

Proposed amendment to LD 1849, Resolve, Regarding Legislative Review of Chapter 355: Sand Dune Rules, a Major Substantive Rule of the Department of Environmental Protection

Amend the bill by replacing the text after the emergency preamble and before the emergency clause the following:

Sec. 1. Adoption. Resolved: That final adoption of Chapter 355: Sand Dune Rules, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized with the changes described in Section 2.

Sec. 2. Changes to Chapter 355. The department will incorporate the following changes to Chapter 355 prior to submission of the chapter to the Board of Environmental Protection for final approval.

- A. Add a provision in Section 6(B) providing that the construction of vertical building additions and addition of dormers is not allowed in a V-Zone.
- B. Delete text in Section 6(C)(2) referring to a building located in a V-Zone first designated after January 1, 1999 by FEMA for NFIP.
- C. Reorganize and make minor text changes to Section 6(C) and (D) to make the standards easier to read and understand. In 6(C), change the term "involuntarily destroyed" to "severely damaged" because "severe damage" is a term defined in the chapter, and means damage exceeding 50% of a building's value. Modify text concerning "footprint" and "dimensions", which is ambiguous.
- D. Add a new Section 6(E) to provide standards for the reconstruction of a building in a frontal dune that has been severely damaged by wave action from an ocean storm. Move applicable existing standards to this new section. New standards are:
 - The building must be moved back from the ocean to the extent practicable given setback requirements and site limitations.
 - If any part of the previously existing building was located in a V-Zone, then the building must also be designed and configured to minimize or eliminate intrusion into the V-Zone to the extent practicable, given setbacks and site limitations.
 - The department may require sand dune mitigation and enhancement measures, including restoration of dune topography and elevation of the crest of the sand dune to the 100 year flood/wave runup level. The department may require provisions to enhance with native vegetation the portions of the lot not covered by buildings or parking areas.

- Add a note after this subsection providing information about the alternative option of seeking funding from state or federal programs that acquire storm-damaged properties from willing sellers. Indicate that information on current programs may be obtained by contacting the Maine Emergency Management Agency.
- E. Include a limitation in Section 6(E) providing that a building located in a frontal dune and severely damaged by wave action from an ocean storm may only be reconstructed once pursuant to Section 6(E).
 - F. Add a note providing that an alternative option to rebuilding in a frontal dune may be available in the form of funding from state or federal programs that acquire storm-damaged properties, and saying that information may be obtained by calling the Maine Emergency Management Agency.
 - G. In the Section 8, the Variance section, add text providing that the department may only grant a variance from Section 6(E) for purposes of allowing reconstruction in a frontal dune outside a V-Zone. The department may not grant a variance from the remaining provisions in Section 6(E).
 - H. Amend the variance standards where necessary so that they are appropriate for a reconstruction project. The variance in the provisionally adopted rules only addresses new buildings on previously undeveloped lots.
 - I. Add a note to the standard condition in Section 9(E) providing that it is important to be aware of any standards or limitations contained in local flood plain ordinances.
 - G. Make minor, non-substantive language, organizational, numbering, and cross-reference changes necessary to implement these changes. Correct a grammatical error in Section 1, first paragraph, changing "harms" to "harm".

SUMMARY

The proposed amendments would make changes to the Sand Dunes Rules which were adopted by the Board of Environmental Protection on June 19, 2003.