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2018

## Sabattus, Maine Code of Ordinances

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# Sabattus, Maine – Code of Ordinances

## **ADDRESSING ORDINANCE**

### **Section 1. Title**

This ordinance will henceforth be known as the "Addressing Ordinance."

### **Section 2. Purpose**

The purpose of this ordinance is to enhance the easy and rapid location of structures by law enforcement, fire, rescue, and emergency medical services personnel in the municipality of Sabattus.

### **Section 3. Authority**

This ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

### **Section 4. Administration**

This ordinance shall be administered by the Addressing Officer who is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections 5 and 6. The Addressing Officer shall be responsible for maintaining the following official records of this ordinance:

- a. A municipal map(s) for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current tax records, by last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

The Selectmen shall designate an Addressing Officer, who is responsible for and authorized to provide all required addressing and database information to the state agency responsible for the implementation of Enhanced 9-1-1 service.

## **Section 5. Naming System**

All roads that serve two or more structures shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare.

A road name assigned by the municipality shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

- a. No two roads shall be given the same name (ex. Pine Road and Pine Lane).
- b. No two roads shall have similar sounding names (ex. Beech Lane and Peach Lane).
- c. Each road shall have the same name throughout its entire length.

## **Section 6. Numbering System**

The following criteria shall govern the numbering system:

- a. Numbers shall be assigned every 50 (fifty) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, as the numbers ascend. A 25-foot or less interval may be applied in more densely structured areas.
- b. All number origins shall begin from the center of town or that end of a road closest to the designated origin. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- c. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or the driveway of said structure if the front door cannot be seen from the main road.
- d. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy, i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Road, Apt 2.

## **Section 7. Compliance**

All owners of structures shall, by the date stipulated in Section 9, display and maintain in a conspicuous place on said structure, assigned numbers in the following manner:

- a. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry
- b. Number at the Road Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the

property line adjacent to the walk or access drive to the residence or structure.

- c. **Size, Color, and Location of Number.** Numbers shall be of a color that contrasts with their background color and shall be a minimum of four (4) inches in height. Numbers shall be located to be visible from the road at all times of the year.
- d. **Proper number.** Every person whose duty is to display an assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- e. **Interior location.** All residents and other occupants are requested to post their assigned number and road name adjacent to their telephone for emergency reference.

### **Section 8. New Construction and Subdivisions**

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

- a. **New Construction.** Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Addressing Officer. This shall be done at the time of the issuance of the building permit.
- b. **New Subdivisions.** Any prospective subdivider shall show a proposed road name and lot numbering system on the application submission to the Planning Board. Approval by the Planning Board, after consultation with the Addressing Officer, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 feet so as to aid in the assignment of numbers to structures subsequently constructed.

### **Section 9. Effective Date**

This ordinance shall become effective as of \_\_\_\_\_(date). It shall be the duty of the Addressing Officer to notify by mail each property owner and the U.S. Postal Service of their new address at least 60 (sixty) days prior to the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within 60 (sixty) days following notification. On new structures, numbering will be installed prior to final inspection or when the structure is first used or occupied, whichever comes first.



## **Section 10. Enforcement**

The Addressing Officer will enforce this ordinance and will work directly with the Town of Sabattus Selectmen, Police Department, Code Enforcement Officer and Tax Assessor.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## **ADULT-ONLY BUSINESS ORDINANCE**

### **Section 1. Findings**

The Citizens of the Town of Sabattus believe that sexually oriented businesses, because of their very nature, have negative secondary effects on surrounding areas. They have observed that in many communities throughout this country the presence of sexually oriented businesses is consistently and strongly associated with perceived decreases in value of both residential and commercial properties and the facilitation of illicit and undesirable activities. This evidence is relevant to issues facing the Town. It is recognized that sexually oriented businesses can adversely affect the character and quality of life of a town and can be incompatible with surrounding uses, particularly when the sexually oriented businesses are located in proximity to residences, day care centers, schools, houses of worship, public parks or recreational areas. An ordinance is a proper and reasonable means of controlling the negative secondary effects of sexually oriented businesses.

### **Section 2. Purpose**

The regulations of this Ordinance are not directed at the content of speech but are directed at the negative secondary effects of sexually oriented businesses. The purpose of this Ordinance is to regulate the place and manner of operation of sexually oriented businesses. It is intended to regulate and to annually license sexually oriented businesses, and to prevent their location in proximity to residences, day care centers, and schools, houses of worship, public parks or recreational areas. Regulation of these uses is necessary to insure that the negative secondary effects will not contribute to the blighting or downgrading of the surrounding areas of the Town at large. The purpose of this Ordinance is not to prohibit sexually oriented businesses from operating in the Town, but to regulate their location and manner of operation, while providing a reasonable opportunity for such businesses to exist.

### **Section 3. Definitions**

The following terms as used in this Ordinance and for the purpose of the Ordinance have the meanings to them below:

*Adult amusement store* - means an establishment having as a substantial or significant portion of its sales or stock in trade, erotic material, or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based on its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's purpose is to purvey such material.

## Sabattus, Maine – Code of Ordinances

*Adult motion picture theater* - means an enclosed building used regularly and routinely for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on erotic material for observation by patrons therein.

*Adult entertainment cabaret* - means a public or private establishment which features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interests of the patron.

*Adult spa* - means an establishment or place primarily in the business of providing services of an erotic nature.

*Sexually oriented business* - means Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, or Adult spas, as defined herein, or any business where erotic materials and activities are displayed, depicted, described or simulated as a regular and substantial part of its operation.

*Residence* - means any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or a mobile home.

*Specified criminal activity* - means a criminal conviction for any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; or any similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:

(1) less than two years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of less than one year;

(2) less than five years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of one year or more;

(3) less than years have elapsed since the date of the last conviction or the date of release from confinement or probation imposed for the last conviction, whichever is the later date, if the convictions are for two or more offenses or combination of offenses occurring within any twenty-four hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.

# Sabattus, Maine – Code of Ordinances

## **Section 4. License Required**

A person or persons wishing to operate a sexually oriented business shall obtain an annual license prior to opening the person's establishment, and prior to expiration of the current annual license. A license issued under this Ordinance does not eliminate the requirements of any other Ordinance in Sabattus including the Site Plan Review Ordinance. See Town of Sabattus Fee Schedule for current licensing fee.

## **Section 5. Application; Investigation and Issuance of License**

1. Application: An applicant for sexually oriented business license shall:

A. complete and file an application prescribed by the Planning Board;

B. deposit a license fee and a processing fee in advance with the Town Clerk or the Code Enforcement Officer. The amount of which fees are to be set by the Board of Selectmen and amended from time to time.

C. submit the completed application to the Planning Board through the Code Enforcement Officer, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;

D. file a sworn affidavit, which states the names of all owners, officers, managers or partners of the applicant, and their places of residence at the time of the application and for the immediately preceding three (3) years;

E. file the release authorized by 16 M.R.S.A, Section 620(6) (Criminal History Record, Information Act) with the application, for the applicant and each officer, owner, manager or partner of the applicant;

F. submit evidence of right, title or interest in the premises in which the sexually oriented business will be sited, along with the written consent of the owner of the premises for such use if applicant is not the owner;

G. state the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers.

H. submit evidence of compliance with Section X of this Ordinance and evidence that there is no basis for denial of a license to applicant under the standards listed in Section VI of this Ordinance.

2. Investigation of applicant, officers. Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:

## Sabattus, Maine – Code of Ordinances

A. The Code Enforcement Officer, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town Manager, and the Planning Board. The Code Enforcement Officer shall also immediately consult with the Chairman of the Planning Board and arrange for public notice of a public hearing on the application in a newspaper of general circulation and by mail to owners of lots within 1000 feet of the proposed location of the structure, at least 10 days prior to the public hearing before the Planning Board. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the processing fee. After receipt of required reports from the Town officials, the Code Officer shall forward the application and other documents to the Planning Board for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Code Enforcement Officer and a decision shall be made within fifteen (15) business days thereafter.

B. The Code Enforcement Officer; within fifteen days of receipt of the application, shall inspect the location or proposed location and construction drawings to determine whether the applicant's proposed plan satisfies the setback and construction requirements of this ordinance and then report findings in writing to the Planning Board. The Code Enforcement Officer shall enforce the provisions of all the applicable Town Ordinances and State Laws as indicated in accordance with 30-A M.R.S.A. 4452.

C. The Code Enforcement Officer with the help of the Town Police Chief, shall investigate the applicant, including the criminal history record information required under Section V (1) (E), and then report findings in writing to the Planning Board

D. The Code Enforcement Officer, within fifteen days of receipt of the application, shall verify that the proposed premises of the establishment will comply with Section 10 and with all other applicable State and Town laws and land use codes of the Town and then report findings in writing to the Planning Board. The Code Enforcement Officer will also verify whether or not other permitting under local Ordinances and state laws is required in addition to verification for compliance.

3. Issuance of license. The Planning Board, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Ordinance. The license shall be issued upon determination by the Planning Board, based upon the record, including evidence and testimony at the public hearing, that the applicant meets the requirements of this Ordinance. The license may not be transferred or assigned.

### **Section 6. Standards of Denial**

An application for a sexually oriented business license shall be denied in the following circumstances:

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1. The applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;
2. The applicant is an individual who is less than 18 years of age;
3. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required that is reasonably necessary to determine whether the license can be issued;
4. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five years;
5. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has had a license granted pursuant to this Ordinance or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five years;
6. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has committed any Specified Criminal Activity as defined herein;
7. The site on which the sexually oriented business is proposed is a prohibited site under Section 10, or
8. The application in any other way fails to meet the requirements of this Ordinance.

## **Section 7. Standards for Suspension; Revocation**

A sexually oriented business license may be suspended or revoked by the Planning Board after notice and hearing upon a finding that the licensee has violated any provision of this Ordinance. Providing false or erroneous information in an application shall be a reason for revoking or suspending a permit.

## **Section 8. Age Restriction**

No sexually oriented business may permit any person under the age of 18 years into the premises in which the sexually oriented business is located.

## **Section 9. Prominent Display of License; Price Charges and Names of Owners or Officers**

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued.

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Sexually oriented business licenses must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the names of owners and officers of the sexually oriented business and a complete list of fees, prices charged for all food, beverages, goods, wares, merchandise or services offered by the business unless the price is conspicuously displayed on the individual product.

## **Section 10. Prohibited Sites; Site Requirements**

1. A sexually oriented business may not be sited within 500 feet of the closest part of the structure of a business which caters to the general public or 1,000 feet of the closest part of the structure of any of the following:

- A. Church, synagogue or other house of religious worship;
- B. Public or private elementary or secondary school;
- C. Day care facility;
- D. Public park or public recreational facility;
- E. Any residence on adjacent property, excepting the owner or proprietor;

The distance cited in this section shall be measured between the closest edge of the structure of the sexually oriented business and the closest edge of the structure of the use listed (A) through (E) above.

2. A sexually oriented business will be required to construct a visual barrier around the sides of the business as required by the Planning Board.

3. It shall be unlawful for any person to cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

4. It shall be unlawful for any person to cause or permit the operation or establishment of more than one sexually oriented business in the same building, structure, or portion thereof.

## **Section 11. Signs and Exterior Layout of Sexually Oriented Businesses**

1. Sexually Oriented Businesses shall have an 8.5 inch by 11 inch sign at each entrance stating "Under 18 not admitted" or similar wording accepted by the Planning Board.

2. Sexually Oriented Businesses may have an 8.5 inch by 11 inch sign at entrances listing business hours, and appropriately posted signs, with letters no larger than 3



## Sabattus, Maine – Code of Ordinances

inches high, stating “Entrance”, “Parking”, “No Loitering” or other wording approved by the Planning Board.

3. Sexually Oriented Businesses shall have only one exterior identification sign as follows:

- A. The sign shall contain only the name of the establishment and “XXX” or the type of business as defined in Section 3 above.
- B. The sign may not contain any other symbols or illustrations.
- C. The sign must meet the approval of the Planning Board, who may require changes if they believe the proposed sign would be offensive to a significant number of Sabattus residents.
- D. The exterior dimension of the sign shall not exceed 30 square feet.
- E. The sign may be two sided.
- F. The sign may be unlit, internally lit, or lit with spotlights.
- G. The lights may not blink.
- H. The bottom of the sign may not be more than 10 feet above grade.
- I. The top of the sign may not be more than 15 feet above grade.

4. No signs or symbols, except as permitted in Section 11, paragraphs 1 through 3 above, shall be visible from the exterior of the establishment.

5. Exterior lights shall be used for necessary illumination; they shall not blink nor be so bright as to unduly disturb neighbors or passersby, as determined by the Planning Board and in accordance with the Electronic Signs Ordinance.

### **Section 12. Prohibited Activities**

1. All acts of public indecency, as defined in 17-A M.R.S.A., Section 854, are prohibited in sexually oriented businesses.

2. All other acts prohibited by applicable ordinances or laws are prohibited in sexually oriented businesses.

3. No alcoholic beverages allowed on the premises of any sexually oriented business.

4. The sexually oriented business hours of operation will be strictly limited to and no greater than the hours of 8:00 a.m. to 12:00 a.m. EST, seven days a week.

# **Sabattus, Maine – Code of Ordinances**

## **Section 13. Enforcement**

A violation of this Ordinance is a civil violation and the civil penalties and remedies under Section 14 shall apply. The owner of the premises on or in which the sexually oriented business is located, who is not the licensee of the sexually oriented business, is jointly and severally liable with the licensee for any violation of Sections 9 to 12. The Ordinance shall be enforced by the Code Enforcement Officer, the Planning Board, and any law enforcement officials having jurisdiction within the Town of Sabattus. If court action is required to enforce this Ordinance, the Town shall be awarded its enforcement costs, including its reasonable attorney's fees.

## **Section 14. Penalties**

Violation of this Ordinance shall result in a monetary penalty beginning on the date a notice of violation from the Code Enforcement Officer is mailed to the Applicant at the address contained in Town records. If the violation is not remedied within ten days of notice being sent, the Code Enforcement Officer shall send a second notice. Fees are to be set by the Board of Selectmen and amended from time to time. See Town of Sabattus Fee Schedule for current fees. Remedying a violation does not prohibit the Planning Board from suspending the license as provided in Section 7. "Standards for Suspension, Revocation."

## **Section 15. Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

## **Section 16. Conflict with Other Ordinances**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, regulation or statute, the more restrictive provision shall apply.

## **Section 17. Appeals**

An appeal from any final licensing, denial, suspension or revocation decision of the Planning Board may be taken by an aggrieved party to the Sabattus Appeals Board within 30 days of the decision. The decision of the Sabattus Appeals Board may be taken to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

# Sabattus, Maine – Code of Ordinances

## **Section 18. Effective Date**

This Ordinance shall become effective immediately after approval by the voters of the Town of Sabattus.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## **ALARM SYSTEM ORDINANCE**

### **Section 1. Purpose**

The purpose of this ordinance is to encourage a reduction in the frequency of false alarms; to establish a service fee to compensate for the inappropriate use of municipal resources in response to false alarms; and to establish a list of responsible persons who will be responsible for each individual alarm located within the Town of Sabattus.

This ordinance is intended to provide the Town of Sabattus with rules and regulations to enhance public safety by promoting the control of fire hazards; regulating the use of structures, premises, and open areas; providing for the abatement of fire hazards; and setting forth the standards for compliance and achievement of these objectives.

### **Section 2. Definitions**

For the purposes of this ordinance, the following words and terms, as used herein, shall have the meaning defined or explained as follows:

*Alarm system* - A system including any mechanism, equipment or device designed to automatically transmit a signal, message or warning from private premises, including telephonic alarm systems designed to operate automatically through the use of public telephone facilities to any Town of Sabattus Public Safety Agency; or monitored by other private or public agencies which in turn transmit a signal to any Town of Sabattus Public Safety Agency.

*False Alarm* - A false alarm shall be deemed to be an alarm caused by malfunctioning of an alarm system, employee or resident error, inappropriate alarm equipment installation, improperly monitored equipment or inappropriate use of an alarm.

*Appropriate* - With respect to a Chief or Department, means the Fire Department for fire or rescue alarms and the Police Department for alarms of unlawful entry, theft or other criminal activity.

*Center* - Means any Public Safety Communications Center off/for the Town of Sabattus.

### **Section 3. Permit required**

No person shall install, operate, maintain, alter, or replace an Alarm system within the Town of Sabattus after July 1, 1997 without an effective permit therefore signed by the Chief of the appropriate department. (No permit fee will be required for pre-existing alarms registered with the Town prior to December 31, 1997). See Town of Sabattus Fee Schedule for current permit fee.

# Sabattus, Maine – Code of Ordinances

Registration Form - The Public Safety Department will prepare and make available to the alarm subscriber annually a registration form that will require specific information necessary for a successful emergency response in the event of an alarm activation. The information contained on this form will include but may not be limited to: that regarding the location and owner of the property; the type of property and any remarkable or dangerous contents; the type of system installed; the installer name, address and phone number; the service company name, address and phone number and emergency notification information.

## **Section 4. Application procedure**

Application for an Alarm system permit shall be made to the appropriate Department by the owner of the premises to be protected, upon forms prepared by the Town of Sabattus, signed by the applicant releasing and discharging the Town of Sabattus, it's officers, agents and employees, from any liability arising from the failure of such Alarm system to operate properly, or from any failure to respond to an alarm sent by each System or from any other act or omission by the Town, it's officers agents and employees excepting any knowing and intentional act or omission.

The application shall require the full name, telephone number and address of the owner of the premises to be protected and of at least two responsible persons within the Town who can respond within a reasonable time to reset or deactivate the system, and of the proposed installer who must have the capacity to maintain and service the Alarm system.

A commercial application shall also require a description of the principal use of the premises to be protected, a description of the proposed system and the location for its installation, and such other data as the Chiefs may reasonably require in order to assure the use of appropriate equipment and its proper installation. The appropriate Chief shall issue the permit with such conditions, as s/he deems reasonably necessary to assure the foregoing objectives. The Chiefs shall establish procedures and guidelines for processing such applications.

## **Section 5. Service fee**

The service fee for each newly installed System shall be fixed and may be changed by order of the Board of Selectmen. Such fee shall apply to each alarm system connected to the same premise and to any dialer alarm system programmed to activate any Sabattus Public Safety Agency telephone.

Fees are listed in Town of Sabattus Fee Schedule.

# Sabattus, Maine – Code of Ordinances

## **Section 6. Prohibited systems**

No system shall be permitted that automatically transmits to a 911 or other local emergency telephone line. The numbers designated on the approved permit by the appropriate Chief shall be used. Each alarm shall be reported individually, and no system shall be permitted which uses a constant signal for one type of alarm and a pulsating signal for another.

## **Section 7. Use regulated**

No commercial alarm system shall be placed in operation until its location; equipment and installation have been finally approved by the appropriate Chief as conforming to the terms of the permit and the provisions of this ordinance. Thereafter the appropriate Chief may inspect, or cause the inspection by a qualified person of, any commercial alarm system to determine that its condition, location and use comply with its permit and this ordinance, and to assure that it will not interfere with the operation of the Agency; access shall be permitted during all reasonable hours for such purpose. Any deficiency noted shall be reported to, and promptly corrected by, the owner. Information concerning any alarm system shall be maintained confidentially, and release of any such information by any person to one not concerned with the maintenance or operation thereof, or the enforcement of this ordinance, shall constitute a violation of this ordinance. Physical inspection shall not be required for private residential alarm systems.

1. The Fire Chief shall have authority, along with the Code Enforcement Officer, to inspect premises related to compliance with fire prevention and protection codes adopted by the State Commissioner of Public Safety and/or incorporated into the Maine Uniform Building and Energy Code (MUBEC). All decisions related to permits applied for under the Town of Sabattus Zoning Ordinance and MUBEC, as incorporated therein, shall be made by the Code Enforcement Officer and may be appealed in accordance with the Town of Sabattus Zoning Ordinance.

2. The Fire Chief shall have authority, along with the Code Enforcement Officer, to enforce state fire protection rules and the Maine Uniform Building and Energy Code in accordance with 25 M.R.S.A Section 2361.

## **Section 8. Alarm response**

The property owner or his designated agent, as kept on file at the Agency, shall respond to each alarm at the request of the appropriate Department for the purpose of securing the premises and deactivating any audible signal.

# Sabattus, Maine – Code of Ordinances

## **Section 9. False alarms**

Any owners of an alarm system whose system causes the transmittal of a false alarm more than two (2) times in a six month period, after a 30-day start-up period for new installations, shall pay a fee in the amount established in Town of Sabattus Fee Schedule for each instance. The appropriate Chief shall give suitable written warning to any permit holder, or to his designated agent, whose alarm sends a second non-emergency alarm in any fiscal year.

Non-emergency alarms shall include, but shall not be limited to, false alarms caused by malfunctioning equipment, accidental or negligent activation of the alarm, or improperly monitored equipment.

In the event an alarm is activated as a result of a natural or unnatural event beyond the property owner's control (i.e., disruption of electrical service due to a storm, motor vehicle accident, and the like), no fee or warning shall be imposed.

## **Section 10. Permit revocation**

The appropriate Chief may revoke the permit for any alarm system in the event that:

- A. Payment of any penalty fee is not made within thirty (30) days after the due date,
- B. Any deficiency reported to the owner is not corrected within a reasonable time,
- C. Such Alarm system persistently causes an excessive number of non-emergency alarms or otherwise persistently interferes with the orderly operation of the Agency,
- D. The owner refuses reasonable access for inspection of such system,
- E. Such System is placed in operation without final approval by the appropriate Chief, or,
- F. Any data provided in the application of such System is found to have been falsified willfully or through negligence of the applicant.

Such revocation shall not be effective until the appropriate Chief has given the permit holder or his designated agent actual notice of the reason therefore and reasonable opportunity to justify the same. In the event that an alarm has been deactivated after appropriate notice, the Town of Sabattus, its officers, agents and employees, are released and discharged from any and all liability arising during this time period.

# Sabattus, Maine – Code of Ordinances

## **Section 11. Appeal**

In the event of the refusal to issue or the revocation of any permit hereunder, the permit holder may appeal to the Board of Selectmen within ten (10) business days after actual notice of such decision is given to the permit holder or his designated agent. The Board of Selectmen may affirm, modify or rescind such decision, and their action thereon shall be final and conclusive without right or further appeal.

## **Section 12. Civil violation**

In addition to the foregoing grounds for revocation of a permit, the following events shall each constitute a civil violation, punishable in proceedings before the District Court by a fine as outlined in Town of Sabattus Fee Schedule:

- A. The installing, operation, maintenance, alteration or replacement of an Alarm system in the absence of an effective permit therefore signed by the Chief of the appropriate Department;
- B. The willful or negligent falsification of any data provided in an application for an Alarm system;
- C. The release of any information concerning any Alarm system to one not concerned with the maintenance or operation thereon or with the enforcement of this ordinance.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## **AUTOMOBILE GRAVEYARDS, JUNKYARD & RECYCLING BUSINESS ORDINANCE**

### **Section 1. Purpose**

The purpose of this ordinance is to provide adequate controls to ensure that automobile graveyards, junkyards and automobile recycling businesses do not have a harmful impact on the public health, safety and general welfare.

### **Section 2. Authority and Applicability**

Authority: This ordinance is enacted pursuant to 30-A M.R.S.A. ss3001 et seq. and ss3751 et. seq.

Applicability:

A. This ordinance shall apply to any automobile graveyard, junkyard or automobile recycling businesses now existing or to be established, all or part of which is within the Town of Sabattus.

B. This ordinance shall not apply to any Town of Sabattus waste handling facility.

C. This Ordinance shall not apply to bona fide farm and/or agricultural uses when - unserviceable vehicles- scrap metal and other items that may meet the definition of junk are stored for future use or to repair or maintain farm equipment used in connection with the owner's ongoing farm or agricultural operations. Should the farm or agricultural use cease, the provisions of this ordinance shall be met.

