANAGEMENT / COMPREHENSIVE PLANS

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

69

69

LD 1751 - An Act to Improve the Growth Management Program Laws

**STATUS: 04/23/25 referred to Committee on Housing and Economic Development
(public hearing 5/8/25)**

- Amends the Growth Management Act (GMA) program by:
 - (1) updating certain definitions (like affordable housing, place type);
 - (2) clarifying that an adopted comp plan remains in effect until amended or repealed;
 - (3) requiring a comp plan to include a needs assessment section that identifies existing or desired conditions necessary to support housing, economic growth and development; protect public health, safety and welfare; and protect the environment and critical resources and describe the public input received to determine identified needs;
 - (4) requiring that the implementation strategy section of a plan include a capital investment plan identifying the replacement and expansion of public facilities and services required to meet projected growth and development;
 - (5) requiring a comp plan to include a future land use plan that identifies and designates geographic areas as growth and rural areas, as well as areas appropriate for medium-density development that does to require expansion of municipalities facilities;

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

70

70

LD 1751 - An Act to Improve the Growth Management Program Laws (Cont'd)

- (6) clarifying that a municipality is not required to identify growth areas if it demonstrates that it is not possible to accommodate future residential, commercial or industrial growth, the community has experienced minimal or little growth, or the municipality does not have a downtown or densely developed area;
- (7) in the process of developing an implementation plan, requiring municipalities to establish development standards and timely permitting procedures, ensuring that needed public services are available, and preventing inappropriate development in natural hazard areas, as well as discouraging incompatible development in rural areas;
- (8) extending from 10 to 12 years state certification of a comprehensive plan;
- (9) amending deadlines associated with certifying a comprehensive plan; and
- (10) repealing portions of the GMA regarding inventory and analysis requirements, guidelines for policy development and implementation strategies.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

71

71

IMPACT FEES

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

72

72

**LD 1246 - Resolve, Directing the Department of Economic and
Community Development to Convene a Working Group to
Review the Process of Setting Impact Fees**

**STATUS: 03/25/25 Referred to Committee on Housing and Economic Development
(committed voted on 4/29/25 OTP-AM)**

- Directs the DECD and Office of Policy Innovation and the Future to convene a working group to study the process by which municipalities impose impact fees.
- Working group must include representatives of municipalities and developers and include a review of the process by which impact fees are established and imposed, the guidance provided to municipalities and developers, and resources municipalities rely on when establishing impact fee ordinances.
- Group must submit its recommendations to the Joint Standing Committee on Housing and Economic Development by December 3, 2025.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

73

73

LD 1498 - An Act to Limit Municipal Impact Fees on Housing Development

STATUS: Dead

- This bill amends the law authorizing municipalities to enact ordinances to require them to establish policies that describe how the municipality determines that a development necessitates an infrastructure improvement and how the developer's share of the cost of that improvement is determined.
- Requires that the developer's share of the cost of infrastructure improvement must be proportionate to the development's use of the infrastructure and only for improvements on land or property that directly abuts the location of the development and that the fees collected be used by the municipality within 180 days of receipt.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

74

74

WORKING WATERFRONT

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

75

75

LD 1625 - An Act Regarding the Preservation of Working Waterfronts

**STATUS: 04/11/25 referred to Committee on Marine Resources
(work session 5/1/25)**

- Establishes the Maine Working Waterfront Preservation Program and the Maine Working Waterfront Preservation Fund to preserve significant working waterfront property from redevelopment for purposes not related to working waterfront uses and whose continued availability to commercial fisheries businesses is essential to the long-term future of the economic sector.
- Directs the DMR to administer the program and provides DMR with right of first refusal on any working waterfront property at a price determined by an independent appraiser based on the value of the property as a commercial fisheries business and assign the right to a fisheries business or a local government.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

76

76

LD 1595 - An Act to Strengthen Working Waterfronts Against Nuisance Complaints Regarding Aquaculture

STATUS: 04/10/25 referred to Committee on Marine Resources (public hearing 5/8/25)

- Amends the law that prohibits private nuisance actions against a person engaged in commercial fishing (including activities associated with aquaculture).

