

New State Statute on Municipal Rate of Growth Ordinances

Shana Cook Mueller, Esq. | January 2, 2007

In the last legislative session, the Legislature enacted and Governor Baldacci signed into law LD 1535, An Act Making Improvements to the Laws Regarding Local Land Use Ordinances.

Part of this new law adds to the current statute regarding rate of growth ordinances. The statute, 30-A M.R.S.A. Section 4360, currently requires municipalities with rate of growth ordinances to review and update them at least every three years. It also allows municipalities to enact “differential ordinances,” or ordinances that set different limits on the number of building or development permits in designated rural areas and designated growth areas.

Effective July 1, 2007, LD 1535 adds greater specificity to the requirements of differential rate of growth ordinances. It requires that rate of growth ordinances set the number of building or development permits (not including permits for affordable housing) at 105 percent or more of the mean number of permits issued within the municipality during the ten years immediately prior to the year in which the number is calculated. The statute explains that the mean is determined by adding together the total number of permits issued for each year in the prior ten years and then dividing by ten. Finally, it requires that the number of building or development permits allowed under the ordinance be recalculated every three years.

Those municipalities with rate of growth ordinances in place must review them to be certain they comply with the new law effective July 2007. Likewise, those municipalities considering enacting rate of growth ordinances must do so in accordance with the new law.

We encourage you to speak with Shana Cook Mueller (207 228-7134; smueller@bernsteinshur.com) of Bernstein Shur’s Municipal, Legislative, and Regulatory Practice Group for more information and assistance.