D. Farm or Agricultural operations shall provide proof of farming operations with a copy of their Schedule F Federal Form.

### **Section 3. Definitions**

In this ordinance, the following terms have the following meanings. Terms not defined will have their customary dictionary meaning.

*Agricultural Operation* - Operations that include, but are not limited to the harvest of agricultural products such as milk, hay, corn, fruit and other harvest type of items grown on the land and used for the continued agricultural operation.

*Automobile Graveyard* - A yard, field or other area used as a place to store 3 or more unregistered or uninspected motor vehicles, other than temporary storage not to exceed ninety (90) days by an establishment or place of business which is engaged primarily in doing auto body repair work for the purpose of making repairs to render a motor vehicle serviceable, for three (3) or more unserviceable, discarded, worn out or junked motor

## Sabattus, Maine – Code of Ordinances

vehicles as defined in Title 29-A MRSA, Section 101, subsection 42, or parts of such vehicles. Automobile graveyard includes an area used for dismantling, salvage and recycling of motor vehicles.

### **Automobile graveyard does not include:**

- 1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;
- 2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;
- 3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
- 4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;
- 5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;
- 6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;
- 7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

## Sabattus, Maine – Code of Ordinances

8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

*Automobile Recycling Business* - A premise of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that eighty (80) percent of the business premises specified in Section 7.C. is used for automobile recycling operations.

### **Automobile recycling business does not include:**

1) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State; or

2) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business.

*Junkyard* - A yard, field or other area used to store discarded, worn out or junked plumbing, heating supplies, household appliance or furniture, scraped or junked lumber, rotten wood, scrap metal, rope, rags, batteries, paper trash, rubber debris or any other waste material, garbage dumps, waste dumps, and sanitary fills.

*Unserviceable Vehicle* - Any motor vehicle which is wrecked, dismantled, unable to be operated legally on any public highway, such as, but not limited to unregistered or undisputed automobiles, or which is not being used for the purpose for which it was manufactured regardless of whether it is registered.

### **Section 4. Permit Required**

No person may establish, operate or maintain an automobile graveyard, junkyard or automobile recycling business without first obtaining a nontransferable permit from the municipal officers. Permit Fee as per Town of Sabattus Fee Schedule.

# Sabattus, Maine – Code of Ordinances

## **Section 5. Administration**

1. This ordinance shall be administered by the municipal officers. No automobile graveyard, junkyard or automobile recycling business permit shall be issued unless the provisions of this ordinance are met.
2. Upon receipt of an application, the municipal officers shall hold a hearing in accordance with 30-A M.R.S.A. ss3754.
3. Permits shall be renewed annually to remain valid except that automobile recycling business permits shall be valid for 5 years. The municipal officers shall annually inspect, or cause to be inspected, the site to ensure that the provisions of this ordinance and state law are complied with.
4. A fee per 30-A M.R.S.A. ss3756 shall be submitted with the permit application. See Appendix "A" – Fee Structure for current fees.

## **Section 6. Submission Requirements**

Any application for an automobile graveyard, junkyard or automobile recycling business permit shall contain the following information:

1. The property owner's name and address of the person or entity who will operate the site.
2. A site plan drawn to a scale not to exceed 1"=100', on which is shown:
  - a). the boundary lines of the property
  - b). the soils
  - c) the location of any sand and gravel aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist
  - d). the location of any residences or schools within 500 feet of the area where vehicles will be placed.
  - e). the location of any water bodies on the property or within 200 feet of the property lines
  - f). the boundaries of the 100-year flood plain
  - g). the location of all roads within 1000 feet of the site

# Sabattus, Maine – Code of Ordinances

3. Once the site plan is approved it does not have to be resubmitted unless changes are made on the site.

## **Section 7. Performance Standards**

The following performance standards are required of all automobile graveyards, junkyards and automobile recycling businesses, whether new or existing:

1. The site must be enclosed by a visual screen at least 6 feet in height and built in accordance with Department of Transportation rules issued pursuant to 30-A M.R.S.A. ss3759
2. No vehicle shall be stored within 300 feet of any water body or inland wetland.
3. No vehicle shall be stored within 500 feet of any private well, school, church or public playground or public park.
4. No vehicles shall be stored over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey or by a licensed geologist.
5. No vehicles shall be stored within the 100-year flood plain.
6. Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules, and regulations regarding disposal of waste oil and hazardous materials. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.
7. No vehicle shall be located closer than 100 feet from any lot line.
8. To reduce noise, all dismantling of motor vehicles shall take place within a fully enclosed building, and shall be done after 7:00a.m. and before 6:00p.m. Mondays through Saturdays. No dismantling of motor vehicles shall be allowed on Sundays.

## **Section 8. Enforcement**

The municipal officers and/or the Town Code Enforcement Officer in accordance with state law shall enforce this ordinance. Any violation of this ordinance shall also be deemed a nuisance within the meaning of 17 M.R.S.A. ss2802 and the violator shall be subject to the penalties set forth in 30-A M.R.S.A. ss4452 and any other remedy available at law.

# Sabattus, Maine – Code of Ordinances

## **Section 9. Effective Date and Amendment**

This ordinance shall become effective on the date of adoption, and may be amended by vote of the legislative body.

## **Section 10. Legal Non-Conforming ("Grand fathered") Uses, Structures, and Lots**

Structures, uses, and lots which were legally existing as of the adoption of this Ordinance but which do not conform to the requirements of the Ordinance shall be treated as non-conforming and may continue and be maintained, repaired, and improved. Expansions of non-conforming structures, uses or lots must conform to all other standards of this Ordinance.

## **Section 11. Severability and Conflict**

In the event that a Court of competent jurisdiction rules any provision of this ordinance to be invalid, the remaining provision shall continue in full force and effect. In the event that any provision of this ordinance conflicts with State statute, the State statute shall govern.

## **Section 12. Appeals**

If a decision of the Municipal Officer(s) is objectionable to the landowner, operator of the facility or any person aggrieved or when it is claimed that the provisions of this Ordinance do not apply or that the true intent of the Ordinance has been misconstrued or wrongfully applied, the landowner, operator of the facility or person aggrieved may appeal the decision of the Municipal Officer(s) within 30 days to the Board of Appeals following the procedures set forth by the Town of Sabattus.

Accepted:

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Original Adoption:

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Revision Dates:

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**It shall be unlawful for any owner or keeper of a dog within the Town of Sabattus to keep or maintain a dog that causes a disturbance of the peace at any time of the day or night.**

**It shall be the duty of the Town's Animal Control Officer and/or any Law Enforcement Officer of the Town of Sabattus to verbally warn the owner or keeper of the offending dog of the violation.**

**After the initial warning has been issued, any additional violations will result in a summons to the District Court being issued to the owner or keeper of the dog.**

**Upon conviction the owner or keeper of the offending dog will be assessed a fine according to the following schedule:**

<b>1<sup>st</sup> Offence:</b>	<b>\$100.00 plus any and all reasonable attorney fees.</b>
<b>2<sup>nd</sup> Offence:</b>	<b>\$250.00 plus any and all reasonable attorney fees.</b>
<b>3<sup>rd</sup> Offence</b>	<b>\$500.00 plus any and all reasonable attorney fees.</b>

#### **CANINE WASTE:**

**(A) Violation.** It shall be the duty of any owner or keeper of a dog or anyone in possession or control of a dog to remove and dispose of, in a safe and healthful manner, any waste left by the animal on any street, sidewalk or publicly owned property, or any private property where that person does not have permission of the owner to leave waste.

**(B) Exemption.** The requirements for removing dog waste under this section shall not apply to a dog accompanying any handicapped person, who, by reason of the handicap, is physically unable to comply with the requirements of this section.

**Penalties.** Anyone who violates this section shall be guilty of a civil violation and shall forfeit a sum of \$100.00 for the first violation, \$250.00 for a second violation and \$500.00 for each subsequent violation plus any and all reasonable attorney fees.

**(C) Such forfeitures shall be paid to the town and shall be deposited in a separate account as provided in 7 M.R.S.A. §3945.**

# Sabattus, Maine – Code of Ordinances

## **CURFEW ORDINANCE**

### **Section 1 - Title**

This ordinance shall be known and may be cited as the Curfew Ordinance of the Town of Sabattus, Maine.

### **Section 2. Purpose**

WHEREAS, there has been an increase in juvenile violence and crime, and an increasing presence of juvenile gang activity in the Town of Sabattus; and

WHEREAS, persons under the age of eighteen are particularly susceptible, because of their lack of maturity and experience, to participation in unlawful activities and gang-related activities, and to victimization by older perpetrators of crime; and

WHEREAS, the Town of Sabattus is obligated to provide for: the protection of minors from each other and from other persons, the protection of the health, safety, and welfare of the general public, and the reduction of juvenile crime, violence, and gang-related activity in the Town; and

WHEREAS, a curfew for those under the age of eighteen will aid in the achievement of these goals, and will be in the interest of the public health, safety, and welfare;

### **Section 3. Definitions**

*Curfew Hours* - means the hours from 11:01 p.m. until 6:00 a.m. of the following day.

*Emergency* - means unforeseen circumstances, or the resulting situation, calling for immediate action. This includes, but is not limited to, fire, natural disaster, or vehicular accident, as well as any situation requiring action to avert serious injury or the loss of life.

*Guardian* - means a person or a public or private agency that, either pursuant to court order or acceptance of testamentary appointment, is the legal guardian of the minor. This definition also includes a person to whom parental powers are delegated under 18-A M.R.S.A. § 5-104.

*Minor* - means any person who is seventeen years of age or younger.

*Parent* - means a person who is the natural parent, adoptive parent, or stepparent of the minor.

*Public Place* - means a place located in the town of Sabattus that the public, or a substantial group of the public, has access. This includes, but is not limited to, streets,



# Sabattus, Maine – Code of Ordinances

high- ways, sidewalks, parking lots, vacant lots, parks, and the common areas in and about apartment buildings, office buildings, hospitals, schools, shops, and places of entertainment such as movie theaters.

*Remain* - means to linger or stay, as well as to refuse to leave when requested to do so by a police officer, or the owner or other person in control of a public place. This term also encompasses activities that may be mobile, such as walking, driving, and riding about in a public place.

## **Section 4. Offenses**

- A. It shall be unlawful for a minor to remain in a public place during curfew hours.
- B. It shall be unlawful for a parent or guardian of a minor to knowingly permit, or to allow by exercising insufficient control, the minor to remain in a public place during curfew hours.

## **Section 5. Defenses**

It is a defense to prosecution under Section 4 of this ordinance that the minor was:

- A. accompanied by his/her parent or guardian;
- B. involved in an emergency or on an errand necessitated by an emergency;
- C. engaged in an employment activity, or on the way to or from an employment activity, without any detour or stop except as necessary to drop off or pick up a co-employee;
- D. in a motor vehicle involved in interstate travel;
- E. on an errand directed by a parent or guardian, without any detour or stop;
- F. on the sidewalk abutting the minor's home;
- G. attending a school, religious, or governmental activity, that is supervised by adults, or traveling to or from such a school, religious, or governmental activity without detour or stop;
- H. attending a recreational activity sponsored by the Town of Sabattus, a civic organization, or a similar entity, which is supervised by adults, or traveling to or from such an activity without detour or stop;
- I. exercising rights protected by the First Amendment of the United States Constitution;
- J. married, or otherwise legally emancipated.

# Sabattus, Maine – Code of Ordinances

## **Section 6. Enforcement**

A. Before acting to enforce this ordinance, a police officer shall ask the apparent offender's age. The officer may ask for proof of the apparent offender's age, and shall be justified in taking action to ascertain the apparent offender's age in the absence of identification. This may include the apparent offender into custody while contacting his or her parent or guardian, or accompanying the apparent offender to his or her residence for the purpose of obtaining identification.

B. If the apparent offender is a minor, or cannot immediately produce identification proving otherwise, the officer shall ask the reason for the apparent offender being in a public place. The officer shall not take any action to enforce this section unless the officer reasonably believes that an offense has occurred and, based on any response as well as other circumstances, no defense provided in Section 4 is applicable.

C. If the officer does have such a reasonable belief, the officer may take the minor into custody for the purposes of contacting the minor's parent or guardian, to come to take control of the minor.

D. The police officer shall summons the minor and the minor's parent to the district court for violation of this ordinance. During this period, the officer may require the minor or the minor's parent or guardian or both to remain in the officer's presence for a period of up to two hours, so long as the officer complies with all requirements of law, including, without limitation, 17-A M.R.S.A. §17.

## **Section 7. Penalties**

A. The penalty for a minor who violates this ordinance shall be:

1. for the first offense, five hours of community service and a fine as outlined in Town of Sabattus Fee Schedule; and
2. for each subsequent offense, ten hours of community service and a fine as outlined in Town of Sabattus Fee Schedule.

B. The penalty for a parent or guardian who violates this ordinance shall be:

1. for the first offense, a fine as outlined in Town of Sabattus Fee Schedule; and
2. for each subsequent offense, a fine as outlined in Town of Sabattus Fee Schedule.

## **Section 8. Severability**

If any provision of this ordinance is determined to be invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining provisions.

# Sabattus, Maine – Code of Ordinances

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## DANGEROUS DOGS ORDINANCE

### **Section 1. Purpose**

To ensure that the inhabitants of the Town of Sabattus are safe from injury or endangerment as a result of dangerous dogs posing a threat to public health and safety and are kept by other inhabitants. Statutory Authority: 7 M.R.S.A., Sections 3947, 3948, 3950, and 3952.

### **Section 2. Definitions**

Dangerous Dog:

1. *Dangerous Dog* - means a dog that bites an individual who is not trespassing on the owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premise's and is acting in a reasonable and non-aggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual's domestic animal; or
2. Any dog, the subject of a civil violation pursuant to 7 M.R.S.A. Section 3952 or a criminal charge pursuant to Section 3952(7), whose owner has admitted or been found guilty of the violation or criminal charge, when such dog was the subject of said infraction.

A Dangerous Dog does not include a dog certified by the State and used for law enforcement use.

Dangerous Dog Enclosure:

The pen, cage, or enclosure for a dangerous dog must be constructed from materials of sufficient strength to prevent the dog's escape, and must have secured sides, a secure top attached to the sides, and a secured bottom which is either attached to the sides or constructed so that sides of the structure are embedded in the ground no less than three feet. Enclosures shall be of suitable size for the dog. No person shall permit a dangerous dog to be kept outside its enclosure on a chain, rope or other type of leash to inanimate objects such as trees, posts, buildings, etc. Dangerous dogs shall not be left outside in any enclosure when no one is home. For purposes of this Ordinance, the term "enclosure" refers to Dangerous Dog Enclosures as defined herein. The enclosure shall be posted with no less than one prominently displayed notice warning of the presence of a dangerous dog within the enclosure.

# Sabattus, Maine – Code of Ordinances

## **Section 3. Requirements**

The owner of a Dangerous Dog shall be required to:

1. Annually register the dog with the Town Clerk as a Dangerous Dog in addition to the State of Maine annual license requirements pursuant to 7 M.R.S.A. 3921. The required Dangerous Dog registration fee, according to Town of Sabattus Fee Schedule, shall be due at the time of registration. All Dangerous Dogs must be registered on or before January 31<sup>st</sup> of the calendar year. In the event of late registration, an additional late fee, according to Town of Sabattus Fee Schedule, will be assessed by and paid to the Town Clerk. In the event an owner of Dangerous Dog relocates to the Town of Sabattus or a Dangerous Dog is transferred to the Town of Sabattus during the year, said Dangerous Dog must be registered pursuant to this section within thirty (30) days of the relocation or transfer. The Town Clerk shall provide to the owner a tag designating the dog as dangerous. The owner shall place the tag on the dog's collar and must ensure that the dog wears such tag and collar at all times;
2. Obtain and show proof of liability insurance in an amount of not less than \$300,000.00 covering bodily injury or death of any person, domesticated animal, or livestock, or for damages to any person or entity's other property, resulting from the keeping of such a Dangerous Dog. A copy of a current certificate of liability insurance on file with the Sabattus Town Clerk shall constitute "proof" of such insurance;
3. Provide to the Animal Control Officer/Police Department the name and address of the owner, breed, age, sex, color, and any other identifying marks of said dog; the location of where the dog is to be kept if not at the address of the owner and two color photographs of the Dangerous Dog;
  - a. Not allow the dog to go outside its enclosure unless the dog is under physical restraint and securely muzzled and under the immediate control of the owner.
  - b. Post no less than two (2) signs giving notice of the presence of a Dangerous Dog prominently displayed so that all persons entering said property are immediately notified a Dangerous Dog is being kept at the location. One (1) of said signs may be that required by Section 2 "Dangerous Dog Enclosure".

## **Section 4. Transfer of Ownership or Owner Change of Address**

The owner of a Dangerous Dog shall notify the Animal Control Officer or Police Department that said animal is to be relocated. The owner shall, in writing, no less than seven (7) days prior to the relocation, give the name of the new owner, mailing address, physical address, and telephone number where the animal shall be kept. The owner shall make the new owner aware that the courts have declared said dog to be

# Sabattus, Maine – Code of Ordinances

dangerous. If the owner is moving with said dog, the owner shall provide the same information to the Animal Control Officer or Police Department no less than seven (7) days prior to the move.

## **Section 5. Enforcement**

The Animal Control Officer/Police Department shall be responsible for enforcement of this chapter. Any violation of this Ordinance shall be enforced by one or more of the following methods:

1. The prompt application to a court or Justice of the Peace for an ex-parte order for the immediate removal of the animal.
2. Service of a Summons and the filing of a civil Complaint with the Lewiston District Court.
3. If Applicable, filing of a report with the Androscoggin County District Attorney for the criminal prosecution for violation of 7 M.R.S.A. Section 3952(7) or other applicable law.

## **Section 6. Penalties**

The minimum monetary penalty for any violation of this ordinance is listed in Town of Sabattus Fee Schedule (none of which may be suspended). In the event any dog causes injury or damage to any person, dog or property, the court shall award restitution in addition to the monetary penalties.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## DISBURSEMENT WARRANT ORDINANCE

### **Section 1. Purpose**

The purpose of this ordinance is to provide an alternative to the statutory procedure for approval of warrants authorizing the treasurer to disburse money.

### **Section 2. Authority**

This ordinance is enacted pursuant to 30-A M.R.S.A § 3001 (municipal home rule) and § 5603 (2) (A).

### **Section 3. Procedure for Approval**

The treasurer may disburse money only on the authority of a warrant drawn for the purpose, either:

- (a) affirmatively voted and signed by a majority of the municipal officers at a duly called public meeting,
- (b) seen and signed by a majority of them acting individually and separately, or
- (c) signed as otherwise provided by law for the disbursement of employees' wages and benefits and payment of municipal education costs.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## DRIVEWAY PERMIT ORDINANCE

### **Section 1. Applicability**

All persons, firms or corporation in the Town of Sabattus prior to construction of a new driveway leading from a public way to private property, shall be required to first obtain a driveway permit from the Town road Commissioner. The road Commissioner will issue a permit after determining construction specifications reasonable intended to prevent drainage problems or other interference with public ways or neighboring private property and the written agreement of the applicant to build in accordance with those specifications.

### **Section 2. Enforcement, Penalties**

Failure to construct the driveway in accordance with the specifications, or the construction of a driveway without a permit, shall be deemed a violation of this ordinance and punishable by a fine as listed in Town of Sabattus Fee Schedule.

Accepted:

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Original Adoption:

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Revision Dates:

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## **TOWN OF SABATTUS**

### **PROVISIONS FOR ELECTRONIC SIGNS**

#### **Changeable Message Signs**

Changeable message signs are permitted provided that each message remains fixed on the display surface, but “which may be changed at reasonable intervals by electronic process or remote control,” and do not “include any flashing, intermittent or moving light or lights.” (23 U.S.C. § 131) and in accordance with subsection 11-A. of Title 23 Chapter 21 of the Maine Revised Statutes annotated. For the purposes of this section, signs whose messages change by mechanical or electronic means are not prohibited as long as the intermittent lighting is used to change messages and not solely to attract attention.

A “flashing” sign will continue to be prohibited except as described below. The regulatory factors in the display of an electronic changeable message signs are:

1) Duration of the message display, 2) Message Transition, and (3) Frame Effects.

#### **Definitions**

**ELECTRONIC MESSAGE SIGN (or DISPLAY)** – A sign capable of displaying words, symbols figures or images that can be electronically or mechanically changed by remote or automatic means.

**DISSOLVE** – A mode of message transition on an Electronic Message Display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

**FADE** – A mode of message transition on an Electronic Message Display accomplished by varying the light intensity, where the first message gradually reduces the intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

**FRAME** – A complete, static display screen on an Electronic Message Display.

**FRAME EFFECT** – A visual effect used on an Electronic Message Display to change from one message to another.

**SCROLL** – A mode of message transition on an Electronic Message Display where the message appears to move vertically across the display surface.

**TIME & TEMPERATURE SIGN** – A special type of changeable message sign that is capable of displaying only public service information such as time, date and temperature, but not words, symbols or other advertising messages.

**TRAVEL** – A mode of message transition on an Electronic Message Display where the Message appears to move horizontally across the display surface.

### **Permitted Uses**

Changeable signs are not permitted in residential zones. Electronic Message Signs are permitted with the approval of the Code Enforcement Officer if the sign meets the following requirements in addition to the dimensional requirements set forth in by Town ordinance. According to Maine Law, electronic message signs are not permitted for viewing onto controlled access highways (interstate highways) and only a single, single-sided or double-sided Electronic Message Sign is permitted on any lot of record.

### **Times Permitted**

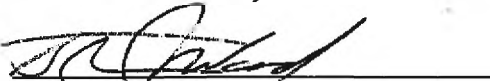
Static display panels of text & graphic images are permitted with a two (2) second minimum hold time between changes. Travel and scrolling or similar transitions between static message panels are allowed including frames that appear to move or change in size, or be revealed sequentially rather than all at once including the movement of illumination or the scintillation or varying of light intensity. Time & Temperature Signs are allowed to change display with a 2 second message hold rate.

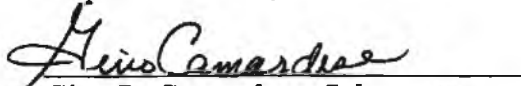
### **PERMIT COST**

- 1) All signs less then 12sq.ft. \$25.00
- 2) All signs 12sq.ft. or more.\$50.00

*Adopted On February 20, 2007.*

  
William Henshaw, Chairman

  
Stephen J. Wood, Selectman

  
Gino R. Camardese, Selectman

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Mark R. Duquette, Selectman

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Guy Desjardins, Selectman

# Sabattus, Maine – Code of Ordinances

## **FIREWORKS ORDINANCE**

### **Section 1. Purpose**

The purpose of this ordinance is to control the use of consumer fireworks to protect the safety and peace of residents and property owners of the Town of Sabattus.

### **Section 2. Authority, Administration, and Effective Date**

*Authority:* This ordinance is enacted pursuant to and consistent with Article VIII-A of the state of Maine Constitution and Title 30-A, M.R.S.A. § 3001, and 8 M.R.S.A. § 223-A

*Effective Date:* The effective date of this ordinance is affective at adoption of this ordinance at Town Meeting.

### **Section 3. Definitions**

In this ordinance, the following terms have the following meanings. Terms not defined will have their customary dictionary meaning.

*Consumer Fireworks* - has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3<sup>rd</sup>-party testing laboratory as conforming with the United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. Consumer fireworks does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

*Use* - The lighting or other setting off of consumer fireworks.

### **Section 4. Restrictions on use of consumer fireworks**

*Prohibited:* The use of consumer fireworks is prohibited on any day with a Fire Danger Class of 4 or 5 as determined by the Department of Conservation, Maine Forest Service.

# Sabattus, Maine – Code of Ordinances

Consumer fireworks may be used between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following day:

(1) July 4<sup>th</sup>

(2) December 31<sup>st</sup>; and

(3) The weekends immediately before and after July 4<sup>th</sup> and December 31<sup>st</sup>.