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

77

77

MISCELLANEOUS

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

78

78

**LD 1226 - An Act to Protect Consumers by
Licensing Residential Building Contractors**

STATUS: 03/25/25 referred to Committee on Housing and Economic Development (5/1/25 divided report)

- Establishes a nine-member Residential Construction Board, which includes a municipal code enforcement officer, directed to establish licensing requirements for residential general contractors, as well as practice standards that are consistent with the Maine Uniform Building and Energy Code.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

79

79

**LD 1655 - An Act to Allow the Keeping of
Chickens on Private Residential Property**

STATUS: 04/15/25 referred to Committee on Agriculture, Conservation and Forestry (4/29/25 OTP-AM)

- Authorizes municipalities to adopt an ordinance regulating the raising of chickens on private residential land, provided that the ordinance does not prohibit the activity.
- The bill also: (1) limits the number of chickens to 36; (2) requires chickens to be housed in a coop located at least 15 feet from all property lines, is enclosed with predator-proof mesh wire and a door with a latch, and provides 4 square feet of inside space per chicken and at least 10 square feet of secure outdoor space per chicken; (3) prevents trespassing and disturbing abutters with noise or order; and (4) requires owner to reduce the attraction of predators and rodents.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

80

80

LD 1628 - An Act to Allow Municipalities to Regulate Exterior Lights

**STATUS: 04/11/25 referred to Committee on State and Local Government
(public hearing 5/5/25)**

- Allows municipalities to adopt ordinances to regulate exterior lights to prevent undue annoyance or adversely affect the health or safety of a member of the public or enjoyment or use of another property, including requiring the exterior light to be positioned downward or equipped with a shield to narrow the beam of light projected by the exterior light.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

81

81

LD 1177 - Resolve, Establishing a 3-year Moratorium on the Installation or Reinstallation of Synthetic Turf and Requiring a Study of the Public Health and Environmental Risks of Synthetic Turf

STATUS: Referred to Committee on Environment and Natural Resources on 3/20/25 (voted 4/30/25 OTP-AM)

- Places a three-year moratorium on the installation or reinstallation of synthetic turf in any park, outdoor playing field or athletic field, indoor athletic facility or similar venue.
- Directs DEP to examine whether synthetic turf is a risk to public health, the surrounding environment and the state's climate emissions goals.
- DEP must submit a report with its findings, including suggested legislation, no later than November 4, 2026.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

82

82

LD 1462 - An Act to Promote Artisans and the Creative Economy

**STATUS: 04/08/25 Referred to Committee on State and Local Government
(4/30/25 Divided Report)**

- Prevents municipalities from adopting or enforcing ordinances that prohibit the vending of “expressive matter,” except that the municipality may regulate the time, place and manner of the vending of expressive matter provided the restrictions are:
 - (1) directly related to health, safety or welfare concerns;
 - (2) necessary to ensure the public’s use and enjoyment of natural resources and recreational opportunities;
 - (3) necessary to prevent undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of a park owned or operated by the municipality;
 - (4) necessary to maintain sanitary conditions; or
 - (5) necessary to ensure compliance with the ADA.
- “Expressive matter” is defined as materials or objects created by a vendor with expressive content, including written material, such as newspapers, books or writings, and visual art, such as paintings, prints, photography or sculpture. It also includes the activity of performance artists whether or not the artist seeks a monetary donation.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

83

83

LD 124 - An Act to Protect the Right to Food

**STATUS: Referred to Committee on Agriculture, Conservation and Forestry on 1/8/25
(4/29/25 committed voted OTP-AM)**

- Creates the Maine Vegetable Garden Protection Act, designed to protect an individual’s constitutional authority to cultivate vegetable gardens on their property.
- Preempts any political subdivision’s ability to prohibit or regulate vegetable gardens, permaculture, edible landscaping, food forests or community gardens in a way that is inconsistent with the act.
- Amends the Food Sovereignty Act by, among other things, extending the authority of municipalities to adopt food sovereignty related ordinances.