A person shall use consumer fireworks on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property. The use of consumer fireworks, on public property is prohibited.

The Town of Sabattus assumes no liability for injuries that result from the use of consumer fireworks.

## **Section 5. Violation and Enforcement**

### *Penalty for Use Violation:*

1. Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty according to Town of Sabattus Fee Schedule and the Town's reasonable fees and expenses, including attorney's fees and court costs. Any violation of this Ordinance may be deemed a nuisance.

2. The Town may seize consumer fireworks that the Town has probable cause to believe are used in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

### *Enforcement:*

1. This Ordinance shall be enforced by the Town of Sabattus Police Department or Fire Chief or his Officers.

## **Section 6. Amendments, Validity and Severability**

*Amendments:* An amendment to this Ordinance may be initiated by:

- a) The Planning Board provided a majority of the Board has so voted;
- b) The Board of Selectmen provided a majority of the Board has so voted; or,
- c) A written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election.

## Sabattus, Maine – Code of Ordinances

The Town shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted in the Town office at least thirteen (13) days before the hearing and published in a newspaper of general circulation in the municipality at least two times with the date of the first publication at least twelve (12) days before the hearing and the date of the second publication at least seven (7) days before the hearing.

*Adoption:* An amendment to this Ordinance may be adopted by the majority vote of a regular or special town meeting.

*Validity and Severability:* Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

Accepted:

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Original Adoption:

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Revision Dates:

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# FLOODPLAIN MANAGEMENT ORDINANCE

## FOR THE

## TOWN OF SABATTUS, MAINE

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ENACTED: 6/1/2013  
Date

EFFECTIVE: 6/1/2013  
Date

CERTIFIED BY: Suzanne M. Adams  
Signature

CERTIFIED BY: Suzanne M. Adams  
Print Name

Town Clerk  
Title

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60.3(d)

## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Sabattus, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Sabattus, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Sabattus, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Sabattus has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Sabattus having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Sabattus, Maine.

The areas of special flood hazard, Zones A and AE for the Town of Sabattus, Androscoggin County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Androscoggin County, Maine" dated July 8, 2013 with accompanying "Flood Insurance Rate Map" dated July 8, 2013 with panels: 238D, 239D, 245D, 334D, 351D, 352D, 353D, 354D, 360D, 361D, 362D, 370D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Androscoggin County," are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Sabattus, Maine.

## **ARTICLE III - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;



G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zone AE, from data contained in the “Flood Insurance Study – Androscoggin County, Maine” as described in Article I; or,
    - b. in Zone A:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and VIII.D.;
      - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
1. a Floodproofing Certificate (FEMA Form 81-65), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  3. a certified statement that bridges will meet the standards of Article VI.M.;

4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Planning Board and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. the base flood and floodway data contained in the "Flood Insurance Study – Androscoggin County, Maine" as described in Article I;
  2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
  3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
  - 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  - 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  - 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

## **ARTICLE VI - DEVELOPMENT STANDARDS**

All developments in areas of special flood hazard shall meet the following applicable standards:

### **A. All Development - All development shall:**

- 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2. use construction materials that are resistant to flood damage;
- 3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
  - C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
  - D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
  - E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
  - F. **Residential** - New construction or substantial improvement of any residential structure located within:
    1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
    2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.
  - G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
    1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
      - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
      - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
      - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
    2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or

- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

**H. Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - (3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

**I. Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

**J. Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones A and AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

**K. Floodways -**

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
  - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37).
3. In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

**L. Enclosed Areas Below the Lowest Floor -** New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meet or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A and AE shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water and seaward of mean high tide, if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

## **ARTICLE VII - CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  1. review the Elevation Certificate and the applicant's written notification; and,
  2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

## **ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.



- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE IX - APPEALS AND VARIANCES**

The Board of Appeals of the Town of Sabattus may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
1. a showing of good and sufficient cause; and,
  2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - c. that the granting of a variance will not alter the essential character of the locality; and,
    - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
  2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
  2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  2. such construction below the base flood level increases risks to life and property; and,
  3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
  2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
  3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
  4. The person filing the appeal shall have the burden of proof.
  5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
  6. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning

Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

## **ARTICLE X - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **ARTICLE XI - VALIDITY AND SEVERABILITY**

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

## **ARTICLE XII - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

## **ARTICLE XIII - DEFINITIONS**

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - means a small detached structure that is incidental and subordinate to the principal structure.

**Adjacent Grade** - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard** - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

**Base Flood** - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement** - means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** - see **Structure**.

**Certificate of Compliance** - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

**Development** - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

**Elevated Building** - means a non-basement building

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L..

**Elevation Certificate** - An official form (FEMA Form 81-31) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

**Flood or Flooding** - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - 1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - see **Flood Elevation Study**.

**Floodplain or Flood-prone Area** - means any land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see **Regulatory Floodway**.

**Floodway Encroachment Lines** - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this ordinance.

**Manufactured Home** - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

**New Construction** - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD)**- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** - see **Area of Special Flood Hazard**.

**Start of Construction** - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**Structure** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

#### **ARTICLE XIV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).



60.3 (d) Rev. 11/09  
Prepared 2/15/13 by MFP/jpp

# Town of Sabattus Groundwater and Wellhead Protection Ordinance

## ARTICLE I GENERAL PROVISIONS

This Ordinance shall be known and cited as the “Groundwater and Public Wellhead Protection Ordinance” of the Town of Sabattus, Maine.

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, Title 30-A MRSA Section 3001 (Home Rule), Title 30-A MRSA Section 4311 (Growth Management), and Title 22 MRSA 2642 (Protection of Drinking Water Supplies).

The purpose of this Ordinance is to protect the public water supply in Sabattus from land uses which pose a threat to the quality and/or quantity of the ground water being extracted from the wells which serve the public water system.

This Ordinance shall take effect upon its enactment by the Town. Enacted: 5/14/15

This Ordinance applies to all land uses located or proposed within the Aquifer Protection District defined in Article III, Section 1. The Aquifer Protection District contains Significant Sand and Gravel Aquifers, as identified and mapped by the Maine Geological Survey, and Wellhead Protection Zones identified and mapped by the Maine Drinking Water Program. The official map showing the locations of the Aquifer Protection District shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. An unofficial map is designated as Appendix 1 of this Ordinance.

Whenever a provision of this ordinance with or is inconsistent with another provision of this ordinance of any other ordinance, regulation, or statute, the more restrictive provision shall control.

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Planning Board has so voted;
2. Request of the Board of selectpersons; or
3. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last Gubernatorial Election.

The Planning board shall hold a Public Hearing on any proposed amendment, including amendments proposed by petition.

1. The notice must be posted in the municipal office at least 13 days before the public hearing.
2. The notice must be published at least 2 times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication must be at least 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing.
3. Notice must be sent by regular mail to Sabattus Sanitary & Water District.

A proposed amendment to this ordinance must be approved by a majority vote of the Town Meeting.

ARTICLE II ADMINISTRATION, NON-CONFORMANCE  
ENFORCEMENT, APPEALS, AND PENALTIES

The Code Enforcement Officer (CEO) of the Town of Sabattus shall administer and enforce this Ordinance. The Code Enforcement Officer shall refer all permit applications requiring Planning Board review to the Planning Board.

The Planning Board of the Town of Sabattus shall review and act upon permit applications as designated under this ordinance.

After the effective date of this Ordinance, no person shall engage in any land use activity identified in the Land Use Table listed in Article III, Section 2 without a permit under this Ordinance.

It is the intent of this Ordinance that land use activities conform to the standards of this Ordinance. However, land use activities or uses that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

A Non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided all provisions of this Ordinance except lot area can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

A non-conforming structure is defined as one that does not meet any one or more of the requirements listed in Article III, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

A non-conforming structure may not be expanded unless the expansion conforms to all the regulations of the zone in which it is located.

A non-conforming structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirement to the greatest practicable extent as determined by the Planning Board, and provided that 1) the applicant demonstrates that the present subsurface wastewater disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system will be installed in compliance with the law and said Rules. In no case may a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the relocation meets the setback to the greatest practicable extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems.

Any non-conforming structure that is removed, damaged or destroyed may be reconstructed or replaced provided that a permit is obtained within one year of the date of damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the standards established in Article III of this Ordinance.

Expansion of any non-conforming use is prohibited.

A non-conforming use that is discontinued for a period exceeding one (1) year, or that is changed to conforming use, shall not be allowed to recur.

An Applicant for a permit under this Ordinance shall submit an application in writing to the Planning Board, as designated in the Article III, Section 2, Permitted, Conditional and Prohibited Uses. All applications shall be dated and signed by the owner(s) or lessee(s) of the property or another person with a letter of authorization from the owner(s) or lessee(s). Such signature(s) shall certify that the information in the application is complete and correct.

Within thirty (30) days of the date of receiving a written application, the Planning Board or CEO shall notify the applicant in writing, either that the application is a complete application or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or CEO shall also notify the Sabattus Sanitary & Water District upon receipt of the proposal and request comments from the District on the proposal.

Once a complete application has been received, the Planning Board shall approve or deny the application, in writing, within thirty (30) days. However, if the Planning Board has a waiting list of applications, such approval or denial shall occur within thirty (30) days of the first available opening on the Planning Board's agenda or, within thirty (30) days of the public hearing(s), if a hearing(s) are held.

Permits shall be approved if the proposed use or structure is found to be in conformance with the provisions of this ordinance. Permits may be made subject to reasonable conditions to insure conformity with provisions of this ordinance. If a permit is either denied or approved with conditions, the reasons shall be stated in writing.

An application fee determined by the review requirements must be submitted with a permit application.

The Planning Board may require a fee to pay for the costs of application review. Monies received by the Town from the applicant shall be deposited into a dedicated Escrow Account; the monies shall be made by check payable to the Town of Sabattus, Maine. These funds, or a portion thereof, may be used by the Planning Board at its discretion to pay for services and other expenses directly related to the review of the site plan application.

The Planning Board may require the applicant to undertake any study that it deems reasonable and necessary to determine whether a proposed activity meets the requirements of this Ordinance. The costs of such studies shall be borne by the applicant.

The Planning Board may require the applicant to provide performance guarantees for

an amount adequate to cover the total construction costs of all required improvements. Performance guarantees may be made by certified check, payable to the Town, or a savings account naming the Town as owner, for the establishment of an escrow account; by an irrevocable letter of credit from a financial institution establishing funding for the construction of the project, from which letter the Town may draw if construction is inadequate; or by a performance bond, payable to the Town, issued by a surety company and acceptable to the Town. The form, time periods, conditions, and amount of performance guarantees shall be determined by the Planning Board.

Following the issuance of a permit, if construction or use does not commence within one (1) year of the date of the permit, the permit shall lapse and become void. However, the permit may be renewed within six (6) months of the date of expiration, upon application to Planning Board/CEO and the applicant demonstrates that there are no substantial changes in the proposed structure or use and there are no changes to the ordinance.

[NOTE: A permit renewal fee may be assessed by the Planning Board]

The CEO shall investigate all complaints of alleged violations of this Ordinance, pursuant to 30-A MRSA Section 4452. The CEO may seek technical advice from a representative of the Sanitary & Water District when investigating complaints.

The CEO may also conduct site inspections to ensure compliance with this Ordinance, pursuant to 30-A MSRA Section 4452. During investigations, the Code Enforcement Officer may be accompanied by a representative of the Sanitary & Water District.

It shall be the duty of the CEO to enforce this ordinance, in accordance with the provisions of this Ordinance and state laws. If the CEO finds that any provision is being violated, the CEO shall notify in writing the person responsible for such violation. The notice shall state the nature of the violation, the Ordinance provision or permit condition violated, and the action necessary to correct the violation. The notice shall inform the recipient of their right to appeal as to the facts supporting the notice by the CEO, pursuant to Article II, Section 11 of this Ordinance. A copy of the notice shall be provided to the Planning Board, Sanitary & Water District, and Selectmen.

The CEO shall keep a complete record of all transactions relating to the administration and enforcement of this Ordinance, and shall maintain a permanent record of those transactions at the town office. Copies of all permits shall be provided to the , Sanitary & Water District.

When a person does not correct a violation after receiving notice to do so, the CEO shall notify the Selectmen and the, Sanitary & Water District. The Selectmen, or their authorized agent, may institute all legal and equitable actions necessary to correct the violation and recover fines and costs.

Any person who continues to violate a provision of this Ordinance or condition of a permit after receiving written notice to correct the situation shall be subject to penalties as provided in 30-A MRSA Section 4452.

Any party aggrieved by a decision or order of the Code Enforcement Officer or Planning Board under this Ordinance may appeal the decision or order concerned within thirty (30) days to the Board of Appeals. Appeals shall be filed on forms to be provided by the Board of Appeals for this purpose.

For purposes of this section, the term “party aggrieved” shall be limited to:

1. A permit applicant whose application is denied or granted with conditions.
2. A permit holder whose permit is suspended or revoked by the CEO or Planning Board.
3. A person owning property within an Aquifer Protection District who is adversely affected by a decision or order of the CEO or Planning Board with respect to any property located in the Aquifer Protection District.
4. A person whose use of groundwater as a domestic water supply is adversely affected by a decision or order of the CEO or Planning Board under this Ordinance.
5. The Town of Sabattus, through its municipal officers.
6. The Sabattus Sanitary & Water District.

The purposes of this section, the term “decision or order” shall not include failure by the CEO to take enforcement action with respect to a particular person, property or alleged violation, when the enforcement action has been requested by persons or organizations other than the municipal officers.

An appeal from a decision or order may be taken to the Board of Appeals under this section only where it is alleged that the decision or order concerned is based on an error of law or misinterpretation of this Ordinance. All appeals to the Board of Appeals under this section shall be reviewed by the Board of



Appeals as purely appellate matters, based on the administrative record made by the CEO or Planning Board. No new evidence shall be received or considered by the Board of Appeals as to any matter appealed to the Board of Appeals under this section.

All appeals under this section shall be reviewed and decided by the Board of Appeals within sixty (60) days after receipt of a completed appeals form, unless all parties to the appeal agree to an extension of this time. The Board of Appeals shall conduct a public hearing on any appeal files, at which all parties for that appeal shall be permitted to present written or oral argument and to otherwise express their views. Following close of the public hearing and its deliberations, the Board of Appeals shall vote to grant or deny the appeal. The Board of Appeals shall issue its decision as to any appeal in writing. The Board of Appeals shall have authority to remand the matter to the CEO or Planning Board in appropriate cases. The Board of Appeals may reconsider its decision within thirty (30) days after the original decision date, if a request for reconsideration is received from any party to the appeal in writing within fourteen (14) days after the original decision date. All parties to the appeal shall be afforded a reasonable opportunity to express their views on any reconsideration request. In reviewing a request for reconsideration, the Board of Appeal shall not receive or consider any new evidence.

Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to the Androscoggin County Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

## ARTICLE III. LAND USE REQUIREMENTS

For the purposes of this Ordinance, there is hereby established the Aquifer Protection District consisting of three zones: Zone 1 – the immediate recharge area of a well; Zone 2 – the primary recharge area of a well; Zone 3 – significant sand and gravel aquifers. The map delineating the Aquifer Protection District is designated as Appendix 1 of this Ordinance.

Wellhead recharge areas and significant sand and gravel aquifers are defined by standard geologic and hydrologic investigations which may include drilling observation wells, performing pumping tests, water sampling and geologic mapping. New areas identified by any of these methods may be added to this Ordinance by amendment. Due to the limitations of hydrogeological techniques, exact boundaries of aquifers have some uncertainty. Provisions are made for applicants to provide information on the location of the district boundary as pertains to a particular parcel of land or development. The three zones in the Aquifer Protection District are defined as follows:

Zone 1 extends from each public water supply wellhead to the 200-day groundwater time-of-travel boundary, or as designated by the Maine Drinking Water Program, as shown on the map in Appendix 1.

Zone 2 extends from the outer boundary of Zone 1 to the 2,500-day time-of-travel boundary, or as designated by the Maine Drinking Water Program, as shown on the map in Appendix 1.

Zone 3 includes the remainder of the sand and gravel aquifers and aquifer recharge areas. Zone 3 areas may provide secondary, long-term recharge to public water supply wellheads or serve as potential sources of significant quantities of groundwater for future private and public uses. Mapping of these areas coincides with sand and gravel aquifer maps produced by the Maine Geological Survey, and are shown on the map in Appendix 1.

## PLANNING BOARD REVIEW AND APPROVAL

This section applies to all uses that are listed in the use table in this section or uses having similar characteristics or functions that have the potential to adversely impact groundwater. Activities marked "PB" , shall require Planning Board review and approval, and may be required to meet additional application requirements.

When a proposed use in Aquifer Protection District requires Planning Board approval under Article III, Section 2 of this Ordinance, the Planning Board, may, as a condition of its approval, require the applicant to (1) grant the municipality of the

Sabattus Sanitary & Water District permission to install and maintain groundwater monitoring wells on the applicant's property; or (2) install monitoring wells and implement a groundwater testing and monitoring program approved by the Planning Board, at the applicant's expense.

All applications for Planning Board review and approval in zones 1 and 2 shall be forwarded to the Sabattus Sanitary & Water District at least 14 days prior to the meeting at which they will first appear on the Planning Board's agenda or be discussed by the Planning Board. The Planning Board shall fully consider all comments provided by the Sabattus Sanitary & Water District pertaining to potential impacts the use may have on the groundwater quality or quantity and shall further fully consider all comments concerning the use of best management practices to prevent or mitigate potential impacts.

The Planning Board shall review all listed uses in the aquifer protection overlay district when such uses are newly proposed, expanded, or have been closed for a period of more than 90 days and are re-opening in accordance with the following use table.

Any proposed land use listed below is subject to the requirements of this section and applicable performance standards. Any proposed uses not listed are prohibited.

Key:

P = permitted

NO = not permitted

PB = Planning Board Review and Approval

Uses	Zone 1	Zone 2	Zone 3
<b>CHEMICALS APPLIED TO LAND</b>			
Fertilizer, manure, or pesticide or herbicide spreading or spraying for agriculture	NO	P <sup>2</sup>	P <sup>2</sup>
Fertilizer, pesticide, or herbicide bulk storage for agriculture	NO	PB <sup>2</sup>	PB <sup>2</sup>
<b>CHEMICAL/PETROLEUM STORAGE INCLUDING STORAGE AT OTHER USES</b>			
Chemical bulk storage	NO	NO	PB
Fuel oil storage for distribution (in stationary tanks/containers or vehicles/mobile tanks)	NO	NO	PB <sup>4</sup>
Heating oil storage, consumptive use up to 275 gallons	PB <sup>5,8</sup>	PB <sup>5,8</sup>	PB <sup>5</sup>
Heating oil storage, consumptive use up to 550 gallons	NO	NO	PB <sup>5</sup>
Petroleum product storage either new or used including heating oil above 550 gallons	NO	NO	PB <sup>5</sup>
<b>INDUSTRIAL OPERATIONS INCLUDING SMALL BUSINESSES</b>			

Boat builders, refinishers	NO	PB	PB
Chemical reclamation	NO	NO	PB
Concrete, asphalt, tar, coal companies	NO	NO	PB
Food processors	NO	PB	PB
Furniture strippers	NO	PB	PB
Heat treaters, smelters, annealers, descalers	NO	NO	PB
Industrial manufacturers and demanufacturers <sup>19</sup>	NO	PB	PB
Machine shops	NO	PB	PB
Meat packers, slaughter houses, abattoirs	NO	PB <sup>3</sup>	PB
Metal plating/electroplating	NO	PB	PB
Painters, finishers (stationary)	NO	PB	PB
Photo processors	NO	PB <sup>3</sup>	PB
Printers	NO	PB <sup>3</sup>	PB
Rust-proofers	NO	PB	PB
Open salt or sand/salt piles	NO	NO	NO
Covered salt or sand/salt piles or similar bulk chemicals	NO	PB	PB
Sand and gravel mining; other mining	NO	NO	PB
Small engine repair shops	NO	PB	PB
Wood preserving operations (commercial)	NO	NO	PB
<b>COMMERCIAL AND SERVICE OPERATIONS</b>			
Auto chemical supplies wholesalers	NO	PB	PB
Auto or vehicle repair garage	NO	PB	PB
Auto or vehicle washes	NO	PB <sup>3</sup>	PB <sup>3</sup>
Beauty salons	NO	PB <sup>3</sup>	P <sup>3</sup> /PB

Commercial and services except as otherwise listed	NO	PB <sup>13</sup>	PB <sup>13</sup>
Dry cleaners	NO	PB	PB
Gasoline stations	NO	NO <sup>4</sup>	CPB
Laundromats	NO	P <sup>3</sup>	P <sup>3</sup> /PB
Medical, dental, vet offices	NO	PB <sup>3</sup>	PB
Pesticide, herbicide, wholesalers or retailers	NO	PB	PB
<b>TRANSPORTATION RELATED OPERATIONS</b>			
Pipelines for petroleum products except liquefied petroleum gas	NO	NO <sup>6</sup>	PB
Pipelines—Liquefied petroleum gas	NO	PB	PB
Railroad yards	NO	PB <sup>12</sup>	PB <sup>12</sup>
Private transportation corridors including rail	NO	PB	PB
Truck terminals	NO	PB	PB
Utility corridors	NO	PB	PB
<b>WASTE PROCESSING/STORAGE/DISPOSAL</b>			
Construction sites/demolition activities	C	P	P
Demolition of uses listed in this table	PB	PB	PB
Hazardous or special waste disposal	NO	NO	NO
Industrial waste disposal	NO	NO	NO
Junk, salvage yards (including tire storage), automobile recyclers	NO	NO	NO
Landfills, dumps	NO	NO	NO <sup>14</sup>
Transfer stations and recycling facilities	NO	PB	PB
Sludge utilization	NO	NO	PB
Snow dumps	NO	NO	PB
Storm-water impoundment	NO	PB <sup>9</sup>	PB <sup>9</sup>
Wastewater impoundment areas	NO	NO	PB

Wastewater treatment plants	NO	NO	PB
<b>OTHER</b>			
Abandoned wells <sup>1</sup>	NO	NO	NO
Essential operations of the Sabattus Sanitary & Water District	P	P	P
Feed lots	NO	NO	PB
Golf courses	NO	PB	PB
Graveyards	NO	PB	P
Mobile home parks not on town water and sewer	NO	NO	NO
Nurseries (horticultural)	NO	PB	PB
Parks <sup>7</sup>	PB	PB	PB
Research laboratories	NO	PB <sup>3</sup>	PB
Residential homes	PB <sup>5,8</sup>	P <sup>5, 8</sup>	P <sup>5, 8</sup>
Subdivisions	PB	PB <sup>5,9,10</sup>	PB <sup>5,9,10</sup>
Groundwater monitoring and remediation <sup>11</sup>	PB <sup>11</sup>	PB <sup>11</sup>	PB <sup>11</sup>

## Notes:

<sup>1</sup> Wells must be abandoned in accordance with the standards established in the State of Maine Well Drillers and Pump Installers Rules, 10-144A CMR 232 § 700.0 et seq.

<sup>2</sup> Existing agricultural operations may continue. Use of state-approved BMP's is encouraged.

<sup>3</sup> If connected to the Sabattus Sanitary & Water District's collection system.

<sup>4</sup> Gasoline stations existing at the time of the adoption of the ordinance may replace storage tanks and piping in accordance with rules promulgated by the Maine Department of Environmental Protection (06-096 CMR 691, 06-096 CMR 692, 06-096 CMR 695 and 06-096 CMR 700) and the State Fire Marshal's Office (016-219 CMR 34).

<sup>5</sup> Must be in accordance with rules promulgated by the State Fire Marshal's Office (016-219 CMR 34) and the Maine Department of Environmental Protection (06-096 CMR 691, 06-096 CMR 692, 06-096 CMR 695 and 06-096 CMR 700).

<sup>6</sup> Existing and approved uses may install above ground petroleum pipelines to transport petroleum products from one location to another on site or to an adjacent complimentary existing or approved use.

<sup>7</sup> Public parks where use of chemical fertilizers, herbicides and pesticides are not used and where the storage of petroleum fuel products are less than 10 gallons do not require special submissions or review beyond a statement of purpose and noting compliance with the requirements herein.

<sup>8</sup> A single family home may be constructed or placed in zone 1 only on a lot legally existing at the time of adoption of this Ordinance, provided it is connected to the public sewer system and provided that the home has a single fuel tank having not more than 275-gallon storage capacity that is double-walled or has a spill storage equivalent to 110% of the tank's volume. Storage of up to 15 gallons (in 3 containers of 5-gallon capacity) of gasoline or similar fuel for home use is allowed as are tanks of gasoline in registered automobiles and yard maintenance equipment to be used on site and in boats, ATVs and snowmobiles for personal use.

<sup>9</sup> Impoundments for storm-water runoff control shall only be used when low impact development techniques for storm-water control are found to be impractical. Low impact development techniques are found in the Maine Department of Environmental Protection's Stormwater Management BMP Manual.

<sup>10</sup> All septic systems shall be designed to ensure a 5 mg/L concentration of nitrate at all property lines.

<sup>11</sup> Includes both surface and ground water with associated soil monitoring and remediation.

- Monitoring and remediation programs existing as of the date of enactment of the ordinance from which this division was derived and mandated by state or federal law may continue as they exist for surface and ground water as well as associated soil monitoring and remediation.
- Plans for any changes to existing remediation activities shall be reported to the Board of Trustees and the town engineer. Changes to remediation activity may be exempt from Planning Board review. Planning Board will not be required if the town engineer, with the concurrence of the Board of Trustees determines that the changes will have no negative material impact beyond the property boundary nor upon the water quality or quantity available to the town water supply. Proposed changes shall be submitted for review and approval.
- The following procedures shall be applied to determine if Planning Board review is required:
- Owner/remediator must simultaneously submit a report of planned activity changes and the expected effect prepared by qualified professional to both the town engineer and to the Board of Trustees. A copy shall also be sent to the Planning Board. The report must make the case for "no material impact beyond the property boundary or upon the water quality or quantity available to the town water supply."
- Within 30 days of receipt of the report, the town engineer and the Board of Trustees must determine the potential material impact on the site and whether peer review is required. If peer review is determined to be appropriate, the town engineer shall immediately seek the services of a qualified professional to provide the review. Such review shall be at the total expense of the remediator/owner. Upon receipt of the peer review report, the town engineer shall immediately forward a copy to the Board of Trustees and the Planning Board. Within 30 days of receipt of the peer review report, the town engineer shall again consult with the Board of Trustees and together, those two entities will decide, whether Planning Board review and approval is required. The town engineer will then promptly notify the owner/remediator and the Planning Board of the decision.
- If no peer review is required, the town engineer and the Board of Trustees shall determine whether the Planning Board review and approval is required. The town engineer will then promptly notify the owner/remediator and Planning Board of the decision.

- It shall be noted herein that if the town engineer and the Board of Trustees cannot mutually agree upon a course of action within the specified time limits of 30 days subsequent to receipt of required reports, (either before or after a peer review) then Planning Board review will be required.
- Decisions of the town engineer and the Board of Trustees shall be formalized in a written document and signed by both entities.
- The requirements under this provision shall not prohibit emergency responses to pollution occurrences and shall not apply to treatment of private drinking water supplies.

<sup>12</sup> Does not include single track sidings where materials handled are in solid form at normal air temperatures.

<sup>13</sup> Planning Board Review and Approval shall apply only to the following. In zone 2, storage of up to 220 gallons of petroleum based products, in containers having a capacity of 55 gallons or less when such products are for a permitted use and are for maintenance of equipment or vehicles. Such products shall be stored indoors on impermeable surfaces and in covered containers located to allow visual inspection for leaks. If product is for use on site, the storage area shall have containment equal to 110% the volume of the total quantity stored. In zone 3, storage shall be in compliance with Department of Environmental Protection (06-096 CMR 691, 06-096 CMR 692, 06-096 CMR 695 and 06-096 CMR 700) and State Fire Marshal's Office Rules (016-219 CMR 34). In Zones 2 and 3, products in 5 (five) gallon or smaller containers may be stored, handled or presented for retail sale. Storage, handling and presentation for wholesale sales and/or distribution of products in 5-gallon or smaller containers when the total quantity exceeds 220 gallons requires containment as described above.

<sup>14</sup> Demanufacturing must comply with applicable conditional use standards and shall be done in an enclosed building.

Areas not served by public sewer:

Zone	Land Area per Dwelling Unit
1	40,000 sq. ft.
2	40,000 sq. ft.

\* Areas served by public sewer have a minimum lot size of 20,000 square feet per dwelling unit.

For portions of lots within the Aquifer Protection District, the maximum lot coverage that can be covered by impermeable surfaces including parking areas, shall be limited as follows:



Zone	Maximum Lot Coverage
1	30%
2	50%

Notwithstanding other provisions of the ordinance, lot coverage that exists as of the date of adoption of this Ordinance that equal or exceed the applicable percentage limitation may be continued and may be expanded with Planning Board approval. Expansions of lot coverage shall be limited to no more than ten percent (10%) of the portion of the lot located in the Aquifer Protection District. However, the Planning Board shall not authorize expansion of impermeable surfaces of existing uses if the total coverage of all lot areas located in the Aquifer Protection District is greater than fifty percent (50%) in Zone 1 or greater than sixty-five percent (65%) in Zone 2.

All applications for proposed development or regulated expansions of or changes to existing development shall contain the following information. The information shall be required for demolition and construction activity to be undertaken as part of the site work. Where the Planning Board finds that special circumstances of a particular project or the types of improvements proposed will meet the intent and standards of the Ordinance, they may waive certain submittal requirements when such requirements are deemed unnecessary to allow for a positive finding that the standards are met. Any waivers granted by the Planning Board must be noted in the written approvals or on the plan.

- a) Name of development
- b) Owner and applicants' names, addresses; name and addresses of person who prepared the application and/or plan.
- c) Name and address to which correspondence should be sent.
- d) If applicant is a corporation, state whether the corporation is licensed to do business in Maine and attach a copy of the Secretary of State's Registration.
- e) A statement of the type of interest the applicant has in any property abutting the parcel to be developed.
- f) A statement on whether the development covers the entire or contiguous holdings of applicant.
- g) The location of property: Map and lot (from assessor's office).
- h) Copy of recorded deed for property; verification of ownership of legal interest.
- i) Written information on the following items including an assessment of potential impacts on groundwater quantity and quality:
  - (i) Soil characteristics including their ability to contain or treat potential pollutants.
  - (ii) Erosion and sediment control plan.

- (iii) Storm-water management plan including methods to protect groundwater from infiltration of potential pollutants.
- (iv) Long term maintenance provisions for the facility including the storm-water management system.
- (v) Design of and calculations for dry wells, storage, retention or detention facilities and other surface water impoundments and outlet structures.
- j) Construction schedule.
- k) Traffic and parking assessment to include information on traffic circulation in order to identify any potential accident locations and information on the parking with particular attention to the size of parking lots and the parking of any vehicles other than passenger cars, SUVs and pick-up trucks.
- l) Amount of consumptive water use.
- m) Hydrogeological assessment indicating groundwater and geological characteristics including potential for contamination, flow paths, and expected concentrations of potential pollutants such as nitrates, chemicals and petroleum products. The report shall assess the potential impacts on groundwater quality and quantity.
- n) Provisions for solid waste handling, storage and disposal.
- o) Provisions for sanitary facilities.
- p) Provisions for petroleum and/or chemical product handling, storage and disposal.
- q) Type of volume of chemical compounds or other potentially hazardous materials handled and/or stored and methods of handling and storage.
- r) An engineering report, as needed, to further define the provisions of this application, including design details and calculations. The report should provide information concerning the construction and operation for handling, storage and disposal of solid waste, sanitary, and petroleum and chemical products and other potentially hazardous materials or materials that may degrade groundwater quality. It shall include provisions to segregate underground systems to insure that there are no cross connections. The report shall include any potential pollutants whether in liquid or solid form.
- s) A report by an industrial engineer or other competent professional detailing:
  - (i) Steps which have been taken to reduce the use of hazardous materials; and
  - (ii) Actions which have been taken to control the amount of wastes generated.
- t) A spill prevention, control and countermeasure (SPCC) plan (or at the discretion of the planning board a similar plan to prevent and clean up spills, leaks, or other actions that have potential to cause groundwater contamination) detailing:
  - (i) Materials and equipment to be available;
  - (ii) A training plan and schedule;
  - (iii) A list of contacts (EPA/DEP/local fire officials) with phone numbers;
  - (iv) An inspection schedule;
  - (v) Provisions to collect chemicals should they enter the drainage system;
  - (vi) Statement of emergency measures which can be implemented for surface drainage systems.
- u) Plans for ice control, use of road salt, and snow removal.

- v) A description of source of water, use of water and final water quality for impoundments proposed as a water supply for irrigation or other consumptive uses.
  - w) An evaluation of public/private sewer system capacity and integrity of sewer lines serving the development prepared by a licensed professional engineer or the Sabattus Sewer Department.
  - x) A list of necessary state and/or federal permits and date of applications or permits received.
  - y) Proposed method of performance guarantee.
  - z) Restrictions, conditions, covenants and easements.
  - aa) Copies of applications and permits issued to/by Maine Department of Environmental Protection shall be submitted to the planning board and the board of water commissioners.
  - bb) Written request for waivers or variances.
- 
- a) Outline of development and remaining portion of property at a scale no smaller than 50 feet to the inch; written and graphic date; north point.
  - b) Perimeter survey (bearings and distances; surveyor's seal; number of acres; existing and proposed monuments; abutters names).
  - c) Lot lines, numbers and sizes; building setback lines.
  - d) Zoning boundaries
  - e) Existing water bodies, watercourses, wetlands, and other significant natural features including mapped sand and gravel aquifers and wellhead protection areas.
  - f) Medium intensity soils maps.
  - g) Site plan showing all storage, handling and use areas for raw materials and wastes.
  - h) For outside areas, details to contain spills including drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site.
  - i) Location of test pits, borings or wells keyed to site evaluator's, soil scientist's and/or geologist's report.
  - j) Surface drainage/storm-water management plan.
  - k) Soil erosion and sedimentation control features.
  - l) Landscaping details.
  - m) Locations, dimensions and profiles of underground utilities.
  - n) Profile and typical cross-sections of streets and other public works.
  - o) For inside areas, details to contain spills including the:
    - (i) Design of dikes around rooms;
    - (ii) The location of floor drains and floor drain outlets;
    - (iii) The location of separators, holding tanks and/or drain outlets.
  - p) Exact location and design of tanks, subsurface disposal fields, piping, floor drains, traps, separators and containment structures so that inspection, detection, clean-up or other emergency measures can be accomplished in a timely efficient manner.

- q) The location and design of piping systems for process waters, chemicals and all liquid wastes to insure that inappropriate wastes are *not* discharged and that wastes are discharged to appropriate sewers or treatment systems.
- r) Location/identification of buffers, lots or areas to be restricted.

The following information is required for all proposed monitoring or observation wells:

- a) Location and construction specifications;
- b) Intended purpose;
- c) Sampling schedule;
- d) Provisions for informing appropriate town body of sampling results.

All development located within the Aquifer Protection District shall comply with the Performance Standards established in this section to protect the quality and quantity of the public water supply.

The Planning Board may adopt, by reference, as a part of this section, additional best management practices which have been published by or in conjunction with the Maine Department of Environmental Protection. In so doing, the Planning Board shall hold a public hearing.

- The notice must be posted in the municipal office at least 13 days before the public hearing.
- The notice must be published at least 2 times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication must be at least 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing.
- Notice must be sent by regular mail to Sabattus Sanitary & Water District.

1. All facilities handling chemicals, petroleum or other products, whether liquid or solid, that have the potential to contaminate groundwater if leaked, spilled or otherwise released from their storage containers shall maintain a spill prevention, control and countermeasure plan. Depending on the amount and type of materials, plans may vary in complexity. At a minimum the plan shall:
  - a) Provide methods to prevent spills and leaks from occurring;
  - b) Be maintained and updated annually or when materials, processes, storage or disposal processes change;
  - c) Ensure the regular collection and transport of chemicals;
  - d) Provide for inspection of containers and storage areas on a regular basis;
  - e) Ensure adequate materials and equipment are available;
  - f) Ensure that personnel are trained; and

- g) Ensure that the local fire department is knowledgeable of clean-up procedures and firefighting procedures to prevent/reduce groundwater contamination from firefighting operations.

2.

- a) The collection and disposal of petroleum products, chemicals and wastes used in construction shall conform to the following:
- b) Collect and store in closed, clearly marked water tight containers; and
- c) Containers shall be removed regularly for disposal to prevent spills and leaks which can occur due to corrosion of containers. A schedule for removal should be contained in the application and in any construction specifications for the project.
- d) Fertilizers and landscaping chemicals such as herbicides and pesticides shall be applied following appropriate best management practices developed by the Maine Department of Agriculture, Conservation and Forestry, Bureau of Agriculture, Food and Rural Resources in conjunction with the Maine Department of Environmental Protection.

3.

- a) Drainage systems, including detention basins, drainage ways, and storm sewer systems, shall be maintained in order to insure they function properly.
- b) Chemicals and wastes shall be stored in such a manner to prevent rainfall from contacting them.
- c) Runoff from parking lots should be diverted to storm-water drains where applicable.
- d) Snowmelt from parking lots should be diverted to storm-water drains.
- e) Parking lots shall be maintained by sweeping on at least an annual basis.
- f) Sand/salt mixtures with a reduced proportion of salt should be used.

4.

- a) A plan detailing the reuse, recycling, or proper disposal of waste chemicals shall be maintained, and updated as needed. Provisions shall be provided for implementing the plan.
- b) Buildings, rooms and areas where potential chemical pollutants are used, handled or stored shall be designed to contain spills or leaks.
  - i. Specifically, floor drains shall not be used except as required by fire regulations.
  - ii. A waterproof dike shall be placed around areas to contain accidental spills. The dike shall have a volume equal to 110% of the amount of material stored or used in the room.
- c) Wash waters and other dilute wastes shall be adequately treated consistent with state law and the current pretreatment ordinances.
  - i. Wastes shall be discharged to sewer systems where possible;
  - ii. Grease traps and oil separators shall be installed where necessary and shall be maintained on a regular basis.

5.

- a) Nonhazardous chemicals shall be substituted for hazardous varieties whenever possible.
- b) A detailed inventory shall be maintained.
- c) Provisions shall be made to clean up all spills immediately with an absorbent material or other methods and dispose of them properly.

- d) Hazardous materials and petroleum products shall be stored in secure, corrosion resistant containers in accordance with the following:
  - i. A diked, impervious area shall be provided around tanks to contain spills. The volume of diked area shall equal 110% of the volume of product stored.
  - ii. A roof shall be provided over containment areas to prevent collection of rain water.
  - iii. Drains shall not be installed in containment areas.
  - iv. All areas of the storage facility and area shall be readily visible for inspection.
- e) Storage areas shall be located so that all surfaces are visible to inspection.
- f) Covered containment areas shall be vented in accordance with rules promulgated by the office of the State Fire Marshal.
- g) All floors where chemicals or petroleum products are stored or used shall be concrete or an impermeable, hardened material.
- h) Non-bulk storage of chemicals shall be inside. Such storage areas shall comply with the following:
  - i. Floor drains shall not be used unless required by fire regulations;
  - ii. If floor drains are required by the fire regulations, they shall be discharged to a holding tank. Tanks shall be pumped by a licensed oil or hazardous waste hauler, as appropriate. Tanks shall be equipped with gauges to determine used capacity, shall be leak tested each year, and maintained so as to reduce the potential for overflow or leakage.
- i) Tanks shall be equipped with automatic shutoffs or high level alarms.
- j) Spill and leak detection programs shall be maintained and updated annually.
- k) Oil and water separators shall not be used to remove dissolved compounds or oil and greases which had been subjected to detergents. Waste streams shall be separated to avoid such mixing.
- l) Loading areas shall be covered to prevent the mixing of storm-water and spilled chemicals. Concrete or other impermeable pads shall be provided under transfer and handling areas.
- m) Exterior transfer and handling areas shall be sloped as to prevent runoff from other areas from entering the handling area, but to contain small quantities of spilled product.
- n) Procedures shall be established to catch and store chemicals spilled at loading docks and other transfer areas.
- o) Provisions shall be made to periodically inspect and test tanks and lines for leaks.
- p) The facility and equipment shall be designed to:
  - i. Prevent tank overflows; and
  - ii. Prevent line breakage due to collision.
- q) Provisions shall be made to have:
  - i. Emergency diking materials available;
  - ii. Emergency spill cleanup materials available.
- r) Residential storage tanks for home heating fuel shall be located in cellars or on a concrete slab above the ground if outside.
- s) In zone 3, bulk storage of petroleum underground shall be contained in double-walled tanks equipped with continuous electronic monitoring as defined in the Department of Environmental Protection Regulations for Registration, Installation, Operation and Abandonment of Underground Oil Storage Facilities, Chapter 691. Chemicals shall

not be stored underground.

6.

- a) Sewer/septic systems shall be designed by competent professionals using sound engineering practices. On-site sewage disposal shall be according to the State of Maine Subsurface Wastewater Disposal Rules.
- b) Construction of sewers and septic systems shall be inspected to insure proper installation.
- c) Septic systems and related piping shall be tested for leakage and certified by the Local Plumbing Inspector that they are water tight prior to use. Sewer systems shall be tested for leakage.
- d) Provisions shall be made to maintain sewer and septic systems.
- e) Sewers and drainage systems shall be designed to insure that storm-water does not enter sanitary sewers.
- f) For cluster systems, 1,000 gallon septic tank capacity shall be provided for each 300 gallons of flow. Design flows for any single leach-field shall be less than 2,500 gallons per day.
- g) Chemicals, industrial wastes, floor drains and storm-water drains (i.e., roof drains) shall not be discharged to septic systems.

7.

- a) Inert fill.
  - i. Waste disposal areas shall be setback 75 feet from wetlands as defined in the Maine Natural Resources Protection Act (NRPA). Wastes shall be placed a minimum of 2 feet above the seasonal high ground water table.
  - ii. For wastes other than concrete, stone and brick, documentation from a laboratory that wastes are inert shall be provided.
- b) Transfer station/recycling facilities (other than Town of Sabattus facilities):
  - i. All storage areas shall be located a minimum of 5 feet above the seasonal high ground water table;
  - ii. Sanitary wastes shall be disposed into a public sewer or in accordance with the State of Maine Subsurface Disposal Rules;
  - iii. If water clean-up of facilities is used, it shall be discharged to a public sanitary sewer. If no public sanitary sewer is available, dry clean-up procedures shall be used;
  - iv. Gravel, asphalt, or concrete pads or steel or aluminum containers shall be used for storage facilities for white goods and tires;
  - v. Facilities shall not be located in 100-year floodplain;
  - vi. An operating manual shall insure that only nonhazardous municipal solid waste is accepted;
  - vii. For recycling facilities, an operating manual shall insure that only clean, marketable recyclables are collected; and
  - viii. For recycling facilities, storage of residuals shall be accomplished to prevent spillage and leakage.
- c) Municipal, commercial, industrial and other special wastes.
  - i. All handling, storage and transfer shall comply with Department of Environmental Protection rules.
  - ii. Storage and transfer areas shall comply with the management practices listed in above.
- d) Junkyards/metal processing.
  - i. Fluids shall be removed in a secure area and stored for appropriate disposal.
  - ii. Fluids shall be disposed in accordance with state and federal

- laws.
- iii. Records shall be maintained to indicate the quantities of fluids handled.

8.

- a) Limit depth of excavation.
  - i. Excavation shall be limited to 5 feet above the seasonal high water table.
  - ii. If water supply wells are present within 500 feet of the proposed excavation, ground water level monitoring wells shall be installed.
- b) Haul roads shall be watered to control dust. Salting and oiling of roads is prohibited.
- c) Petroleum storage.
  - i. Petroleum products shall not be stored in the pit.
  - ii. A spill prevention plan shall be maintained and updated.
  - iii. A reclamation plan shall be provided, maintained and used.
- d) A approved spill prevention kit shall be located on site and shall be readily accessible in the event of a spill.

9.

- a) Soil tests shall be used to determine proper amount of nutrients and limestone (pH adjustment).
- b) Nutrients shall be applied uniformly and only at levels required.
- c) Split fertilizer applications should be used for new planting, where possible.
- d) A slow release form of fertilizer should be used, where possible.
- e) Nutrients shall not be applied to soils having depths to bedrock of less than 8 inches or to exposed bedrock.
- f) Chemical fertilizer application equipment shall be calibrated.
- g) Irrigation shall be scheduled to minimize leaching potential.
- h) Limit applications of nitrogen fertilizers to the spring or fall.
- i) Nutrients shall not be applied during winter months when ground is frozen or snow covered.
- j) Fertilizers and manure shall be stored in properly located and constructed facilities during periods when application is not suitable.
- k) All federal and state laws regulating pesticides shall be followed.
- l) Material safety data sheets shall be kept accessible.
- m) Application of fertilizers and pesticides shall be accomplished by certified applicators or farmers applying it to their own land or land that they lease.
- n) Secure, safe storage shall be provided for used pesticide containers and dispose of containers in accordance from federal and state law.

10.

- a) The spillage or disposal of oils, fuels, coolants or hazardous wastes on the ground during maintenance or repair is not allowed. Collection and appropriate disposal of such substances shall take place.
- b) The BMPs for chemical use and storage shall be followed.
- c) The BMPs for waste disposal shall be followed.
- d) Salt/sand storage areas shall be covered



The CEO shall also have the right to inspect any property located in the Aquifer Protection District, except building interiors, at reasonable hours, without landowner permission, as provided in 30-A MRSA section 4452, for the purpose of determining compliance with this ordinance or any permit issued hereunder. The CEO may be accompanied by a representative of the Water District. In the event the landowner denies or prevents access for this purpose, the CEO shall be authorized to apply for an administrative site inspection warrant pursuant to Rule 80E, Maine Rules of Civil Procedure.

Whenever the CEO finds that a use existing as of the date of adoption of this ordinance, including but not limited to uses of the types identified in Article III, Section 2 of this Ordinance, is located within the Aquifer Protection District designated by this Ordinance and poses an actual or potential threat to the safety or quality of a public groundwater supply, the Planning Board may order the property owner to grant permission for installation, or to install, groundwater monitoring wells and to conduct testing as provided in subsection (1) above. Installation of monitoring wells and testing and monitoring of groundwater in such cases shall be at the sole cost of the applicant.

If any use causes or contributes to a reduction of eighty percent (80%) or more of the State Primary or Secondary Drinking Water standards, the CEO may require the owner of the property on which the contaminating use occurs to cease activity, install or construct mechanisms, or enact appropriate procedures to reduce the contamination.

## ARTICLE IV. DEFINITIONS

[NOTE: The following are only suggested definitions. The list should be reflect terms used within existing language]

### **Agriculture**

The cultivation of soil, producing or raising crops, including gardening, horticulture, and silviculture, as a commercial operation. The term shall also include greenhouse, orchards, nurseries, and versions thereof, but shall not include home gardens.

### **Aquifer**

A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation.

### **Best Management Practice**

Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine departments of Agriculture, Forestry, Transportation and Development pursuant to 38 M.R.S.A. Section 410-J.

### **Board**

Refers to the Town of Sabattus Planning Board.

### **Chemical Bulk Storage**

Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

### **Code Enforcement Officer**

A person appointed by the municipal officers to administer and enforce this Ordinance.

### **Commercial**

Any activity carried out for pecuniary gain

### **Conforming**

A building, structure, activity or land use which complies with the provisions of this ordinance.

### **Construction**

Includes building, erecting, moving or any physical operations on the premises which are required for construction. Excavating, filing, paving and the like shall be considered part of construction.