FMI: On how a bill becomes a law in Maine:

<https://legislature.maine.gov/general/path-of-legislation-in-maine-detailed/9285>

FMI: On the terms used relating to Legislative status of a bill:

https://www.mainelegislature.org/lawmakerweb/glossary_of_terms.aspx#:~:text=OTP%2DA,OUT%20OF%20ORDER

FMI: On checking current status of a Maine bill:

<https://legislature.maine.gov/LawMakerWeb/search.asp>

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

84

84

CASE LAW UPDATE

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

85

85

Stiff v. Town of Belgrade

2024 ME 68, 322 A.3d 1167

Issues:

- Standard of review – Planning Board decisions
- Shoreland zoning - “accessory use or structure”

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

86

86

Stiff v. Town of Belgrade

2024 ME 68, 322 A.3d 1167

Facts:

- The Joneses own a lot in the limited residential district of the Belgrade shoreland zone.
- The lot contains a non-conforming, ~1,900 sq ft house.
- The CEO issued a construction permit allowing the Joneses to build a 26' x 26' garage with a laundry room and playroom.
- Instead, the Joneses constructed a two-story 37' x 29' structure with three beds, two baths, laundry and a "playroom" with a sink and kitchen appliances.
 - The Joneses built a paved walkway between the new structure and the house, because their intent was for the new structure to "serve as an addition to" the house.



800.727.1941 | dwmilaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

87

87

Stiff v. Town of Belgrade

2024 ME 68, 322 A.3d 1167

Procedure:

- The Joneses applied to the Planning Board for an after-the-fact permit.
- The Planning Board issued an after-the-fact permit, concluding that, as a matter of law, the new structure was a permitted accessory structure to a residential structure.
- As a condition of approval, the Planning Board prohibited the installation of kitchen appliances and the preparation of meals in the new structure.
- Next-door neighbors, the Stiffs, appealed.

800.727.1941 | dwmilaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

88

88

Stiff v. Town of Belgrade

2024 ME 68, 322 A.3d 1167

Question 1: How should the Court review the Planning Board's determination?

Answer: The standard of review varies:

- The Board's factual findings get significant deference
- The Board's interpretation of the ordinance gets no deference
- The Board's determination of the characterization of a use gets deference only if it is "primarily fact dependent" – otherwise it is a legal determination that gets no deference

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

89

89

Stiff v. Town of Belgrade

2024 ME 68, 322 A.3d 1167

Question 2: Did the Planning Board correctly conclude that the Jones's structure was an accessory structure under the shoreland zoning ordinance?

Answer: No.

- Under the SZO, an "accessory structure or use" is:
a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or common wall is considered part of the principal structure.
- This structure is neither incidental nor subordinate to the house.
 - This is a legal question, so the Planning Board gets no deference.
 - The exclusion of kitchen facilities does not render a building "incidental and subordinate" to another house on the lot.
 - Joneses stated their intention to build a detached addition to their home.
 - Restrictions on building in the shoreland zone should be strictly enforced.
 - "[W]e do not construe ordinance provisions in a manner that invites subterfuge and circumvention."

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

90

90

Stiff v. Town of Belgrade

2024 ME 68, 322 A.3d 1167

Takeaways:

- **Fact finding is critical:** On appeal, a court has more leeway to overturn legal conclusion than fact findings.
- **Don't get cute:** Taking out the fridge and the oven doesn't transform a standalone house into an accessory structure.
- **Purposes matter:** Ordinances should be construed consistent with their underlying purposes.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

91

91

Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Issues:

- When is a municipal decision appealable?
- What decision does the court review?
- Nonconforming, i.e., "grandfathered," uses
- Road standards

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

92

92

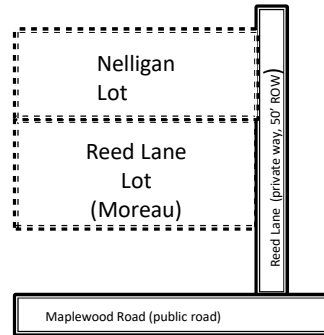
Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Facts & Procedure:

Reed Lane and the Reed Lane Lot

- Moreau owns a lot on Reed Lane (the “Reed Lane Lot”), a private road off Maplewood Road, which is a public road.
- Reed Lane was built in 1991 and serves several residences.
- Reed Lane is 15’ wide, on a 50’ wide right of way owned in fee by Moreau.
- The Reed Lane Lot does not front on Maplewood Road .
- Moreau has operated an unpermitted auto repair business on the Reed Lane Lot since ~ 2015.
- Nelligan, who owns a lot abutting the Reed Lane Lot, opposes Moreau’s auto repair shop.