### **Construction and Commercial Equipment & Vehicle Storage**

Storage of construction equipment or other commercial vehicles in excess of thirty (30) consecutive days in which the equipment is not used.

**Construction/Demolition**

Construction or demolition of facilities, buildings, etc. associated with the land uses or activities.

**Developed Area**

“Disturbed area” (see definition below) excluding areas that are returned to a condition with the same drainage patterns and vegetative cover type that existed prior to the disturbance. An area is not considered developed if planting to restore the previous cover type and restoration of any altered drainage patterns occur within one calendar year of the disturbance.

**Discontinuance**

The transition from a non-conforming use to a conforming use, or the cessation of a non-conforming use for a period exceeding one (1) year.

**Disturbed Area**

All land areas that are stripped, graded, grubbed, filled or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. Disturbed area does not include routine maintenance, but does include re- development and new impervious area.

**Drinking Water Standards, Primary and Secondary**

Standards for drinking water as stated in the State of Maine Rules Relating to Drinking Water, Maine Department of Human Services.

**Dump** (see landfill)

**Excavation** (see construction)

**Fill** (see construction)

**Floor Drain**

An opening in the floor that leads to the ground and/or is not permitted under other State, Federal, or local regulations. Work sinks which lead to such drains are included.

**Fuel Oil Distributor, Fuel Oil Storage**

The storage of fuel for distribution or sale. Storage of fuel oil not for domestic use, i.e., not in tanks directly connected to burners.

**Gas Station, Service Station**

Any place of business at which gasoline, other motor fuels, motor oil or vehicle maintenance services are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

**Ground water**

The water contained within the interconnected pores, cracks or fractures located

below the water table of a confined or unconfined aquifer.

**Hazardous Material**

Any gaseous, liquid or solid materials or substances designated as hazardous by the Environmental Protection Agency and/or the Maine Department of Environmental Protection.

**Hazardous Waste**

Any substance identified under chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto, and any radioactive waste material which means any solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiations.

**Horticulture** (see agricultural)

**Impervious Area**

The total area of a parcel that consist of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce permeability.

**Industrial**

Any activity which includes the assembling, fabrication, servicing, manufacturing, storage, packaging, processing or shipping of goods, or the extraction of minerals.

**Industrial Waste**

Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

**Inert Fill**

Material placed on or into the ground as fill that will not react chemically with soil, geologic material, or groundwater.

**Infiltration**

Any process specifically used to meet all or part of the stormwater standard of this chapter by actively directing all or part of the stormwater into the soil. Infiltration is the process by which runoff percolates through the unsaturated overburden and fractured bedrock to the water table. For the purposes of this ordinance, infiltration does not include:

1. Incidental wetting of soil in ditches, detention basins or the equivalent;
  2. Wetting of underdrained basins, dry swales or similar filtration systems;
  3. Wetting of buffers meeting the performance standards of this ordinance.
- Discharge of runoff to areas of the site where the water will collect and percolate into

the ground is considered infiltration if the volume, rate or quality of the discharge exceeds the runoff capacity of the area, such as a stormwater treatment buffer. Underdrained swales, underdrained ponds and similar practices that discharge to surface waters or to buffer strips meeting the requirements of this ordinance are not considered infiltration systems, although these may be used to treat runoff prior to discharge to an infiltration area.

**Integrated Pest Management Plan (IPM)**

Integrated Pest Management (IPM) is the coordinated use of physical, biological and cultural controls and least-toxic pest control products and techniques to prevent unacceptable levels of pest damage by the most economical means with the least possible hazard to people, property and the environment. Integrated Pest Management involves the monitoring of pest populations, establishment of injury levels, modification of habitats (to eliminate sources of food, water, harborage and entry), utilization of least-toxic controls, and keeping of records and evaluation of performance on an ongoing basis

**Intensive Open Space Uses**

Uses of open space which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity. Examples of intensive open space uses include: automobile or all-terrain vehicle race tracks or ranges, etc.

**Landfill**

An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground.

**Landscaped Area**

An area of land that has been disturbed and re-planted or covered with one or more of the following: Lawn or other herbaceous plants, shrubs, trees or mulch; but including area that has reverted to natural, vegetated condition.

**Mining or Mineral Extraction**

The removal of geologic materials such as soil, topsoil, loam, sand, gravel, clay, metallic, ores, rock, peat, or other like material from its natural location and transportation of the product removed away from the extraction site.

**Nursery (see agriculture)****Open Space**

Land that is free of buildings and other permanent structures.

**Park**

Land area set aside for public recreation, conservation, wildlife, or other similar purpose.

**Paving (see construction)**

**Pesticide, Herbicide Bulk Storage**

Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included.

**Petroleum**

A complex mixture of hydrocarbons with small amounts of other substances, and their by-products of any kind and in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other nonhazardous waste, crude oils and all other liquid hydrocarbons regardless of specific gravity.

**Road**

A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

**Salt or Sand/Sale Piles (uncovered)**

Storage of any amount of salt or sand/salt mix, for any purpose, without a rood or other structure capable of preventing precipitation from reaching the salt or sand/salt.

**Silviculture** (see agriculture)

**Sludge**

Residual material produces by water or sewer treatment processes, industrial processes, or domestic septic tanks.

**Sludge Utilization**

The spreading of sludge on the ground or other use of sludge which might expose surface or groundwater to the sludge.

**Snow Dump**

A location to which snow is transported and dumped by commercial, municipal, of State snow-plowing operations.

**Solid Waste**

Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse.

**SPCC Plan**

Spill Prevention Control and Countermeasure Plan as described in 40CFR, Part 112 of Federal Oil Pollution Prevention Regulations.

**Stormwater Drainage**

A sewer or other system for conveying surface runoff due to storm events and unpolluted ground or surface water, including that collected by cellar drains, but

excluding sanitary sewage and industrial waste.

**Stormwater Impoundment**

Any structure designed and constructed to contain stormwater runoff.

**Subdivision**

A subdivision shall mean the division of a tract of parcel of land as defined in Title 30A, M.R.S.A., section 4401. The term subdivision shall also include such developments as mobile home parks, multiple-family dwelling(s), shopping centers, condominiums, and industrial parks where there are three or more units involved.

**Subsurface Injection** (see subsurface wastewater disposal)

**Subsurface Wastewater Disposal System**

A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s) surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA section 414, any surface wastewater disposal system licensed under 38 MRSA section 413, Subsection 1-A, or any public sewer, sewerage system, or wastewater treatment plant.

**Timber Harvesting**

The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery.

**Transfer Station; Recycling Facility**

Facility designed for temporary storage of discarded material intended for transfer to another location for disposal, re-use, and/or processing.

**Utility Corridor**

Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities, for conveying energy, communication signals, fuel, water, wastewater, etc.

**Underground Storage Tank**

As defined by State of Maine regulations published by the Maine Department of Environmental Protection.

**Waste Disposal, Industrial/Commercial**

(See Industrial waste)

**Wastewater**

Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences, together with any storm, surface or groundwater as may be present.

**Wastewater Treatment Plant**

Any arrangement of devices and structures used for treating wastewater.

**Watershed**

Land lying adjacent to water courses and surface water bodies which creates the catchment or drainage area of such water courses and bodies; the watershed boundary is determined by connecting topographic high points surrounding such catchment or drainage areas.

**Wellhead**

The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

**Wellhead Protection Area**

Zone 1 and Zone 2 delineated according to Article III, Section 1 of this Ordinance.

**Well, Abandoned**

A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for the extraction or monitoring of groundwater that has not been used for a period to two consecutive years.

**Well, Existing or New**

A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction or monitoring of groundwater.

**Zone of Contribution**

The area from which groundwater flows to a pumping well.







## Appendix 1. Aquifer Protection District Delineation



### Town of Sabattus Official Aquifer Protection District Zoning Map

#### Legend

-  Public Water Supply Well
-  Zone 1
-  Zone 2
-  Zone 3

Notes:  
 -Zones 1 & 2 were modeled by the Maine DWP  
 QWELLMODELS, accessed from MEOIS.  
<http://www.maine.gov/mgis/catalog/indexez.shtml>  
 -Zone 3 is the Significant Sand & Gravel Aquifer  
 (Aquifer polygons) mapped by Maine Geological Survey,  
 accessed from MEOIS.  
<http://www.maine.gov/mgis/catalog/indexez.shtml>

Date: _____
Approved by: _____

# Sabattus, Maine – Code of Ordinances

## **MARTIN’S POINT BEACH RULES AND REGULATIONS ORDINANCE**

### **Section 1. Purpose**

In order to promote the general welfare of the citizens of the Town of Sabattus, to provide for the public safety and enjoyment, to provide for the protection and maintenance of Martin’s Point and Sabattus Lake, and to preserve the public peace, the following ordinance is adopted:

### **Section 2. Rules and Regulations**

1. The beach is closed daily from 10:00 P.M. until 6:00 A.M. the following morning.
2. Any town official, employee or police officer has the right to enforce duly adopted regulations regarding the use of the beach, including the right to require any individual(s) to leave the premises for the remainder of the day for any violation of the beach regulations. Any person using Martin’s Point during the absence of a Lifeguard does so at his/her own risk!
3. Glass containers of any kind are not allowed on the beach at any time.
4. Pets are not allowed on the beach at any time.
5. Running or pushing is not allowed on the beach or upon any dock, slip or raft that has been installed by the Town or State. Swimming underneath any of the above is prohibited.
6. Persons under (8) eight years of age are not allowed to use the beach unless accompanied by an adult who is at least (18) eighteen years of age or older.
7. The use of soap, shampoo or other cleansing agents is prohibited.
8. Bicycles may not be parked on the beach or grassed area except that bicycles may be parked within an area not to exceed (15) fifteen feet from the parking lot onto the grassed portion of the beach. Bicycles may not be left in any manner that obstructs the free passage of persons moving from the parking lot to the beach or in any manner that creates a safety hazard to persons using Martin’s Point Beach.
9. Trash, debris or cigarette butts which are properly extinguished, must be placed in trash containers and not left on the grassed or beach area.

## Sabattus, Maine – Code of Ordinances

10. Children shall not be allowed to swim in disposable diapers. These diapers break down in water and can pollute the lake. All children who require diapers are required to wear rubber pants that will contain all human waste they may generate while in the water. The intent of this section is to reduce and/or prevent the spread of E.coli Bacteria.
11. Playing any game of ball on the beach, grassed area, or within the parking area in any manner that interferes with the reasonable enjoyment or use of the area by other members of the public is prohibited.
12. The use, consumption or possession of drugs or alcoholic beverages in this area is prohibited.
13. No fires of any kind shall be permitted within Martin's Point. Notwithstanding the preceding sentence, charcoal fires in existing enclosed grills shall be permitted provided that such fires are not left unattended at any time and are thoroughly extinguished at the end of the cooking activity. No portable grills of any kind are permitted.

### **Section 3. Penalty**

Any person who violates any of the provisions of this ordinance or any of its rules or regulations shall be punished upon conviction by a fine as listed in Appendix "A" Fee Schedule, except that persons issued a violation tag may, within (15) fifteen days, pay to the Town Treasurer a token fine as listed in Town of Sabattus Fee Schedule.

### **Section 4. Effective Date**

This ordinance shall take effect and be in force (30) thirty days after its approval.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## **MASS GATHERING ORDINANCE**

### **Section 1. Purpose**

The Town of Sabattus recognizes the desirability of certain outdoor events, including exhibitions, festivals, music concerts, and fairs, and hereby ordains the following to protect the general welfare and promote public health and safety by addressing issues arising there from, such as traffic congestion, crowd control, health and sanitation, compliance with alcohol and drug laws, and protection of public and private property

### **Section 2. Authority**

This ordinance is adopted pursuant to the Home Rule powers under the Maine Constitution and 30-A M.R.S.A. §3001.

### **Section 3. Exemptions**

The provisions of this chapter shall not apply to:

- A. Events held by the Town of Sabattus and approved by the Board of Selectmen.
- B. Public school functions involving student population and staff and held on school property and approved by the School Committee.
- C. Private school functions involving student population and staff and held on school property.
- D. Religious organizations functions held on church property and approved by the church committee.

### **Section 4. Definitions**

*Assembly Area* - that portion of the premises on which the mass gathering is held within which persons in attendance are expected to sit or stand.

*License* - A permit issued by the Town of Sabattus to hold a Mass Gathering.

*Mass Gathering, Minor* - any outdoor gathering, pageant, amusement show, exhibition, festival, theatrical performance, or other special event held outdoors with the intent to attract at least five hundred persons (500) but fewer than one thousand persons at any time in a single assembly area not otherwise operating under the approval of the Town of Sabattus.

# Sabattus, Maine – Code of Ordinances

*Mass Gathering, Major* - any outdoor gathering, pageant, amusement show, exhibition, festival, theatrical performance, or other special event held outdoors with the intent to attract at least one thousand (1000) persons at any time in a single assembly area not otherwise operating under the approval of the Town of Sabattus

*Mass Gathering Area* - Mass gathering area means any place maintained, operated, or used for a group gathering or assemblage, except an established permanent stadium, athletic field, arena, auditorium, coliseum, fair ground, or other similar permanent place of assembly that has sufficiently existing sanitary facilities to handle the expected gathering.

*Not-for-Profit Organization* - a religious, charitable or benevolent association or organization which is registered with the State of Maine and the Internal Revenue Service and holds a valid tax-exempt certificate.

*Performance Guaranty* - an irrevocable letter of credit from a banking institution authorized to do business in Maine, cash escrow, or other financial guarantee acceptable to the Town Manager and in a form approved by the Selectman as to form sufficiency, manner of execution and surety in an amount set by the Town Manager.

*Person* - any natural person, sole proprietor, partnership.

*Police Department* - Sabattus Police Department

*Private School* - Schools operated by an agency, organization, or institution other than the Town, any other municipality, the State of Maine, the United States government or any agency or instrumentality thereof.

*Public Costs* - those costs incurred by the Town in connection with a mass gathering which would not be incurred by the Town if the mass gathering were not held.

*Public School* - schools operated and governed by RSU4.

*Selectmen* - the Board of Selectmen of the Town of Sabattus.

*Town* - the Town of Sabattus

## **Section 3. License required; Fee and Procedure.**

A. No person shall sponsor, promote, operate or hold any mass gathering, without first procuring a license from the town;

1. Licenses for minor mass gatherings shall require a license issued by the Town Manager according to the procedure contained herein, except those provisions relating to the requirement for public hearing and approval by the Board of Selectmen. Appeals from a denial of a minor mass gathering application may be made in writing to the Board of Selectmen, and must be filed with the Town Clerk within five (5) working days of the date of the denial.

## Sabattus, Maine – Code of Ordinances

2. Licenses for major mass gatherings shall require a license issued by the Board of Selectmen according to the procedure contained herein.

B. The licensing procedure will be administered in the following manner:

1. Any person seeking a mass gathering license shall be provided a copy of this ordinance.

2. The person(s) seeking a mass gathering license must file a completed application form with the Town Clerk not less than sixty (60) days before the proposed event.

3. Applications for mass gathering licenses shall be acted upon by the Town Manager or Board of Selectmen, as appropriate, within (30) days of receiving a complete application.

4. Licenses will be issued for events to be held on property meeting the requirements of the land use ordinance or any body of water within the boundaries of the Town of Sabattus.

5. Application fees shall be due when the application is filed, shall not be refundable, and shall be in accordance with the fee schedule established by the Sabattus Board of Selectmen as listed in Appendix "A" Fee Schedule.

C. The application must address in a written descriptive plan:

1. A letter of authorization or written permission from the property owner allowing use of the property, unless the property is owned by the applicant.

2. A contract with a refuse collection company or other reasonable plan for removal of trash.

3. Proof of applicant's liability insurance. The applicant shall furnish a Certificate of Insurance, issued by a company licensed by the State of Maine, with the Town of Sabattus named as co-insured.

4. That adequate supplies of potable water shall be available and reasonably spaced.

5. That adequate toilet and sanitation facilities shall be available and reasonably spaced throughout the event area.

6. That adequate first aid facilities and qualified medical personnel shall be provided.

7. That adequate parking facilities are available in the area in which the event is to be held.

8. The event will not impair the safety and orderly flow of traffic on public ways and that adequate provision have been made for the control of traffic before, during and after the event.

## Sabattus, Maine – Code of Ordinances

9. Adequate police protection by state certified officers, in numbers to be determined by the Chief of Police, shall be provided.

10. Adequate fire protection, as determined by the Fire Chief, is provided.

11. Demonstrate, by means of a written descriptive plan, that adequate parking spaces will be available.

D. Within five (5) working days of receipt of an application, the Town Clerk shall forward a copy of the application to the Town Manager, Police Department, Fire Chief, Public Works Director, and Code Enforcement Officer, and the Town Clerk shall schedule a public hearing for a major mass gathering at the earliest possible meeting of the Board of Selectmen.

1. Upon notice of public hearing, property owners within (100) feet of the edge of the property where the mass gathering is to be held, shall be notified by Certified Mail, Return Receipt Requested, of a pending application for Mass Gathering review by the Town of Sabattus. The notice shall indicate the time, date and place of the Board of Selectmen's first consideration of the application. Should the meeting of the first consideration of the application not be held for any reason re-notification shall be provided by Certified Mail, Return Receipt Requested of the new date of the meeting. The cost of such mailings to be borne by the applicant.

E. Before a license can be issued for a major mass gathering, the Board of Selectmen shall hold a public hearing to review the application and determine the conditions required to safeguard the public health, safety and welfare. The Board of Selectmen may deny or grant the license, or grant the license and impose conditions to safeguard the public interest. Such conditions may include, but are not limited to, requiring the applicant to:

1. Post a performance guaranty/bond to ensure prompt cleanup of the grounds and payment for damages to public or private property in the area of the event. Promptly following the mass gathering, the Town shall release the performance guaranty if the operator pays all clean up and public costs within ten (10) working days after the mass gathering;

2. Agree to hire certified police officers, other security, and/or fire/rescue personnel as necessary, at the expense of the licensee. The Police Department and Fire Chief will be notified before the proposed event whether personnel will be needed;

### **Section 5. Enforcement, Penalty, Assignability**

The Code Enforcement Officer will enforce this Ordinance. Violation of this Ordinance constitutes a civil violation punishable by a civil penalty. The violator shall be subject to the penalties set forth in 30-A, M.R.S.A. ' ss4452

# Sabattus, Maine – Code of Ordinances

## **Section 6. Appendix**

Guidelines. For informational purposes, the following provisions set out standards and conditions that the Town views as optimal. They are illustrative of the factors the Town will consider in making its determination as to whether a license should be issued.

### **A. Water supply**

1. Where water is distributed under pressure for drinking, washing, flushing toilets and/or showers, the water supply system shall deliver water at normal operating pressures (20 lb. per sq. in. minimum) to all fixtures at a rate of at least thirty (30) gallons per person per day.
2. Where water is not available under pressure, and non-water carriage toilets are used, at least three (3) gallons of water per person per day shall be provided for drinking and washing purposes.

### **B. Refuse Disposal**

1. One fifty (50) gallon refuse container or its equivalent shall be provided for each one hundred (100) persons anticipated.
2. All refuse shall be collected from the mass gathering area at least once each day of the gathering and disposed of in an approved manner.
3. The mass gathering area and immediate surrounding property shall be cleaned of refuse within twenty-four (24) hours following the mass gathering.
4. Areas where vehicles are parked shall have rubbish disposal facilities one (1) for every twenty-five (25) vehicles.

### **C. Grounds**

1. The assembly area shall be adequately lighted, but not unreasonably reflect beyond the assembly area boundaries unless adjacent properties are uninhabited.
2. Light level intensities shall be at least five (5) foot candles.
3. There shall be at least twenty (20) square feet per person at the site for daytime gatherings and at least forty (40) square feet per person for overnight gatherings.

### **D. Roads and Parking Space**

1. Width of service roads shall be at least twelve (12) feet for one (1) traffic lane, twenty-four (24) feet for two (2) traffic lanes, and seven (7) feet for parallel parking lane.



## Sabattus, Maine – Code of Ordinances

2. There shall be at least one (1) parking space for every four (4) persons; the density should not exceed one hundred (100) passenger cars or thirty (30) busses per usable acre.

### E. Sanitary Facilities

1. Toilets shall be provided at a rate of one (1) for each one hundred and fifty (150) persons.

2. Urinals and Sani stands may be substituted for up to one third (1/3) of the required number of toilets. Twenty-four inches (24.) of trough urinals in men's rooms shall be considered the equivalent of one (1) urinal or toilet.

3. Sanitary facilities shall be conveniently accessible and well identified.

4. Each toilet shall have a continuous supply of toilet paper.

5. Service buildings or rooms housing necessary plumbing fixtures shall be constructed of easily cleaned, nonabsorbent materials.

6. Clearly marked separate service buildings, or rooms containing sanitary facilities, shall be provided for each sex. Each toilet room should be provided with a self-closing door to insure privacy, or the entrance should be screened so that the interior is not visible from the outside.

7. Water points or drinking fountains shall be well identified and conveniently accessible.

8. Common drinking cups shall not be used.

### F. Medical Facilities

1. Emergency medical services shall be provided under the supervision of a licensed physician.

2. A first aid building or tent, with adequate medical supplies, shall be available.

3. Emergency first aid vehicles shall be available on site during the entire time of the mass gathering.

4. A telephone or other two-way electronic communication device shall be available.

5. The operator of the mass gathering shall contact area hospitals and advise them that a mass gathering will be held and the approximate number of people attending.

# Sabattus, Maine – Code of Ordinances

## G. Safety

1. The electrical system or electrical equipment serving the mass gathering shall comply with applicable state standards and regulations (Title 32, Chapter 17, M.R.S.A.).
2. Fire prevention materials such as nonflammable drapes, partitions, etc. shall be used wherever possible.
3. At least one firefighter, with communication equipment to call in fire suppression equipment, shall be present at the site of the mass gathering.

## H. Noise control

1. The sound of the mass gathering should not carry unreasonably beyond the boundaries of the mass gathering area.
2. The noise level at the perimeters of the area should not exceed seventy (70) decibels on the A scale of a sound level meter meeting specifications of the American National Standards Institute unless the mass gathering area is remotely located and surrounding adjacent properties are uninhabited.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## MASSAGE ESTABLISHMENTS ORDINANCE

### **Section 1. Title**

This Ordinance shall be known as the "Town of Sabattus Massage Establishments and Massage Therapist Regulatory Ordinance" and may be referred to by short title as the "Massage Ordinance".

### **Section 2. Purpose**

The Town of Sabattus recognizes that the practice of legitimate massage therapy by trained and experienced therapists is a valuable component of our health care system. The Town of Sabattus also recognizes that persons without legitimate massage training or experience may masquerade as massage therapists as a cover-up for the exchange of sexual intercourse, sexual contacts or sexual acts for money. It is the purpose of this ordinance to clearly distinguish between these persons and to promote the public health, safety and general welfare by simultaneously acknowledging and permitting legitimate massage therapy and prohibiting the commission of sexual intercourse, sexual contacts or sexual acts for money.

### **Section 3. Definitions**

For purposes of this ordinance, the following definitions shall apply unless the context clearly implies otherwise:

*Client* - means any person who receives a therapeutic massage.

*Massage or therapeutic massage* - are used interchangeably to mean any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of the external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device.

*Massage establishment or therapeutic massage establishment* - are used interchangeably to mean any business including but not limited to a sole proprietorship in which the business operations consist of providing or making available massage in the town for consideration or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within town limits.

*Massage therapist* - means any person who performs therapeutic massage for consideration or gratuity or with the expectation of receiving consideration or any gratuity.

*Minor* - shall mean any person under the age of eighteen (18) years of age.

# Sabattus, Maine – Code of Ordinances

*Person* - means an individual, partnership, corporation or other entity.

*Recognized school* - means any school or institution of learning approved or accredited by the American Massage Therapy Association/Commission on Massage Training Accreditation/ Approved (AMTA/COMTAA), or a school or institution requiring training equivalent to or surpassing an AMTA/COMTAA approved school, which offers a course of training in the theory, method, profession and work of massage therapy consisting of five hundred (500) hours or more, the completion of which renders a student eligible for membership in the AMTA. Schools which cannot be verified shall not be deemed a recognized school. The burden of proving that a school meets or surpasses the educational and training requirements of an AMTA/COMTAA approved school shall be on the applicant.

## **Section 4. Exemptions**

The following persons shall be exempt from this ordinance while practicing in accordance with the laws of this state: Physicians, physician's assistants, surgeons, osteopaths, nurses, chiropractors, physical therapists, members of the AMTA, barbers, cosmetologists, beauticians and other health and hygiene professionals. Students enrolled in a recognized school who are required to give massages as part of their training shall be exempt from this ordinance.

## **Section 5. General provisions to apply**

Except to the extent that this ordinance contains a contrary provision, all provisions shall apply to this ordinance.

## **Section 6: Required Licenses**

Therapeutic massage establishment license. No person shall operate a therapeutic massage establishment without a valid therapeutic massage establishment license issued by the town. A separate license shall be required for each such establishment.

Massage therapist license. No person shall work as a massage therapist without a valid massage therapist license or a combined massage establishment / therapist license issued by town.

Combined massage establishment/massage therapist license. A sole practitioner who employs no massage therapist other than himself may apply for a combined massage establishment/massage therapist license in lieu of both a therapeutic massage establishment license and a massage therapist license.

# Sabattus, Maine – Code of Ordinances

## **Section 7. Compliance of existing Therapists and Massage Establishments**

Any person presently operating as a massage therapist and/or operating a massage establishment in the town as defined herein on the effective date of this ordinance shall comply with the terms of this ordinance by obtaining a license hereunder within three (3) months of the effective date of this ordinance.

Any license issued pursuant to this chapter after the effective date hereof shall be valid until December 31, 1997. For any license issued pursuant to this chapter after December 31, 1997, the expiration date will be the 31<sup>st</sup> day of December of the year issued.

## **Section 8. Application and Information**

Each applicant for a license shall:

1. Complete and file an application on a form prescribed by the town clerk;
2. Deposit the prescribed license fee as listed in Town of Sabattus Fee Schedule in advance with the town clerk;
3. Submit the completed application to the town clerk, together with attested copies of the ordinances of incorporation and bylaws, if the applicant is a corporation; evidence of partnership, if a partnership; or ordinances of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;
4. File an affidavit which will identify all owners, officers, managers or partners of the applicant and their places of residence at the time of the application and for the immediately preceding three (3) years;
5. For a combined massage establishment/massage therapist license or a massage therapist license, submit two (2) front face photographs of the applicant taken within thirty (30) days of application, of such size as the clerk may specify;
6. File the release authorized by 16 M.R.S.A. Section 620(6) (Criminal History Record Information Act) with the application for each applicant and for each officer, owner, manager or partner of an applicant seeking a therapeutic massage establishment or combined massage establishment/massage therapist licensee; and
7. Pay the required processing fee as listed in Town of Sabattus Fee Schedule.

If an application is denied or withdrawn, the license fee shall be refunded to the applicant. The processing fee shall not be refunded.

# Sabattus, Maine – Code of Ordinances

## **Section 9. Qualifications of Applicant, Officers**

An applicant for a massage establishment license or combined massage establishment/massage therapist license, or any owner, officer, manager or partner of an applicant, cannot have any convictions for Class A, B or C crimes, crimes involving moral turpitude, or of violating any laws involving gambling, drugs or liquor laws within this or any other State within the five (5) years immediately preceding the date of application.

## **Section 10. Investigation of Applicant, Officers**

Upon receipt of an application or upon notice of a change of ownership, officers, managers or partners of the applicant:

1. The building inspector shall verify that the premises where the establishment will be located complies with all applicable ordinances of the town, including but not limited to, the building code, electrical code, plumbing code and zoning ordinance and shall report findings in writing to the town clerk;
2. The town clerk shall review the application and other documents and determine whether such documents comply with all of the requirements of this ordinance;
3. The health officer shall inspect the proposed location to determine whether the applicable ordinances relating to health and safety have been satisfied and shall report findings in writing to the town clerk;
4. The fire chief or his/her agent shall inspect the proposed location to determine if all town ordinances concerning fire and safety have been satisfied and shall report findings in writing to the town clerk; and
5. The police chief or his/her agent shall investigate the application, including the criminal history record information required under section 9, and shall report findings in writing to the town clerk.

## **Section 11. Basic Proficiency**

Each applicant for a massage therapist license or combined massage establishment/therapist license shall show proof of basic proficiency in the field of massage therapy by:

1. Providing evidence of the satisfactory completion of all formal course work and training in massage therapy as required for graduation from a recognized school. The evidence shall be in the form of a diploma, certificate of graduation or its equivalent; or

# Sabattus, Maine – Code of Ordinances

2. A written statement from a Physician, Nurse, Osteopath, Chiropractor, Physical Therapist, or member of the AMTA stating that that person refers clients to the applicant for therapeutic massage.

## **Section 12. Obtaining License by Fraud**

No person shall make any false, untruthful or fraudulent statement, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this ordinance. All names, including but not limited to maiden names, ever used by the applicant must be noted on the application.

Any license improperly obtained shall be void.

## **Section 13. Use of License**

No person shall use to his own benefit or to the benefit of another, any license not issued to him in accordance with this chapter.

## **Section 14. Standards for Denial**

A license application under this ordinance shall be denied to the following persons:

1. Therapeutic massage establishment license:
  - a. To a corporation not registered to do business in this State; or
  - b. To a corporation if any principal officer thereof or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five (5) years; or
  - c. To an applicant, other than a corporation, if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction, within the immediately preceding five (5) years.
2. Massage therapist license, or combined massage establishment/massage therapist license:
  - a. To an applicant who has been given a disqualifying criminal conviction at any time during the five (5) years immediately preceding application; or
  - b. To an applicant who is not at least eighteen (18) years of age.

# Sabattus, Maine – Code of Ordinances

## 3. All licenses:

- a. To an applicant who has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the Board of Selectmen or reasonably necessary to determine whether a license may be issued; or
- b. To an applicant, if such applicant or any person having an actual ownership interest or management authority therein has been denied a license for knowingly making an incorrect statement of a material nature within the immediately preceding five (5) years; or
- c. To an applicant, if such applicant or any person having an actual ownership interest or management authority therein has had a license granted pursuant to this ordinance revoked for any reason within the immediately preceding five (5) years.

## **Section 15. Grounds for Suspension or Revocation**

In addition to the grounds for denial set forth in Section 14, any license may be suspended or revoked upon a determination that the licensee:

### 1. All licenses:

- a. Failed to notify the clerk of any change in material fact set forth in the application for such license; or
- b. Violated any provision of this Ordinance.

### 2. *Therapeutic massage establishment or combined establishment/therapist license:*

- a. Permitted any person to perform therapeutic massage without a valid license to do so;
- b. Permitted or allowed an employee, massage therapist or conditional massage therapist, to violate any provision of this chapter on the premises of the establishment or in the course of conduct of the business of the establishment; or
- c. Knowingly permitted any violation of Title 17-A M.R.S.A., sections 851 through 855. Such knowledge shall be presumed if there has been a conviction for any such offense within the immediately preceding five (5) years. The applicant or licensee may rebut said presumption by showing that:
  - (i) Due diligence was exercised to prevent the recurrence of any such offense; and
  - (ii) Despite such diligence, he or she did not know and could not reasonably have known of any subsequent offense.



# Sabattus, Maine – Code of Ordinances

## **Section 16. License to be Displayed / Produced**

A valid therapeutic massage establishment license shall be displayed at all times in an open and conspicuous place in the massage establishment for which it was issued.

A valid massage therapist license or combined massage establishment/massage therapist license must be readily available to be produced immediately if demanded of the licensee.

## **Section 17. Age Restrictions**

No massage or therapeutic massage shall be practiced on a minor without the written consent of a parent or guardian.

## **Section 18. Massage Tables**

All therapeutic massage shall be administered on a massage table, treatment table, treatment mat, or in a treatment chair.

## **Section 19. Maintenance and Cleaning**

Every person who conducts or operates a therapeutic massage establishment shall keep the establishment in a clean and sanitary condition at all times. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

## **Section 20. Prohibited Activities**

1. No massage therapist shall administer a massage to a client whose genitals are exposed.
2. No massage therapist shall administer or agree to administer a massage to the genitals or anus of a client.
3. No massage therapist shall administer a massage unless he or she is fully clothed with non-transparent clothing of the type customarily worn by massage therapists while administering a massage.
4. No massage therapist shall perform sexual intercourse, commit a sexual act or make sexual contact, as defined in 17-A M.R.S.A., section 251, for profit or for personal pleasure to himself or another.

# Sabattus, Maine – Code of Ordinances

## **Section 21. Closing Hours**

No massage establishment shall be kept open for massage purposes between the hours of 10:00 p.m. and 7:00 a.m.

## **Section 22. Supervision**

At all times when open for business, a therapeutic massage establishment shall have upon the premises a licensed massage therapist or person who possesses a combination massage establishment/massage therapist license who shall be available to supervise the operation of the establishment and assure that no violations of this ordinance occur.

## **Section 23. List of Employees**

The therapeutic massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the Chief of Police or his/her designee, the town clerk or his/her designee, upon request.

## **Section 24. Violations; Penalties**

The violation of any provision of this ordinance shall be punished by a fine as listed in Town of Sabattus Fee Schedule for each offense.

Each act of violation and every day upon which any such violation shall continue to occur, shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this Ordinance by appropriate action, including but not limited to revocation of the license.

## **Section 25. Appeals**

An appeal of any final decision made by the town clerk may be taken to the Board of Selectmen within thirty (30) days. An appeal of any final decision of the Board of Selectmen may be taken by any party to the superior court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure. Any denial, suspension or revocation shall be in writing and shall include notification of the right to appeal and the procedure for appeal.

# Sabattus, Maine – Code of Ordinances

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## MOBILE VENDOR ORDINANCE

### **Section 1. Title and Purpose**

This ordinance shall be known and may be cited as the Mobile Vendor Ordinance of the Town of Sabattus, Maine.

The purpose of this ordinance is to regulate Mobile Vendors, Itinerant Vendors, Street Vendors, Peddlers and Street Artists.

This ordinance applies to any peddler, food service establishment, including ice cream vendors, hot dog stands, push carts, and other food services that are operate on any Town of Sabattus Street, way or town property.

This ordinance shall not be construed to include employed route salesmen while engaged in making deliveries to their regular customers or person making deliveries on order from customers of retail stores in the town.

### **Section 2. Definitions**

*Mobile Vendor* - means and include any portable, mobile or temporary structure, and any vehicle, cart wagon conveyance or carrier of any kind, from which food is sold or caused to be sold at retail, from house, store to store, building to building or along or upon any sidewalk, street, park or other public property in the Town of Sabattus.

*Itinerant* - means any person who travels from place to place

*Peddler* - means any person traveling by foot, wagon automotive vehicle or any other type of conveyance from place to place, from house to house, or from street to street carrying , conveying or transporting good, wares and merchandise and offering or exposing the same or any service for sale; or who without traveling from place to place shall sell, expose or offer any goods, wares, merchandise or service for sale from any portable, mobile or temporary structure, or from a wagon, automotive vehicle or other means of conveyance; or who without traveling from place to place shall sell, expose or offer for sale the same in the entrances to public land or entrances to public lands.

*Person* - shall include individuals, firms, associations, partnerships, corporations, trusts and other legal entities.

*Sale* - means the exchange of any item or merchandise or food for any form of money, whether at retail or wholesale, regardless of whether a profit is made.

*Street Artist* - means a person who is engaged in the creation of a work of art or who offers for sale a work of art created by the artist who is offering it for sale.

*Street Goods Vendor* - means a person who sells, demonstrates, distributes samples of or solicits or takes orders for goods other than food or beverages.

# Sabattus, Maine – Code of Ordinances

*Street vending* - means selling or offering to sell, displaying for sale, demonstrating, distributing samples of, or soliciting or taking orders for any food, beverages, goods or services in any street, way or public property.

*Street Vendor* - means a person who sells, demonstrates, distributes sample of or solicits or takes orders for food or beverages.

*Street, way or town property* - means any street, sidewalk, alley or path and any park, playground or other town owned property, or any portion thereof, which is open for use by the public as a matter of right

## **Section 3. Licenses**

No person, firm, corporation or association shall operate as a mobile vendor in Sabattus without first securing a license under this ordinance. Any person seeking such a license shall annually make application to the Sabattus Board of Selectmen. Within thirty (30) days of receipt of said application, the Board of Selectmen shall hold a public hearing following notification of the abutters of the location at which the vendor intends to do business. Following the Public Hearing, the Selectman shall issue, issue with conditions or deny the license. Said license shall expire on December 31<sup>st</sup> of each year.

Fees will not be prorated. Refer to the Town's Town of Sabattus Fee Schedule for the annual license fee.

## **Section 4. Application Form**

This application shall be on a form provided by the Town Clerk and shall require the applicant to furnish the following information:

1. Name, address and telephone number of mobile vendor owner.
2. Name, address and telephone number of mobile vendor operator, if different from owner.
3. Identification of site or sites where mobile vendor will operate.
4. Description of mobile vendor vehicle and its license number, if any.
5. A certificate of insurance.
6. A photograph mobile vendor vehicle.
7. A certificate of approval issued by the Department of Human Services of the State of Maine, if required.
8. A complete record of the applicant with respect to any disqualifying criminal conviction or a statement by the applicant that no such conviction exists.

# Sabattus, Maine – Code of Ordinances

9. An appropriate form of statement, over the signature of the applicant, giving all persons and governmental agencies having information relevant to the above items and permission to release same to the Clerk.
10. A description of those items which the applicant proposes to sell and dispense.
11. Food and other merchandise, before receiving a license, the following Town departments will review the application as follows:
  - a. The Police Department will certify that the vendor will not create safety problems for either traffic or pedestrians and that information of file does not indicate that the applicant is a person of bad moral character.
  - b. The Code Enforcement Officer will certify that the use is allowed in the zoning district(s) in which the applicant proposes to operate.

## **Section 5. Disqualifying Criminal Convictions**

A license granted under this section shall be denied or revoked when any applicant or licensee has received a disqualifying criminal conviction at any time during the five years immediately preceding the application or while a license granted under this policy is in effect or has been imprisoned at any time during said periods for a disqualifying criminal conviction, provided that said conviction was for an offense which is rationally related to the purpose of licensing mobile vendors.

## **Section 6. Scope of Authority**

A licensee under this ordinance shall be authorized to sell and dispense only those items which have been described in the application and which the mobile vendor is equipped to dispense pursuant to the rules described by the Department of Human Services, as they may be amended from time to time. No mobile vendor shall operate within two hundred (200) feet of any fixed base retail establishment or other mobile vendor offering the same or substantially similar goods or services. A mobile vendor shall operate only on town property and or on any public ways. No license shall be granted for a mobile vendor unless allowed as a land use in the underlying zoning district(s) in which it operates.

## **Section 7. Operating Standards**

A. *Location.* A mobile vendor may operate only on public land which he/she has written permission to use.

B. No peddler shall have any exclusive right to any location in the public streets, nor shall any peddler be permitted a stationary location, nor shall he be permitted to operate

## Sabattus, Maine – Code of Ordinances

in any congested area where his operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

C. Abutters of land to be used by a mobile vendor shall be notified of the Public Hearing date at which the mobile vendor's application will be considered by the Board of Selectmen.

D. Access. Mobile vendor license applicants demonstrate to the Board of Selectmen that there is sufficient access, parking and maneuvering space available at the site on which the mobile vendor will operate. The location and adequacy of approaches shall be first reviewed by the Code Enforcement Officer.

E. The approved mobile vendor permit issued by the Town of Sabattus must be conspicuously displayed on the vending equipment. This permit is non-transferable.

F. *Mobile Vendor Signs.* Mobile vendors must conform to the Town of Sabattus Sign Ordinance.

G. Hours of operation shall be from sunrise to sunset. The mobile unit shall be removed from the site and relocated in a safe and suitable place between the hours of sunset and sunrise.

H. *Noise level.* No loud speakers or any unnecessary noise will be allowed on the site. Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. The average dBA count resulting shall not exceed sixty (60) dBA at any point on or beyond the site.

### **Section 8. Rubbish containers**

A sufficient number of covered, metal rubbish containers shall be provided at each site immediately adjacent to the mobile vendor to hold material discarded by its customers, and the license shall cause the same to be emptied as necessary. In no case shall such containers be more than ten feet from the mobile vendor vehicle. A licensee shall keep sidewalks, roadways, and other public or private spaces adjoining and adjacent to his/her locations clean and free from paper and refuse of any kind which may be generated by the operation of the business.

### **Section 9. Insurance**

The licensee shall provide written evidence of insurance coverage for the period of the license and executed by an insurance company authorized to issue such a policy in the state, in the usual form of automobile liability insurance policies in this state for injuries to persons and property resulting from the use and operation of the vehicle to be licensed.

# Sabattus, Maine – Code of Ordinances

Such policy of insurance shall be issued for the principal sum not less than \$300,000, for bodily injury, death and property damage. A certificate of insurance bearing an endorsement thereon by the issuing agent shall be deposited with the Clerk. Such certificate shall state that the issuing agent will notify the Clerk in writing no less than thirty (30) days prior to the cancellation thereof.

## **Section 10. Automatic Revocation or Suspension**

No license granted under this ordinance shall be effective for any period during which the licensee's certificate of approval, issued by the Department of Human Services, is suspended or revoked.

## **Section 11. Grounds for Suspension or Revocation**

A license granted under the authority of this ordinance may be suspended or revoked by the Board of Selectmen, after notice of hearing, when the Selectmen determines that the licensee has violated any condition of this Ordinance or any other applicable law, or of the license granted to him/her.

## **Section 12. Term and Transferability**

Approval of a license shall be for a period of one year subject to annual renewal by the board of selectman upon continued compliance with the regulations. The license is non-transferable.

## **Section 13. Prohibited Operations**

1. No mobile vendor, street vendor or peddler shall operate on any Street, way or town property without a license.
2. No vendor other than a licensed street vendor or a street artist as defined in this ordinance shall operate on any street, way or town property.
3. No street vendor, mobile vendor or peddler shall:
  - a. Operate within 200 feet of any other licensed street vendor, mobile vendor or peddler or within 200 feet of a food service establishment having a fixed location. Measurements shall be determined in a straight line (ignoring intervening structures) from closest point of the property line of the fixed location.
  - b. On any sidewalk less than eight (8) feet in width or in any other location so as to impede the free passage of vehicles or pedestrians, obstructs the entrance to or exit



# Sabattus, Maine – Code of Ordinances

from public property, jeopardizes the public safety, or otherwise inconvenience the public.

c. No sale of alcoholic beverages.

d) Place or cause to be placed any advertising poster or notice on any utility pole or other pole or on any tree located on town property or on any public way.

## **Section 14. Street Artist**

1. No street artist shall operate:

a. On any sidewalk less than eight (8) feet in width or in any other location so as to impede the free passage the free passage of vehicles or pedestrians, obstructs the entrance to or exit from public property, jeopardizes the public safety, or otherwise inconvenience the public.

b. On the street or use public benches, monuments or structures to display artwork.

## **Section 15. Enforcement**

1. The Code Enforcement Officer or the Sabattus Police Department shall investigate any alleged violations of this policy. Upon verification of the alleged violation, a notice of violation will be served on the violator and service on an employee or agent of a violator shall constitute service upon the violator.

2. Upon issuance of a notice of violation, a copy of the notice of violation will be forwarded to the Town Manager.

## **Section 16. Addition or Amendments**

Additions or amendments to the ordinance, when passed in the form as to indicate the intention of the Town of Sabattus to make the same a part of the ordinance, shall be deemed to be incorporated in the ordinance, so that reference to the ordinance includes the additions and amendments.

Accepted:

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Original Adoption:

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Revision Dates:

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# **Sabattus Non-Storm Water Discharge Ordinance**

## **Section 1. Purpose/Objectives.**

**A. Purpose.** The purpose of this Non-Storm Water Discharge Ordinance (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Sabattus through the regulation of Non-Storm Water Discharges to the Municipality’s Storm Drainage System as required by federal and State law. This Ordinance establishes methods for controlling the introduction of Pollutants into the Town/City’s Storm Drainage System in order to comply with requirements of the federal Clean Water Act and State law.

**B. Objectives.** The objectives of this Ordinance are:

1. To prohibit unpermitted or unallowed Non-Storm Water Discharges to the Storm Drainage System; and
2. To set forth the legal authority and procedures to carry out all inspection, monitoring and enforcement activities necessary to ensure compliance with this Ordinance.

## **Section 2. Definitions.**

For the purposes of this Ordinance, the terms listed below are defined as follows:

**A. Clean Water Act.** “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

**B. Discharge.** “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

**C. Enforcement Authority.** “Enforcement Authority” means the person(s) or department authorized under Section 4 of this Ordinance to administer and enforce this Ordinance.

**D. Exempt Person or Discharge.** “Exempt Person or Discharge” means any Person who is subject to a Multi-Sector General Permit for Industrial Activities, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally Owned Authority Municipal Separate Storm Sewer System Facilities; and any Non-Storm Water Discharge permitted under a NPDES permit, waiver, or waste

discharge license or order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency (“EPA”) or the Maine Department of Environmental Protection (“DEP”).

**F. Industrial Activity.** “Industrial Activity” means activity or activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**G. Municipality.** “Municipality” means the Town of Sabattus

**H. Municipal Separate Storm Sewer System, or MS4.** “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

**I. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** “National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**J. Non-Storm Water Discharge.** “Non-Storm Water Discharge” means any Discharge to an MS4 that is not composed entirely of Storm Water.

**K. Person.** “Person” means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity which creates, initiates, originates or maintains a Discharge of Storm Water or a Non-Storm Water Discharge.

**L. Pollutant.** “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**M. Premises.** “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

**N. Regulated Small MS4.** “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” dated June 3, 2003 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those

additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

**O. Small Municipal Separate Storm Sewer System, or Small MS4.** “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

**P. Storm Drainage System.** “Storm Drainage System” means the Municipality’s Regulated Small MS4 and all Premises outside the UA.

**Q. Storm Water.** “Storm Water” means any Storm Water runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

**R. Urbanized Area (“UA”).** “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

### **Section 3. Applicability.**

This Ordinance shall apply to all Persons discharging Storm Water and/or Non-Storm Water Discharges from any Premises into the Storm Drainage System.

### **Section 4. Responsibility for Administration.**

The Code Enforcement Officer is the Enforcement Authority who shall administer, implement, and enforce the provisions of this Ordinance.

### **Section 5. Prohibition of Non-Storm Water Discharges.**

**A. General Prohibition.** Except as allowed or exempted herein, no Person shall create, initiate, originate or maintain a Non-Storm Water Discharge to the Storm Drainage System. Such Non-Storm Water Discharges are prohibited notwithstanding the fact that the Municipality may have approved the connections, drains or conveyances by which a Person Discharges unallowed Non-Storm Water Discharges to the Storm Drainage System.

**B. Allowed Non-Storm Water Discharges.** The creation, initiation, origination and maintenance of the following Non-Storm Water Discharges to the Storm Drainage System is allowed:

1. Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)); uncontaminated pumped ground water; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from

riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources; and individual residential car washing;

2. Discharges specified in writing by the Enforcement Authority as being necessary to protect public health and safety; and
3. Dye testing, with verbal notification to the Enforcement Authority prior to the time of the test.

**C. Exempt Person or Discharge.** This Ordinance shall not apply to an Exempt Person or Discharge, except that the Enforcement Authority may request from Exempt Persons and Persons with Exempt Discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the Discharge(s).