800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

93

93

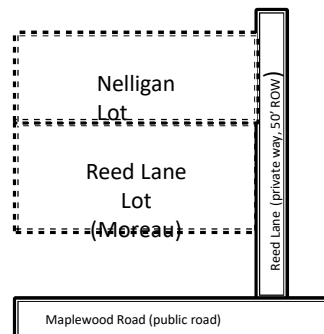
Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Facts & Procedure:

Zoning

- The Reed Lane lot is in the Village Residential District, which allows for commercial uses “appropriate for a village area.”
- The Reed Lane Lot is a nonconforming grandfathered residential use.
- Reed Lane meets ordinance requirements for roads serving residential uses.
- Auto repair shops are not prohibited but must be approved by the Planning Board.
- Auto repair applicants must meet 17 specified criteria.



800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

94

94

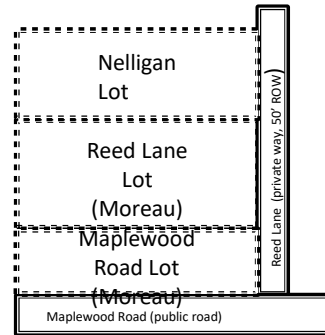
Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Facts & Procedure:

First Two Applications

- In 2019, Moreau applied to the planning board for after-the fact approval of the auto repair shop.
- The Board denied the application.
- Moreau then acquired the lot that lies between the Reed Lane Lot and Maplewood Road (the "Maplewood Road Lot").
- He then reapplied, arguing that because he now had frontage on a public street and thus met the requirements of the Ordinance.
- The Board unanimously approved the application, but the ZBA reversed.
- Moreau did not appeal.



800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

95

95

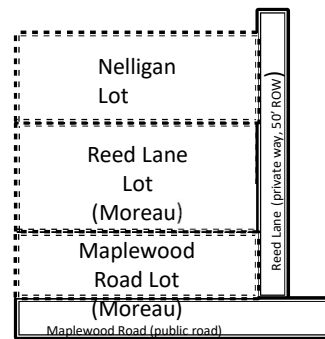
Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Facts & Procedure:

Third Application

- In 2021, Moreau reapplied for after-the-fact approval, stating that the garage would be accessible over Reed Lane.
- Nelligan appealed to the ZBA, arguing that, among other issues, Reed Lane did not provide sufficient access.
- While the appeal was pending, Moreau moved his operation to a new, two-bay garage on a different part of the property.
- The ZBA remanded to the Planning Board to consider the new location and further review the road access issue.



800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

96

96

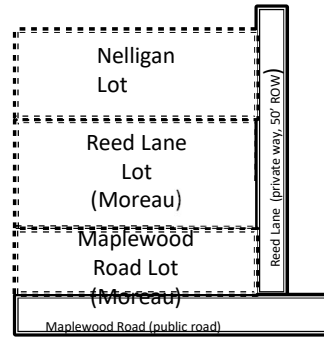
Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Facts & Procedure:

Third Application (cont.)

- In 2022, Moreau submitted a revised site plan depicting the two-bay garage.
- The Planning Board approved the revised plan.
- The Planning Board specifically found that Reed Lane provided sufficient access because, although new subdivision roads serving commercial uses must include a 60' ROW, Reed Lane is not a new road.
- The ZBA reversed, on the grounds that the ROW needed to be 60'.
- Nelligan raised a few other issues on appeal that the ZBA declined to take up.



800.727.1941 | dwmilaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

97

97

Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Facts & Procedure:

Appeal

- Moreau appealed, and although his appeal was untimely, the Superior Court found there was good cause for the late appeal.
- The Superior Court also determined that the record of Moreau's first two applications should be included in the record before the court.
- The Superior Court sided with Moreau, determining that the new road standards did not apply to Reed Lane and the auto repair shop otherwise complied with the ordinance.
- Nelligan appealed.

800.727.1941 | dwmilaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

98

98

Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Question 1: Was Moreau's appeal timely?

Answer: Yes.

- Under Rule 80B and 30-A MRS sec. 2691, a party has 45 days from the date that a ZBA votes to file an appeal.
- Here, while the ZBA decided most of the issues in the case at a June 23, 2022, meeting, it did not finally decide all issues until its July 28 meeting.
- Because Moreau's appeal was filed within 45 days of the July 28 meeting, it is timely.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

99

99

Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Question 2: Does Reed Lane provide sufficient access to the auto repair shop?