#### **Section 6. Suspension of Access to the Municipality's Small MS4.**

The Enforcement Authority may, without prior notice, physically suspend Discharge access to the Storm Drainage System to a Person when such suspension is necessary to stop an actual or threatened Non-Storm Water Discharge to the Storm Drainage System which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Storm Drainage System, or which may cause the Municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the Discharge to prevent or minimize a Non-Storm Water Discharges to the Storm Drainage System. If the Person fails to comply with a suspension order issued in an emergency, the Enforcement Authority may take such steps as deemed necessary to prevent or minimize damage to the Storm Drainage System, or to minimize danger to persons, provided, however, that in taking such steps the Enforcement Authority may enter upon the Premises that are the source of the actual or threatened Non-Storm Water Discharge to the Storm Drainage System only with the consent of the Premises' owner, occupant or agent.

#### **Section 7. Monitoring of Discharges.**

In order to determine compliance with this Ordinance, the Enforcement Authority may enter upon and inspect Premises subject to this Ordinance at reasonable hours with the consent of the Premises' owner, occupant or agent: to inspect the Premises and connections thereon to the Storm Drainage System; and to conduct monitoring, sampling and testing of the Discharge to the Storm Drainage System.

#### **Section 8. Enforcement.**

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance. Whenever the Enforcement Authority believes

that a Person has violated this Ordinance, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

**A. Notice of Violation.** Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The elimination of Non-Storm Water Discharges to the Storm Drainage System, including, but not limited to, disconnection of the Premises from the MS4;
2. The cessation of discharges, practices, or operations in violation of this Ordinance;
3. At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of Non-Storm Water Discharges to the Storm Drainage System and the restoration of any affected property; and/or
4. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

**B. Penalties/Fines/Injunctive Relief.** Any Person who violates this Ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

**C. Consent Agreement.** The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs and fees without court action.

**D. Appeal of Notice of Violation.** Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Board of Appeals. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a *de novo* hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A suspension under Section 6 of this Ordinance remains in place unless or until lifted by the

Board of Appeals or by a reviewing court. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

**E. Enforcement Measures.** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

#### **F. Ultimate Responsibility of Discharger.**

The standards set forth herein are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of Pollutants into waters of the U.S. caused by said Person. This Ordinance shall not create liability on the part of the Municipality, or any officer agent or employee thereof for any damages that result from any Person's reliance on this Ordinance or any administrative decision lawfully made hereunder.

#### **Section 9. Severability.**

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

#### **Section 10. Basis.**

The Town of Sabattus enacts this Non-Storm Water Discharge Ordinance (the "Ordinance") pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" dated June 3, 2003, has listed the Town of Sabattus as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program.

Enacted this 21 day of May, 2005.





# Sabattus, Maine – Code of Ordinances

## OUTPATIENT ADDICTION ORDINANCE

### **Section 1. Purpose**

The Town of Sabattus recognizes that an outpatient addiction treatment clinic can be a valuable component of our health care system. The Town also recognizes that the appropriate siting of such clinics, including restricting their proximity to schools, churches, family day care homes, small day care facilities, day care centers, and public parks and play grounds as well as other locations where children and other young adults may frequent is important in order to protect the public. Proper siting will work to minimize potential adverse law enforcement impacts and overburdening of police and rescue resources. The Town of Sabattus finds that with the reasonable and necessary siting restrictions listed herein, there remain sufficient suitable areas within the Town of Sabattus to site outpatient addiction treatment clinics. Licensing of these facilities will enhance community relations with the providers of such clinics and will establish lines of communications with the clinics. Licensing of these facilities is appropriate and consistent with the Town's policies and practices to review and license business activities that impact its citizens. The licensing is not meant to duplicate the licensing done at the state level pursuant to 14-118 CMR Ch.4 *Regulations for Licensing / Certifying Substance Abuse Treatment Programs in the State of Maine*, but to provide separate and additional requirements as necessitated by the above findings.

### **Section 2. Applicability**

This ordinance shall apply to any outpatient addiction treatment clinic which is located within the Town of Sabattus.

### **Section 3. Definitions**

For purposes of this ordinance, the following definitions shall apply unless the content clearly implies otherwise:

*Church* - means a building, together with its contiguous accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

*Day Care Center* - means a building, structure or other place in which a person, or combination of persons, maintains or otherwise carries out a regular program, for consideration, for any part of the day providing protection and child care for more than

## Sabattus, Maine – Code of Ordinances

12 children under 13 years of age, who are unattended by parents or guardians for any part of the day, and which holds all necessary licenses and permits from the State of Maine and/or the Town of Sabattus.

*Family Day Care Home* - means child care for three to 12 children under 13 years of age (not related by blood or marriage to, or legal wards of the operator, or foster children living in the private family residence (i.e. dwelling unit) serving as the day care home) who are unattended by parents or guardians for any part of the day. A family day care home shall be operated by a person who is domiciled and a resident within the private family residence, and who is the holder of all necessary licenses and permits from the State of Maine and/or the Town of Sabattus.

*Outpatient addiction treatment clinic* - means a program or facility operated for the purpose of and specializing in the care, treatment and/or rehabilitation of persons suffering with addictions, including, but not limited to gambling addiction, alcohol or controlled substance addictions. This includes, but is not limited to, substance abuse treatment programs licensed by the State of Maine Department of Behavioral and Developmental Services Office of Substance Abuse. An outpatient addiction treatment clinic does not include an inpatient or residential addiction treatment program, or a program consisting solely of support group activities without treatment by licensed health practitioners, such as Alcoholics Anonymous, Narcotics Anonymous, and similar programs.

*School* - means a building together with its contiguous accessory buildings and uses for the education and learning of children. Uses within the meaning of this definition shall include private and public preschool, elementary, middle and high school.

### **Section 4. Application requirements**

All applications for licenses under this ordinance shall be filed with, and in a form satisfactory to, the Code Enforcement Officer. Such application shall include, but is not limited to the following:

1. Name, address and contact information including a phone number of the applicant and all other persons having a legal interest in the clinic and property and the individual(s) hired by the applicant to manage operation of the facility, if any.
2. The location of the premises for which a license is sought by identification of town tax map number and street address.
3. The dimensions and acreage of the property.
4. A copy of a site plan, drawn to a scale of 50 feet or less to the inch, which contains the following information:
  - a. The boundary lines of the property for which a license is sought.

## Sabattus, Maine – Code of Ordinances

- b. The location of all existing and proposed buildings and structures.
  - c. The location of all existing and proposed parking areas and walkways and any other site improvements.
  - e. The location and characteristics of all existing and proposed vegetation which is proposed to be maintained for required screening.
  - f. The location and characteristics of all existing and proposed fencing proposed to be maintained for required screening.
5. A site location map at a scale of not greater on 1" to 100' showing:
- a. All adjoining residential uses and any schools, churches, family day care homes, small day care facilities, day care centers and public parks and play grounds.
  - b. The location and characteristics of all vehicular entrances and exits serving the property.
6. A detailed description of any proposed Medical Marijuana Dispensary to include the following: population to be served, client services, methods of treatment, identification of controlled substances to be kept on site, staffing requirements, security provisions, hours of operation, anticipated parking demand, peak hour traffic, identification of other required licenses, etc..
7. Identification of any other approvals required by the Town of Sabattus, by any state agency by Department or of any federal agencies.
8. A nonrefundable application fee in accordance with the town's Site Plan Review Ordinance.

### **Section 5. Administration**

**Planning Board review** - License applications for outpatient addiction treatment clinics shall be reviewed by the planning board and the board will order a background check from the police department for the applicant, individuals with a legal interest in the facility and any individual(s) hired to manage operation of the facility. The license application with the background check will then be reviewed by the board to determine if the application is complete. If the application is not deemed complete, the license shall be denied. If the application is deemed to be complete, the application will be forwarded to the Board of Selectman with a recommendation regarding the issuance of a license. The planning board shall not provide a recommendation to the Board of Selectman until it conducts a site plan review hearing on the proposed clinic.

# Sabattus, Maine – Code of Ordinances

*Planning Board recommendation* - Once the town clerk receives the recommendation from the planning board, the town clerk shall schedule public hearings for the Board of Selectman to consider the request to establish the proposed outpatient addiction treatment clinic. The board of Selectman shall conduct two public hearings on the application for a license to allow adequate time for public comment and review.

*Conditions of license approval* - The Board of Selectman may impose conditions on the approval of any license application under this article to ensure compliance with the provisions of this article or any other provision of law. Such conditions may include, but are not limited to, the following:

1. That the applicant provides documentation to the town clerk of the receipt of all approvals required by any federal or state agency or department pursuant to federal or state law prior to clinic operations.
2. That the applicant provide documentation to the town clerk of the receipt of any approvals required by any town board pursuant to this Code prior to the issuance of any license under this article.
3. That any screening and or other requirements imposed by the town pursuant to the provisions of this article or by the planning board upon development review, shall be installed, completed and approved by staff prior to the issuance of any license under this article.
4. Approval of a license shall be for a period of one year subject to annual renewal by the board of selectman upon continued compliance with the regulations. The license is non-transferable.
5. Fee: An annual fee will be paid at the time of application for a license or renewal. Refer to the Town of Sabattus Fee Schedule for the annual license fee.

## **Section 6. Location criteria**

Applicants for licenses must demonstrate to the satisfaction of the Town that all of the standards contained in this section are met in order to approve a license to operate an outpatient addiction treatment clinic.

### *Location criteria*

1. No clinic may be located within 1,000 feet of any church, school, family day care home, small day care facility, day care center, licensed liquor establishment or public park or playground.
2. No clinic may be located within 500 feet of any residential dwelling

## Sabattus, Maine – Code of Ordinances

*Neighborhood compatibility standards* - No license shall be approved if the town finds that the granting of the license would violate one or more of the following neighborhood compatibility standards:

1. Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties. The board of selectman may not find that this standard is satisfied unless it finds that:

- a. The size of the proposed use is comparable to the size of surrounding uses;
- b. The amount and type of traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces are comparable to surrounding uses;
- c. The generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances is comparable to that generated surrounding uses;
- d. The impact of the use on the quality and quantity of groundwater available to abutting properties is comparable to that for surrounding uses;
- e. Unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, do not aggravate adverse impacts upon surrounding properties.

*Vehicular and pedestrian access* - Vehicular and Pedestrian access and circulation to, from, into and within the site will be safe and no public way will be overburdened or made hazardous as a result of the new use of and/or development of the property. The board of selectman may not find that this standard has been satisfied unless it first finds that:

a. Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Adequate capacity means that: Intersections on major access routes to the site within a one-half mile radius of any entrance road will function after development at a minimum at Level of Service C, as defined in Maine Department of Transportation regulations, 17-229 C.M.R. Ch. 305, *Rules and Regulations Pertaining to Traffic Movement Permits* (2000); or

b. If any such intersection is functioning at a Level of Service D (as defined in MDOT regulations Chapter 305, cited above) or lower prior to the development, the project will not reduce the current level of service. The board of selectman may approve a license for an application not meeting this requirement if the applicant demonstrates that: A public agency has committed funds to construct the improvements necessary to bring the level of access to said standard, or the applicant will assume financial responsibility for the improvements necessary to bring the level of service to said standard and will guarantee the completion of the improvements within one year of approval of the license.

# Sabattus, Maine – Code of Ordinances

*Topography* - The topography of the site shall permit the construction of all driveways, entrances or proposed streets to meet the standards set forth in the town's street construction ordinance.

*Adequate Facilities* - Adequate facilities are present to assure the safety of pedestrians passing by or through the site.

*Municipal Facilities* - Municipal or other facilities serving the proposed use will not be overburdened or made hazardous. The town may not find that this standard is satisfied unless it finds that: The capacity of sewerage and water supply systems is adequate to accommodate the proposed use; the capacity of the storm drainage system is adequate to accommodate the proposed use; and the ability of the fire department to provide necessary protection services to the site and development is adequate.

*Soils* - The soils on the proposed site shall have adequate capacity and stability to support all loadings, including fill, developed by the proposed use and the use will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water to the extent that a dangerous or unhealthy condition may result on the site or upon the land of abutters. In considering whether this standard is satisfied, the town shall take into account the elevation above sea level of the site and surrounding properties, its relation to floodplains, the slope and vegetation of the land and their effects on drainage.

*Scale* - The scale and design of the proposed structures with respect to materials, scale and massing shall be compatible with existing structures within 500 feet of the site in areas where the existing structures are of a similar scale and architectural treatment.

## **Section 7. Screening requirements**

All clinics shall be required to erect and maintain opaque fencing to provide an effective visual screen at least six feet in height to be located along side and rear property lines. Said fencing is to screen the clinic entrance and parking lot from ordinary view from all directly adjoining properties.

## **Section 8. Nonconforming uses**

Any outpatient addiction treatment clinic in lawful existence on the effective date of this article may remain in operation in its present location for twelve (12) months following the effective date of this article. Thereafter, such clinics shall be required to comply with all the provisions of this article except the location and screening requirements set forth in sections 5 and 6.

# Sabattus, Maine – Code of Ordinances

## **Section 9. Penalty for violation of ordinance**

Any person who violates any provision of this article or the terms of any license issued under this article may be penalized in the following manner:

1. *Temporary suspension* - The code enforcement officer is authorized, pursuant to section 5-7 of this ordinance to immediately and temporarily suspend any license when continued operation of the licensed premises or activity presents a danger to the health, safety or the general welfare of the public.
2. *Suspension or revocation* - The Board of Selectman may suspend or revoke a license in accordance with the provisions of section 5-7 of this ordinance.
3. *Penalties/Fines/Injunctive Relief* - Any Person who violates this Ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with Title 30-A M.R.S.A. §4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees, costs, and legal and expert witness fees incurred by the Municipality.

## **Section 10. Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

## **Section 11. Appeals**

An appeal from any final licensing, denial, suspension or revocation decision of the Planning Board, Board of Selectman or Code Enforcement Officer may be taken by an aggrieved party to the Sabattus Appeals Board within 30 days of the decision. The decision of the Sabattus Appeals Board may be taken to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

## **Section 12. Effective date**

This ordinance shall become effective immediately after approval by the voters of the Town of Sabattus

# Sabattus, Maine – Code of Ordinances

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## **PARKING AND TRAFFIC CONTROL ORDINANCE**

### **Section 1. Title, Purpose, and Definitions**

*Title:* Municipal Code Parking Ordinances, Town of Sabattus, Maine, shall be known and may be cited as the "Parking and Traffic Control Ordinance of the Town of Sabattus."

*Purpose:* The purpose of this chapter is to regulate traffic, parking and the use of the streets, ways, and roads of the Town of Sabattus, and to provide for the enforcement of such for the public health, safety, convenience and welfare of the town.

#### **Definitions:**

*Vehicle* - Shall mean every device in, upon, or by which any person or property is or may be transported upon a street, way or road except devices moved by human power or used exclusively on tracks or skis.

*Park* - Shall mean the standing of a vehicle, whether occupied or not, other than temporary, for the purpose of and while actually engaged in loading or unloading.

*Standing* - Shall mean any stopping of a vehicle whether occupied or not.

*Streets, Ways, or Roads* - Shall mean the entire width between property lines or every way or place of whatever nature when any part thereof is owned by the Town of Sabattus and open to the use of the public for vehicular traffic.

*Roadway* - Shall mean that portion of a street, way or road designated or ordinarily used for vehicular traffic.

*Person* - Shall mean every natural person, firm, agency, co-partnership, association, company, entity, or corporation.

*All-night parking* - Shall mean parking for any period of time between the hours of 12:01 a.m. & 6:00 a.m. during such periods of the year as specified herein. Physicians or emergency personnel on bona fide emergency calls are exempt from this provision.

*Official Traffic-Control Device, Sign* - Shall mean all signals, signs, markings, and devices placed or erected by the authority of the board of selectman or public official having jurisdiction for the purpose of regulating, warning, or guiding parking or traffic.

# Sabattus, Maine – Code of Ordinances

*Bicycle* - Includes a motorized bicycle or tricycle, and "toy vehicles", including but not limited to, skate-boards, roller skates, wagons, sleds and coasters.

## **Section 2. Authority to restrict parking**

The chief of police for the purpose of, and based on the public health, safety, welfare, and convenience, is authorized to designate temporary no parking areas. The chief or his designee shall constantly examine and make recommendations to the board of selectmen, concerning issues of safety, hazards, crosswalks and safety zones for motorists and pedestrians. The board of selectmen shall inform the road commissioner, who shall be responsible for installing and maintaining appropriate signs and/or devices that will indicate the changes to such areas or zones.

The board of selectmen shall, for the purpose of and based on the public health, safety, welfare, and convenience, restrict parking in certain areas along streets, ways, and roads, and, except regarding parking of vehicles during winter months, shall direct the road commissioner to install and maintain appropriate signs and/or devices indicating such.

## **Section 3. Speed restrictions**

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control to be operated at a speed which is greater than that which is reasonable and prudent upon any public street, way or public area within the Town of Sabattus.

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control to be operated at a speed which is greater than that indicated in the following areas:

- (a) *Martin's Point (so-called)* - 10 MPH
- (b) *School yards, Driveways and Parking lots* - 10 MPH
- (c) *Municipal parking lot* - 5 MPH in Municipal parking lot
- (d) *Public Works grounds* - 10 MPH on Public Works grounds

## **Section 4. Restricting parking on narrow streets**

There shall be no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one side of a street indicated by signs when the width of the roadway does not exceed thirty (30) feet.

# Sabattus, Maine – Code of Ordinances

When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

## **SECTION 5. Restricted parking, certain vehicles**

It shall be unlawful to leave parked or standing any vehicle or combination of vehicles in excess of twenty-five (25) feet in length on any street, way or road designated by the Board of Selectmen. Vehicles engaged in the delivery of or picking up merchandise are exempt from this section provided that they are parked in a manner which will not interfere with the normal traffic flow.

## **Section 6. Vehicles prohibited in parks and recreational areas**

Motor vehicles, including all types of motor-driven cycles and rv's, shall be prohibited from operating on any town owned and/or operated parks, other town operated recreational areas, including school recreational areas. Parking in town owned or town operated recreational areas shall be permitted only in such areas reserved for use as parking areas.

## **Section 7: Parking of vehicles during winter months**

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name, to stand or be parked in any public street or way from November 15 to April 15 inclusive of each year between the hours of 12:01 a.m. and 6:00 a.m. for a period of more than one-half (1/2) hour, but in no event shall standing or parking between the hours of 12:01 a.m. and 6:00 a.m. be legal if it interferes with or hinders the plowing, loading or removal of snow from such public street or way.

No person shall park or leave standing any vehicle or self-propelled machinery upon a public way within the limits of the Town of Sabattus in such a manner as to interfere with or hinder the plowing or removal of snow at any time. Any Sabattus police officer may cause any vehicle parked in violation of this ordinance to be removed from the way and placed in a suitable parking place at the expense of the person having control of such vehicle or the owner of such vehicle. Neither the town of Sabattus nor its agent shall be liable for any damage which may be caused by such removal.

# Sabattus, Maine – Code of Ordinances

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name, to stand or be parked in any municipal parking lot (so-called) in violation of this section.

## **Section 8. Parking so as to impede snow removal operations**

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control, or registered in his name to be left standing, parked or unattended on any public way which has been posted as an emergency snow removal area.

It shall be the responsibility of the road commissioner or his authorized designee, to clearly post "emergency snow removal, no parking" signs, on each road involved, that when posted are placed not more than seventy-five (75) feet apart.

## **Section 9. Snow removal from private places**

Snow removal by any person from any private place or private right-of-way shall be carried out in such a manner that shall not interfere with either vehicular or pedestrian traffic in either direction.

Snow removed from any private place or private right-of-way shall not be deposited along the side, in or on, or adjacent to any public place or public street, way or road so that it impedes public traffic, either vehicular or pedestrian, or causes any public place or public street, way, or road to be obstructed in any manner as to width or length.

Any person or persons who violate Section 9 shall be subject to a fine according to the Town of Sabattus Fee Schedule and, notwithstanding any other penalty provisions provided by this section, the Board of Selectmen may institute any and all actions and proceedings, either legal or equitable, including seeking injunctions for violations and including the imposition of fines, that may be appropriate or necessary to enforce the provisions of this article in the name of the Town of Sabattus and/or to collect or enforce any damages or claims related thereto.

## **Section 10. Handicapped parking**

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered to him to be parked in a parking space designated for use by handicapped persons unless such vehicle displays a special

# Sabattus, Maine – Code of Ordinances

registration plate or placard issued pursuant to section 521 of Title 29-A, M.R.S.A., or a similar plate or placard issued by another state.

A public parking space is "designated" for use by handicapped persons if it is marked by a posted sign consisting of a profile view of a wheelchair with occupant in white on blue background and the warning "handicapped parking". The sign must be adjacent to and visible from the parking space it marks.

A parking space on private property is "designated" for use by handicapped persons if it is:

1. Marked by a sign conforming to the standards set forth in subsection (b) above; and
2. Identified in a handicapped parking schedule maintained in police department files.

Any person in violation of this section shall be subject to a fine according to the Town of Sabattus Fee Schedule.

The chief of police, or his designated agent, may enter into an agreement with the owners of private off street parking areas, which are open to the public, to provide for the policing of parking spaces reserved for use by handicapped persons.

## **Section 11. Penalties, Fines, Authority to impound vehicles for failure to pay fines**

A. Except as otherwise provided, any person who violates any of the provisions of this ordinance shall be subject to a fine according to the Town of Sabattus Fee Schedule for each offense to the use of the town of Sabattus; except that, violations of section 4, 5, 15 and 16, upon issuance of a parking tag, may pay a token fine according to the Town of Sabattus Fee Schedule, violations of sections 3, 6, 7, 8, and 14 may pay a token fine according to the Town of Sabattus Fee Schedule and violations of section 10 may pay a token fine according to the Town of Sabattus Fee Schedule, within fifteen calendar days of issuance of a parking tag for such violation and prior to the issuance of a court summons.

B. If payment is not made within fifteen days after the date of the violation, the chief of police or his designee shall cause a notice to be sent to the registered owner at his last known address, as listed in the records of the secretary of state, which notice shall state the date, time, location, offense charged, and fine amount. The notice will also state that the registered owner has fifteen (15) days from the date of the notice to pay the fine in order to avoid a court summons.

Upon the passing of the required fifteen (15) day waiting period as noted in (B) above, the chief of police or his designee shall cause a complaint and summons to issue in the

## Sabattus, Maine – Code of Ordinances

district court. The fine shall be according to the Town of Sabattus Fee Schedule. If the owner of any vehicle in violation of any of the provisions of this article cannot be located, the Sabattus police department may cause such vehicle to be removed at the owner's expense and pursuant to this section.

In addition, any vehicle found in violation of any of the provisions of this ordinance, and which has accumulated three (3) or more overdue parking violations which were issued after the effective date of this chapter may be removed by the Sabattus police department and stored until all fines and penalties for all outstanding violations have been paid.

### **Section 12. Vehicle removal**

Any vehicle stopped, standing or parked in violation of this ordinance may be removed by or under the direction of or at the request of the chief of police of the town of Sabattus, or one of his authorized officers to a garage or other storage place and impounded therein. Such police officers may use such reasonable force as may be necessary to enter such vehicle and cause the same to be placed in a condition to be moved, and may employ any reputable person engaged in the business of towing and storing vehicles for such purpose.

Notwithstanding any language herein contained, the removal or storage of a vehicle pursuant to this ordinance and the payment of the charges specified herein no way relieves or prevents prosecution for the violations of any provision of the ordinance of the Town of Sabattus.

The chief of police of the Town of Sabattus, or one of his duly authorized officers shall make every effort to notify the owner of any such vehicle, as promptly as possible, of its removal from the streets, ways, or public places under the control of the Town of Sabattus and as soon as possible a written notice that such vehicle has been impounded shall be sent by the chief of police to the owner at his last known address, as may be shown by the records of the secretary of state. If the owner is unknown, the chief of police shall cause notice of such impound to be published in any newspaper printed in Androscoggin County, giving the registration number (if known), the vehicle identification number, and the name, type and year of said vehicle.