Answer: No.

- The auto repair shop is a non-grandfathered commercial use that must meet all commercial use standards.
- A new, reconstructed, or significantly altered "Town road[], street[], [or] way[]" serving a commercial use be situated on a 60' ROW. Access roads serving businesses located on rear lots must meet these standards as well.
- "[L]ogic dictates that the commercial use of a lot calls for the lot's access road to meet commercial road standards."
- It doesn't matter that Reed Lane predates this requirement, the commercial use does not.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

100

100

Moreau v. Town of Parsonsfield

2024 ME 75, 327 A.3d 48

Takeaways

- **Finality:** A decision is not final and appealable until it disposes of all issues in the proceeding.
- **Grandfathering:** A new commercial use cannot rely on grandfathering that applies to other uses on the parcel.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

101

101

High Maine, LLC v. Town of Kittery

2024 ME 76, 327 A.3d 58

Issues:

- Cannabis licensing
- Judicial standing for a business

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

102

102

High Maine, LLC v. Town of Kittery

2024 ME 76, 327 A.3d 58

Facts:

- Kittery allows only one retail marijuana store in each zone where such stores are permitted.
- No business (as identified by TIN) may have more than one store in the Town.
- Kittery selects stores for each zone using a lottery system, stores that submit a preapplication and are not immediately selected are placed on a wait list, as are stores that submit pre-applications after the initial lottery.
- GTF Kittery 8, along with 24 other similar entities, all filed pre-applications to operate a retail marijuana store on one floor of a building at 89 Route 236, and another preapplication to operate a retail marijuana store on the other floor of the building.
 - 50 separate pre-applications for the same building.
- GTF Kittery 8 was initially waitlisted, but in February 2023 the Town invited it to apply for a license.
- GTF Kittery 8 submitted a Site Plan for a store on both floors of the 89 Route 236 Building.
- High Maine had also submitted a license to operate a retail marijuana store in the same zone.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

103

103

High Maine, LLC v. Town of Kittery

2024 ME 76, 327 A.3d 58

Procedure:

- High Maine objected to GTF Kittery 8's site plan.
- The Planning Board nevertheless approved GTF Kittery 8's application and recommended to the Town council that GTF Kittery 8 be issued a license.
- Over High Maine's objections, the Town Council issued the license.
- High Maine appealed to the Superior Court, and the Town moved to dismiss for lack of standing.
- The Superior Court granted the Town's motion, and High Maine appealed to the Law Court.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

104

104

High Maine, LLC v. Town of Kittery

2024 ME 76, 327 A.3d 58

Question 1: Did High Maine have standing to appeal the Town's licensing decision to court?

Answer: Yes.

- To establish standing to appeal a municipal decision, a party must demonstrate that it (1) participated in the challenged proceeding and (2) "suffered a particularized injury" from the challenged decision.
 - No question that High Maine participated in the challenged proceeding, only question is particularized injury.
- A particularized injury is one affecting a person's "property, pecuniary, or personal rights" and is "distinct from the harm experienced by the public at large."
 - The type of injury required to show standing varies depending upon the claims alleged. For example, abutters typically have standing to appeal land use decisions.
- "A business competitor may have standing if . . . the proposed governmental action would result in substantial detriment to the competitor and adversely affect its business."
- When does a governmental decision cause a "substantial detriment . . . adversely affect[ing a] business"?
 - Allowing a competitor to compete in a market where competition is regulated by, for example, issuing a certificate of public need to a competitor nursing home.
 - Enacting an ordinance that would completely preclude the expansion of an existing business.
 - And here, depriving the ability to obtain a license altogether.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

105

105

High Maine, LLC v. Town of Kittery

2024 ME 76, 327 A.3d 58

Takeaways:

- Expect this issue to pop up again, the Court has not yet fully defined the contours of the business competition standing doctrine.
 - Although this was a judicial standing issue, most ordinances define administrative standing similarly, so this issue could come up in that context, too.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

106

106

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Issues:

- Rule 80B appeal not provided by statute
- Short-term rental licensing
- Difference between a residential building and a lodging establishment

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

107

107

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Facts:

The Property:

- 15 Langsford bought 11 condo units on a single property in Kennebunkport; 9 units in one structure and 2 free standing.
- Each unit has at least 1 bedroom, a kitchen, a living area, and at least 1 bathroom.
- Under the Town's land use ordinance, the freestanding units were single-family dwellings and the structure containing the other 9 units were a legally nonconforming residential multiplex.
- All units were governed by a Declaration of Condominium requiring that they be used for residential purposes.



800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

108

108

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Facts (cont.):

Conversion to Short Term Rental:

- Once 15 Langsford purchased the property, it began renting the units for short term rental (under 30 days).
- At the time, the Town had no short-term rental ordinance.
- The Town told 15 Langsford that it believed the property was an unpermitted commercial lodging use that violated the Land Use Ordinance and Declaration of Condominium.
- The Town did not issue a Notice of Violation, but did ask the 15 Langsford to apply for planning board approval.
- 15 Langsford amended its Declaration of Condominium and applied for Planning Board approval.



800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

109

109

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Facts (cont.):

Short Term Rental Ordinance (STRO):

- At the same time, the Town enacted a standalone STRO imposing “modest performance standards” and limiting the number of short-term rentals.
- Only “legally existing residential dwelling unit” may be used as short-term rentals, “lodging establishment uses” are not eligible for a license.
- Ordinance does not include an appeal provision.



800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

110

110

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Procedure

- 15 Langsford contacted the CEO about obtaining a license under the STRO
- The CEO denied the license on the grounds that the property was a lodging establishment use
- 15 Langsford appealed, and the Superior Court vacated the CEO's decision

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

111

111

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Question 1: Can 15 Langsford appeal the CEO's denial of its license application?

Answer: Yes.

- Rule 80B does not provide jurisdiction for appeal, it just establishes the procedures that apply when appeal is "provided by statute or otherwise available at law."
 - No statute provides for appeal here:
 - A person may appeal a ZBA decision under 30-A MRS sec. 2691(4), but the STRO does not provide for review by ZBA.
 - A person may appeal a land use decision under 30-A MRS sec. 4482-A, but the Town designated a different ordinance as its land use ordinance, and the STRO does not incorporate the land use ordinance's appeal procedures.
- Question becomes: Is review "otherwise available at law"?

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

112

112

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Question 1.1: Is review of the CEO's licensing decision under the STRO "otherwise available at law"?

Answer: Yes.

- Review is otherwise available at law if it had previously been available by writ of mandamus, certiorari, or prohibition:
 - **Writ of Mandamus:** A request that the court compel the performance of a ministerial act that does not involve the exercise of judgment (e.g., issuing a certificate of occupancy after a building passes final inspection)
 - **Writ of Certiorari:** A request that a court review a judicial or quasi-judicial decision (e.g., a determination that a building does not pass final inspection)
 - **Writ of Prohibition:** A request that a court order a lower court to cease abusing its authority (very rare)
- The CEO's decision here would have been reviewable by writ of mandamus
 - There is no disagreement about the facts, only about what the law requires
 - Does the absence of disputed facts really render a decision "ministerial," rather than "quasi judicial"?

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

113

113

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Question 2: Is 15 Langsford a lodging establishment and therefore ineligible for a short-term rental license?

Answer: No.

- Dispute is whether 15 Langsford's units are hotel "guest rooms" exempt from STRO licensing or "residential dwelling units" previously used as short-term rentals, which must be licensed.
 - A "guest room" is suitable only for transient occupancy
 - A "dwelling unit" is "one or more rooms arranged for complete, independent housekeeping purposes with space for eating or cooking and provisions for sanitation."
- 15 Langsford's units have kitchen and separate bedrooms; they are configured for residential, rather than transient, use.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

114

114

15 Langsford Owner LLC v. Town of Kennebunkport

2024 ME 79, 327 A.3d 1093

Takeaways:

- **Jurisdiction for an 80B appeal:** 80B is a rule of procedure, it does not confer jurisdiction. But jurisdiction may lie if review was previously available by writ of mandamus, certiorari, or prohibition.
- **Ordinance language matters:** Pay close attention to ordinance definitions.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

115

115

Day v. Town of Hiram

2024 ME 79, 327 A.3d 1093

Issues:

- How to analyze “the need of a particular location for the proposed use” when granting a conditional use permit.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

116

116

Day v. Town of Hiram

2024 ME 79, 327 A.3d 1093

Facts & Procedure:

- The Schnells (brother and sister) applied for a conditional use permit to build a brewery in the Residential District in Hiram.
- The Zoning Ordinance allows as a conditional use a commercial use under 2,500 sq. ft. and 6 employees.
- The Planning Board granted the conditional use application, but imposed fifteen conditions relating to dimensional requirements, noise levels, lighting, parking, signage, and waste disposal.
- Day, who owns property across the street, appealed to the Superior Court.
- The Superior Court remanded for the Planning Board to make findings of fact, which the Board did, and Day appealed again.
- The Superior Court affirmed the Planning Board, and Day appealed to the Law Court.



800.727.1941 | dwmllaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

117

117

Day v. Town of Hiram

2024 ME 79, 327 A.3d 1093

Question 1: Did the Planning Board err by examining the Schnell's need for the brewery rather than the community's need?

Answer: Yes.

- The Zoning Ordinance permits the Planning Board to grant a conditional use permit after considering, inter alia, "the need of the particular location for the proposed use."
- Here, the Planning Board found that there was a need because "the Applicants do not have property interests in any other parcels, which could be committed to the proposed use" and therefore "have no feasible alternative location within their possession or control."
- This was error, the Board should have instead looked to the community's need for the particular use.
 - There is a "need" for a use if it is "expedient, reasonably convenient, and useful to the public."
 - The purpose of the Zoning Ordinance is to provide for "economic wellbeing" in a manner compatible with residential use.
 - The Board should have analyzed whether the proposed brewery would have advanced those objectives.

800.727.1941 | dwmllaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

118

118

Day v. Town of Hiram

2024 ME 79, 327 A.3d 1093

Dissent (Mead, J.):

- Neither the need of the applicant nor the need of the community is the appropriate standard.
- Instead, the ordinance directs the board to analyze the need of the “particular location” meaning the property for which the conditional use approval is sought.
- The Board “closely scrutinized the property and noted particular needs that could be satisfied by appropriate conditions.” That is all it needed to do.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

119

119

Day v. Town of Hiram

2024 ME 79, 327 A.3d 1093

Takeaways:

- **“Need of a Particular Location”:** The “need of a particular location” refers to the needs of the broader community and the appropriateness of a proposed use considering the objectives of a zoning ordinance.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

120

120

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Topics:

“This appeal . . . addresses the relationship among the roles of a code enforcement officer, a board of appeals, and a selectboard in enforcing a land use ordinance.”

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

121

121

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Facts:

- The Clarks, the Trebilcocks, and Dan Gurney are neighbors on Fuller Mountain Road in Phippsburg.
- Gurney has sold firewood from his property for 30 years.
- The Clarks and the Trebilcocks filed a complaint with the CEO, alleging that the firewood business was not an allowable home business under the Land Use Ordinance (LUO) and additionally constituted a nuisance.
- The CEO responded that the business did not violate the LUO.



800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

122

122

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Procedure:

Board of Appeals

- The Clarks and the Trebilcocks requested a de novo hearing at the Board of Appeals.
- The Board of Appeals found that, although the business was “grandfathered,” it constituted a nuisance because it generated offensive noise and smoke pollution.
- The Board of Appeals ordered the CEO to work with the parties to abate the nuisance.
- The Board of Appeals’ decision was appealable, but nobody challenged it in court.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

123

123

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Procedure:

Consent Agreement and NOV

- With input from the parties, the CEO drafted a consent agreement.
- The draft agreement limited Gurney’s hours of operation, established a setback for Gurney’s business operations, and required compliance with “all relevant fire regulations.”
- Gurney did not sign the draft consent agreement, and the CEO issued a notice of violation, ordering Gurney to cease operations or face penalties.
- Gurney kept operating the business.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

124

124

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Procedure:

Enforcement by Board of Selectmen:

- Tasked with enforcing the violation, the Board of Selectmen discussed the matter and took evidence at a September meeting.
- Gurney said that he had voluntarily reduced his operating hours, moved his equipment back from the property line, and purchased a decibel meter to monitor the volume of his machinery.
- Gurney also stated that he would not sign the agreement.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

125

125

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Procedure:

Enforcement by Board of Selectmen (cont.):

- The Clarks objected to the Board of Selectmen hearing new evidence.
- The Select Board chair responded, "This is my meeting, and I'm gonna allow anybody to speak that I wish," and stated she did not want the Town to enter the consent agreement either.
- The Clarks and the Treblicocks objected again in writing and requested that the Select Board chair recuse herself.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

126

126

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Procedure:

Enforcement by Board of Selectmen (cont.):

- The Board of Selectmen conducted a site visit.
- While the Select Board proceeding was pending, Gurney submitted an application to the Board of Appeals requesting that it confirm his compliance with its earlier order.
- The Board of Appeals rejected Gurney's application as incomplete and outside of its authority to consider.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

127

127

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Procedure:

Enforcement by Board of Selectmen (cont.):

- At the next Select Board meeting, Gurney stated that he would not sign the consent agreement or propose an alternative agreement.
- A Select Board member expressed her concern that the Board should not permit ordinance violations and urged her fellow Board members to authorize a civil enforcement action.
- The Board chair responded that she believed signing the consent agreement would set a bad precedent.
- A third Board member stated his belief that the nuisance had been abated, to which the first Board member retorted that the Board of Selectmen could not overrule the CEO's determination that it hadn't.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

128

128

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Procedure:

Enforcement by Board of Selectmen (cont.):

- The Select Board voted 2-1 to find that Gurnsey had abated the violation.
- The Clarks renewed their request for the Board chair to recuse herself, and the Board chair refused.
- The Select Board then voted 2-1 to rescind the notice of violation.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

129

129

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Procedure:

Appeal:

- The Clarks and the Trebilcocks appealed to Superior Court, and the Superior Court remanded to the Select Board to make written findings.
- The Select Board made written findings, that did not impose any conditions on Gurney's continued operation of his business.
- The Clarks and the Trebilcocks appealed again, and the Superior Court denied the appeal.
- The Clarks appealed to the Law Court.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

130

130

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Question 1: Can the Board of Appeals' underlying decision be challenged in this appeal?

Answer: No.

- Nobody appealed that decision within the time provided, and it is therefore "unassailable in this appeal."
- The consent agreement and the appeal could proceed in tandem.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

131

131

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Question 2: Did the Board of Selectmen have authority to determine that the nuisance had been abated?

Answer: No.

- The CEO enforces the LUO, so the CEO decides whether there has been a violation.
- The Board of Appeals (not the Board of Selectmen) reviews the CEO's determination.
- The Board of Selectmen only has authority to decide, upon notification of a violation by the CEO, whether to institute an enforcement action.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

132

132

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Question 3: Did the Board of Selectmen properly consider whether to enter a consent agreement?

Answer: No.

- Under the LUO, the Board of Selectmen must decide whether to enforce a violation or enter a consent agreement that does not violate applicable law.
- Gurney said he wouldn't enter a consent agreement, so the Board's only decision should have been whether to enforce the violation in court.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

133

133

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Question 4: Should the chair of the Board of Selectman have recused herself from the proceeding?

Answer: Yes.

- The chair's conduct "fatally infected" the proceeding.
 - The chair made repeated remarks indicating pre-judgment bias, dismissing the Clark's concerns about only Gurney being allowed to present evidence.
 - The chair accepted Gurney's refusal to come to an agreement based only on the precedent that such an agreement might set for other businesses in town.
 - "Most concerning, [the chair] stated . . . that she advised Gurney ex parte not to sign the consent agreement"

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

134

134

Clark v. Town of Phippsburg

2025 ME 25, --- A.3d ---

Takeaways:

- **Stick to your lane:** The CEO decides whether there has been a violation, and the Board of Appeals may review that decision, but the Board of Selectmen only decides whether to enforce the violation in court or enter a consent agreement.
- **Rules are rules:** Sometimes enforcing the rules will create an outcome you don't like, but that alone is not enough to forgo enforcement.

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

135

135

DrummondWoodsum
ATTORNEYS AT LAW

THANK YOU



Leah Rachin
lrachin@dwmlaw.com



Ben McCall
bmcall@dwmlaw.com



Ben Algeo
balgeo@dwmlaw.com



16th Annual Maine Code Conference

Sugarloaf Mountain Resort
May 19, 2025

800.727.1941 | dwmlaw.com

Copyright 2025 Drummond Woodsum. All rights expressly reserved.

136

136