### **Section 13. Liability of owner**

Before the owner of such vehicle or his representative may remove it from the possession of the person towing it or storing it, he shall:

# Sabattus, Maine – Code of Ordinances

1. Furnish satisfactory evidence of his identity and of his ownership of said vehicle to the chief of police or his duly authorized officer, and to the person having possession of said vehicle.
2. Pay to the person having possession of said vehicle all reasonable charges for the towing and the storage of said vehicle.

## **Section 14. No parking zones**

No person shall park or leave standing any vehicle or portion thereof, whether attended or unattended, upon the paved, improved or main traveled portion of any way designated "no parking zones"

No person shall allow, permit, or suffer any vehicle, motor vehicle or self-propelled machinery or portion thereof, whether attended or unattended, under his control, or registered in his name to be in violation of this ordinance upon any street, way, highway, road, parking area or public place under the control of the Town of Sabattus so that:

- a. It in any manner blocks a public way, a private driveway or a pedestrian crosswalk.
- b. It is double parked, so-called, except by the verbal permission of the chief of police or one of his duly authorized police officers while on traffic control, or except commercial vehicles for the purpose of delivery, pickup or performing other necessary services, but only in such a manner as shall not impede the free and safe passage of other vehicles.
- c. Any part of said vehicle is in, over or on the area of a sidewalk or any adjoining or adjacent marked parking space.
- d. It obstructs or impedes the passing of other vehicles.
- e. It is within ten (10) feet of any fire hydrant.
- f. It is within ten (10) feet of any crosswalk.
- g. It is within ten (10) feet of the intersection of any street line.
- h. It is within any area, alley or drive so designated as a "fire lane".

## Sabattus, Maine – Code of Ordinances

- i. It is parked headed in a direction other than the direction of lawful movement and at the extreme right of the roadway.
- j. It is parked in any place where there are official signs, permanently or temporarily erected, prohibiting parking or standing.

*Greene Street:* Either side of Greene Street from Main Street west to the Greene/Sabattus town line.

*High Street:*

- a. On the southerly side between the two driveways to the Catholic Church.
- b. On the northerly side from Holden Street to Long Beach Road.
- c. On the southerly side from Union Street to Long Beach Road.

*Main Street:* On the easterly side of Main Street from Union Street to the entrance to the old town office parking lot.

### **Section 15. 30 Minute parking**

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name to be parked for a period of time longer than thirty (30) minutes between the hours of 6:00 a.m. and 6:00 p.m. Monday through Saturday.

*Main Street:*

- a. On the easterly side beginning at a point ten (10) feet south from the intersection of High Street to the entrance to the old municipal parking lot.
- b. On the westerly side beginning at a point 10 feet south from the intersection of Greene Street to a point 20 feet north of Church Street. This section shall not apply during Sunday church services.

### **Section 16. 20 Minute parking**

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name to be parked for a period of time longer than twenty (20) minutes between the hours of 6:00 a.m. and 6:00 p.m. Monday through Saturday.

*High Street:*

- a. On the southerly side from a point 20 feet east to Union Street.
- b. On the northerly side from Holden Street west to the intersection of Main and High Streets.



# Sabattus, Maine – Code of Ordinances

## **Section 17. Overweight vehicles**

No vehicles weighing in excess of 18,000 pounds or having 10 or more wheels shall be operated over the following roads except in case of emergency, highway or utility maintenance work, or delivery to a location on the listed road itself:

- a. No Name Pond Road
- b. Pleasant Street
- c. Phelan Street
- d. Union Street
- e. Elm Street

## **Section 18. One way streets**

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control or registered in his name to be operated on the following streets or public ways except in the direction indicated below:

*Union Street:* Southerly from High Street to Main Street.

## **Section 19. Motor vehicles prohibited from sidewalks**

No person shall allow, permit or suffer any vehicle, motor vehicle or self-propelled machinery under his control to be operated upon any public sidewalk within the limits of the Town of Sabattus, excluding the direct crossing of same.

## **Section 20. Stop and yield intersections**

Every driver of a vehicle, motor vehicle or self-propelled machinery approaching a stop intersection indicated by a red traffic light or sign, shall make a complete stop on the near side of the intersection at the point nearest the intersecting roadway where the driver has a view to approaching traffic on the intersecting roadway before entering the intersection.

Stop signs shall be erected and maintained by the road commissioner in accordance with the following schedule on the first named street at its intersection with the second named street: *First named:* Lake street *Second named:* Elm street

# Sabattus, Maine – Code of Ordinances

## **Section 21. Bicycles & Skateboards** - As Noted in 29-A M.R.S.A. Sub-Section 2063

*Riding to the right:* A person operating a bicycle, as defined in section 1-c-9 of this ordinance, shall ride it as far as practicable to the right side of the way, except when making a left turn.

*Seating:* A person operating a bicycle may not ride other than astride a regular and permanently attached seat. A bicycle may not be used to carry more persons than the number for which it is designed and equipped.

*Hitching rides:* A person riding on a bicycle or toy vehicle may not attach it to a moving vehicle on a way.

*Rights and duties:* A person riding on a bicycle on a way has the rights and is subject to the duties applicable to the operator of a vehicle.

*Speed:* A motorized bicycle may not be operated in excess of 20 miles per hour.

*Impoundment and penalties:* The chief of police or any sworn police officer of the Town of Sabattus, when satisfied that a juvenile under the age of 17 years has ridden a bicycle in violation of this section, may impound the bicycle for a period not to exceed 5 days for the first offense, 10 days for the second offense and 30 days for subsequent offenses. A person 17 years of age or over who violates this section may be fined according to the Town of Sabattus Fee Schedule.

## **Section 22. Date of Effect**

This ordinance shall take effect and be in force thirty (30) days after its approval by the Selectmen of the Town of Sabattus and shall supersede all previous traffic and parking control ordinances.

## **Section 23 Validity**

Should any section, or part thereof, of this ordinance be held by the courts to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid.

# Sabattus, Maine – Code of Ordinances

Accepted:

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Original Adoption:

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Revision Dates:

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# **Post-Construction Stormwater Management Ordinance**

## **Town of Sabattus**

**ADOPTED MAY 30, 2009**

### **Section 1. Purpose.**

The purpose of this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Sabattus through review and approval of post-construction stormwater management plans and monitoring and enforcement of compliance with such plans as required by federal and State law. This Ordinance establishes methods for post-construction stormwater management in order to comply with minimum control measures requirements of the federal Clean Water Act, of federal regulations and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

### **Section 2. Objectives**

This Ordinance seeks to meet the above purpose through the following objectives:

- A. Reduce the impact of post-construction discharge of stormwater on receiving waters; and
- B. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through use of Best Management Practices as promulgated by the Maine Department of Environmental Protection pursuant to its Chapters 500 and 502 Rules, and ensure that these management controls are properly maintained and pose no threat to public safety.

### **Section 3. Definitions.**

For the purposes of this Ordinance, the terms listed below are defined as follows:

**A. Applicant.** "Applicant" means a Person with requisite right, title or interest or an agent for such Person who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance.

**B. Best Management Practices (“BMP”).** “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**C. Clean Water Act.** “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

**D. Construction Activity.** “Construction Activity” means Construction Activity including one acre or more of Disturbed Area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb equal to or greater than one acre.

**E. Detention.** The management of stormwater to provide temporary storage of runoff to control stormwater outflow from the site and peak flow in receiving waters, and to provide gravity settling of pollutants.

**F. Discharge.** “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

**G. Disturbed Area.** “Disturbed Area” is clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “disturbed area.” “Disturbed area” does not include routine maintenance but does include redevelopment. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

**H. Enforcement Authority.** “Enforcement Authority” means the Sabattus Code Enforcement officer, the person authorized by the Municipality to administer and enforce this Ordinance.

**I. Municipality.** “Municipality” means the Town of Sabattus.

**J. Municipal Permitting Authority.** “Municipal Permitting Authority” means the municipal official or body that has jurisdiction over the land use approval or permit required for a New Development or Redevelopment.

**K. Municipal Separate Storm Sewer System, or MS4.** “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

**L. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit.** “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the U.S. Environmental Protection Agency (“EPA”) or by the Maine Department of Environmental Protection (“DEP”) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**M. New Development.** “New Development” means any Construction Activity on unimproved Premises.

**N. Person.** “Person” means any individual, firm, corporation, municipality, Quasi-municipal Corporation, State agency or Federal agency or other legal entity.

**O. Pollutant.** “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**P. Post-Construction Stormwater Management Plan.** “Post-Construction Stormwater Management Plan” means BMPs and Stormwater Management Facilities employed by a New Development or Redevelopment to meet the standards of this Ordinance and approved by the Municipal Permitting Authority.

**Q Premises.** “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

**R. Qualified Post-Construction Stormwater Inspector.** “Qualified Post-Construction Stormwater Inspector” means a person who conducts post-construction Stormwater Management Facilities, Best Management Practice (“BMP”), inspections and meets the following qualifications:

1. The inspector shall have a working knowledge of Chapter 500, Stormwater Management Rules, and Maine’s Stormwater BMP Manual, and
2. A Qualified Post-Construction Stormwater Inspector shall meet at least one the following criteria outlined in a-c below; or the inspector must be on the DEP’s list of approved post construction stormwater BMP inspectors.

Non- Proprietary Stormwater Management Facilities

- a. Has a college degree in environmental or civil engineering and is a professional engineer with at least three years of experience designing, evaluating or inspecting stormwater management facilities; or
- b. Has a college degree in an environmental science or civil engineering, or comparable expertise, and has demonstrated a practical knowledge of stormwater hydrology and stormwater management techniques, including the maintenance requirements for Stormwater Management Facilities, and has the ability to determine if stormwater facilities are performing as intended. This qualification must be accompanied by two professional references to be valid; or
- c. Has successfully completed the requirements of a DEP training course on inspecting post-construction stormwater management facilities. Note: successful completion may require receiving a passing grade in an examination at the conclusion of the course.

## Proprietary Stormwater Management Facilities

- a. Proprietary stormwater management facilities must be inspected by a person approved by the manufacturer.

**S Redevelopment.** “Redevelopment” means Construction Activity on Premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling.

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**T. Regulated Small MS4.** “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” effective July 1, 2008 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

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**U. Small Municipal Separate Storm Sewer System, or Small MS4.** “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

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**V. Storm Drainage System.** “Storm Drainage System” means the Municipality’s Regulated Small MS4.

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**W. Stormwater.** “Stormwater” means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

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**X. Stormwater Management Facilities.** “Stormwater Management Facilities: means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the Post-Construction Stormwater Management Plan for a New Development or Redevelopment.

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**Y. Urbanized Area (“UA”).** “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

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### Section 4. Applicability.

**A. In General.** This Ordinance applies to all New Development and Redevelopment (Subject to the thresholds established by MDEP Chapter 500 and 502) within the Municipality and to associated Stormwater Management Facilities.

**B. Stormwater Management.** Adequate provisions shall be made for the disposal of all stormwater collected on streets, parking areas, roofs or other impervious surfaces through a stormwater drainage system which will not have adverse impacts on abutting or downstream properties. All projects including less than one (1) acre of disturbed shall be designed to meet the requirements of this section 4(b). All projects including one (1) acre or more of disturbed land shall meet the requirements of the Maine Stormwater Management Law, 38 M.R.S.A. Section 420-D, or its successor, and regulations promulgated there under, as amended.

**C. Exception.** This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that is approved under this Ordinance; said lot, tract or parcel shall not require separate review under this Ordinance, but shall comply with the Post-Construction Stormwater Management Plan requirements for that

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## Section 5. Post-Construction Stormwater Management Plan Approval

**A. General Requirement.** ~~Except as provided in Section 4.B. above, no~~ Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable shall receive such permit or approval for that New Development or Redevelopment unless the Municipal Permitting Authority for that New Development or Redevelopment also determines that the Applicant's Post-Construction Stormwater Management Plan for that New Development or Redevelopment meets the requirements of this Ordinance.

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### B. Performance Standards

1. The Applicant shall make adequate provision for the management of the quantity and quality of all stormwater generated by the New Development or Redevelopment through a Post-Construction Stormwater Management Plan. This Post-Construction Stormwater Management Plan shall be designed to meet the standards contained in the Maine Department of Environmental Protection's Chapters 500 and 502 Rules and shall comply with the practices described in the manual *Stormwater Management for Maine*, published by the Maine Department of Environmental Protection, January 2006, which hereby are incorporated by reference pursuant to 30-A M.R.S.A. § 3003

2. The Applicant may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the applicant must submit to the Municipality documentation approved as to legal sufficiency by the Municipality's attorney, that the Applicant has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction stormwater management for the New Development or Redevelopment and that the property will not be altered in a way that interferes with the off-site facilities.

3. Where the Applicant proposes to retain ownership of the Stormwater Management Facilities shown in its Post-Construction Stormwater Management Plan, the Applicant shall submit to the Municipality documentation, approved as to legal sufficiency by the Municipality's



attorney that the Applicant, its successors, heirs and assigns shall have the legal obligation and the resources available to operate, repair, maintain and replace the stormwater management facilities. Applications for New Development or Redevelopment requiring Stormwater Management Facilities that will not be dedicated to the Municipality shall enter into a Maintenance Agreement with the Municipality. A sample of this Maintenance Agreement is attached as Appendix I to this Ordinance.

4. Whenever elements of the Stormwater Management Facilities are not within the right-of-way of a public street and the facilities will not be offered to the Municipality for acceptance as public facilities, the Municipal Permitting Authority may require that perpetual easements not less than thirty (50) feet in width, conforming substantially with the lines of existing natural drainage, and in a form acceptable to the Municipality's attorney, shall be provided to the Municipality allowing access for maintenance, repair, replacement and improvement of the Stormwater Management Facilities. When an offer of dedication is required by the Municipal Permitting Authority, the Applicant shall be responsible for the maintenance of these Stormwater Management Facilities under this Ordinance until such time (if ever) as they are accepted by the Municipality.

5. In addition to any other applicable requirements of this Ordinance and the Municipality's land use ordinances, any New Development or Redevelopment which also requires a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S.A. 420-D shall comply with the rules adopted by DEP under 38 M.R.S.A. 420-D (1), as the same may be amended from time to time, and the applicant shall document such compliance to the Municipal Permitting Authority. Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

6. **Engineering and administrative fees.** At the time of application, the Applicant shall pay an amount to the Municipal Permitting Authority estimated by the Municipal Reviewing Authority to be sufficient to pay the engineering and legal review costs and administrative costs incurred by the Municipality in review of the Post-Construction Stormwater Management Plan. The Municipality shall deduct from this amount the engineering, legal and administrative costs actually incurred by the Municipality, based upon the hours of engineering and legal review time and prevailing hourly rate for reimbursement of the Municipality's administrative costs. Any remaining engineering, legal and administrative review costs owed by the Applicant shall be paid in full by the Applicant prior to the issuance of any temporary or permanent certificate of occupancy for the New Development or Redevelopment, and any unused balance remaining at that time shall be refunded to the Applicant. In addition, any persons required to file an annual certification under Section 6 of this Ordinance shall pay, prior to the issuance of any temporary or permanent certificate of occupancy for the New Development or Redevelopment, an amount estimated to equal the Municipality's administrative and technical costs of review of the annual certification for a period of twenty (20) years.

7. Notice of BMP Discharge to Municipality's MS4. At the time of application, the Applicant shall notify the Municipal Permitting Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the Municipality's MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

## Section 6. Post-Construction Stormwater Management Plan Compliance

**A. General Requirements.** Any Person owning, operating, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Management Plan approved under this Ordinance, shall demonstrate compliance with that Plan as follows.

1. A Qualified Post-Construction Stormwater Inspector hired by that Person, shall, at least annually, inspect the Stormwater Management Facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.

2. Stormwater Management Facilities require maintenance to function as intended by the approved Post-Construction Stormwater Management Plan, that Person shall take corrective action(s) to address the deficiency or deficiencies.

3. On January 1 of each year, A Qualified Post-Construction Stormwater Inspector hired by that Person, shall provide a completed and signed certification to the Enforcement Authority in a form identical to that attached as Appendix 1 to this Ordinance, certifying that the Person has inspected the Stormwater Management Facilities and that they are adequately maintained and functioning as intended by the approved Post-Construction Stormwater Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities and, if the Stormwater Management Facilities require maintenance or repair of deficiencies in order to function as intended by the approved Post-Construction Stormwater Management Plan, the Person shall provide a record of the required maintenance or deficiency and corrective action(s) taken. In addition, any persons required to file an annual certification under this Section 6 of this Ordinance shall include with the annual certification payment in the amount of one hundred dollars (\$100.00) to pay the administrative and technical costs of review of the annual certification.

**B. Right of Entry.** In order to determine compliance with this Ordinance and with the Post-Construction Stormwater Management Plan, the Enforcement Authority may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the Stormwater Management Facilities.

**C. Inspections.** The owner or operator of a Stormwater Management Facility must hire a Qualified Post-Construction Stormwater Inspector who must provide a completed and signed certification to the Enforcement Authority by January 1 of each year.

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## **Section 7. Enforcement.**

It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Post-Construction Stormwater Management Plan. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

**A. Notice of Violation.** Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may order compliance with this Ordinance or with the Post-Construction Stormwater Management Plan by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

1. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;
2. At the Person's expense, compliance with BMPs required as a condition of approval of the New Development or Redevelopment, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or
3. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

**B. Penalties/Fines/Injunctive Relief.** Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance or of the Post-Construction Stormwater Management Plan; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

**C. Consent Agreement.** The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Post-Construction Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Post-Construction Stormwater Management Plan and of recovering fines, costs and fees without court action.

**D. Appeal of Notice of Violation.** Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Sabattus Board of Appeals in accordance with the Board of Appeals Ordinance. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a *de novo* hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

**E. Enforcement Measures.** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

## **Section 8. Severability.**

The provisions of this Ordinance are hereby declared severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

## **Section 9. Basis.**

The Town of Sabattus enacts this "Post-Construction Stormwater Management Control Ordinance" (the "Ordinance") pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems," has listed the Town of Sabattus as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program in order to satisfy the minimum control measures required by Part IV D 5 ("Post-construction stormwater management in new development and redevelopment").

Enacted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Effective Date: 20\_\_.

## APPENDIX 1

### Maintenance Agreement for Stormwater Management Facilities

This Maintenance Agreement is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between \_\_\_\_\_ and the Town of Sabattus, Maine.

The project name is \_\_\_\_\_.

The location is \_\_\_\_\_, Sabattus, Maine.

The project's Tax Map and Lot Numbers are Tax Map Lot \_\_\_\_\_

The project is shown on a plan entitled " \_\_\_\_\_ " dated \_\_\_\_\_ and most recently revised on \_\_\_\_\_, approved by the Sabattus Planning Board on \_\_\_\_\_ and recorded in the \_\_\_\_\_ County Registry of Deeds in Plan Book \_\_\_\_\_ Page \_\_\_\_\_ (the "Project").

WHEREAS, the approval of the Project includes Stormwater Management Facilities which requires periodic maintenance; and

WHEREAS, in consideration of the approval of the Project the Town of Sabattus requires that periodic maintenance be performed on the Stormwater Management Facilities;

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the Project by the Town of Sabattus and the agreement of \_\_\_\_\_ to maintain the Stormwater Management Facilities, the parties hereby agree as follows:

1. \_\_\_\_\_, for itself, and its successors and assigns, agrees to the following:

(a) To inspect, clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, at least annually, to prevent the build up and storage of sediment and debris in the system;

(b) To repair any deficiencies in the Stormwater Management Facilities noted during the annual inspection;

(c) To provide a summary report on the inspection, maintenance, and repair activities performed annually on the Stormwater Management Facilities to the Town of Sabattus Code Enforcement Officer;

(d) To allow access by Town of Sabattus personnel or the Town of Sabattus designee for inspecting the Stormwater Management Facilities for conformance with these requirements.

(e) To create a homeowners' association for maintaining the Stormwater Management Facilities.

2. Upon creation of the homeowners' association, the homeowners' association shall become responsible for compliance with the terms of this Agreement.

3. This Agreement shall constitute a covenant running with the land, and \_\_\_\_\_ shall reference this Agreement in all deeds to lots and/or units within the Project.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

TOWN OF SABATTUS

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MAINE

\_\_\_\_\_, ss.

\_\_\_\_\_, 20\_\_

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

Before me,

\_\_\_\_\_  
Notary Public / Attorney at Law

Print Name:

\_\_\_\_\_

STATE OF MAINE

Created by Richard Behr Sabattus Planning Board  
10/20/09

## APPENDIX 2

### Annual Stormwater Management Facilities Certification (To be sent to CEO)

I, \_\_\_\_\_ (print or type name), certify the following:

1. I am making this Annual Stormwater Management Facilities Certification for the following property: \_\_\_\_\_  
(print or type name of subdivision, condominium or other development) located at \_\_\_\_\_  
(print or type address), (the "Property");

2. The owner, operator, tenant, lessee or homeowners' association of the Property is: \_\_\_\_\_  
(name(s) of owner, operator, tenant, lessee, homeowners' association or other party having control over the Property);

3. I am the owner, operator, tenant, lessee or president of the homeowners' association, or am a Qualified Third-Party Inspector hired by the same (circle one);

4. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;

5. On \_\_\_\_\_, 20\_\_, I inspected or had inspected by \_\_\_\_\_  
\_\_\_\_\_, a Qualified Third-Party Inspector, the Stormwater Management Facilities, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

6. At the time of my inspection of the Stormwater Management Facilities on the Property, I or the Qualified Third-Party Inspector identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities:

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7. On \_\_\_\_\_, 20\_\_, I took the following routine to address the deficiencies in the Stormwater Management Facilities stated in 6. Above:

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8. As of the date of this certification, the Stormwater Management Facilities are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: \_\_\_\_\_, 20\_\_.

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

STATE OF MAINE

\_\_\_\_\_, ss.

\_\_\_\_\_, 20\_\_

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged the foregoing Annual Certification to be said person's free act and deed in said capacity.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

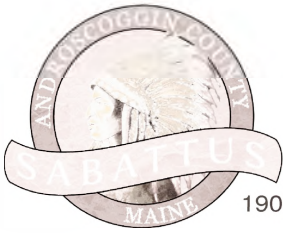
Print Name:

\_\_\_\_\_

Mail this certification to the CEO at the following address

Town Of Sabattus  
CEO  
190 Middle St.  
Sabattus, ME 04280





# TOWN of SABATTUS

190 Middle Road • Sabattus, Maine 04280 • Phone: (207) 375-4331 • Fax: (207) 375-4104

## Ordinance Restricting Vehicle Weight on Posted Ways

**Ordinance 2004-1**

### **Section 1. Purpose and Authority**

The purpose of this ordinance is to; prevent damage to town ways and bridges within the Town of Sabattus that may be caused by vehicles of excessive weight; to lessen safety hazards and the risk of injury to the traveling public; to extend the life expectancy of town ways and bridges; and to reduce the public expense of their maintenance and repair.

This ordinance is adopted pursuant to 30-A M.R.S.A. Sec. 3009 and 29 M.R.S.A. Sec. 902 and 1611.

### **Section 2. Definitions**

The definitions contained in Title 29 M.R.S.A. shall govern the construction of words contained in this ordinance. Any words not defined therein shall be given their common and ordinary meaning.

### **Section 3. Restrictions and Notices**

The Road Commissioner/Director of Public Works may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in his/her judgment, be necessary to protect the traveling public, prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain at a minimum the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date that the notice was posted, and the signature of the Road Commissioner/Director of Public Works.

The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travel way. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.

No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

### **Section 4. Exemptions**

The following vehicles are exempt from this ordinance:

- a. any two-axle vehicle while delivering home heating fuel;
- b. any vehicle while engaged in highway maintenance or repair under the direction of the State or Town;
- c. any emergency vehicle (such as fire fighting apparatus or ambulances) while responding to an emergency;
- d. any school transportation vehicle while transporting students;
- e. any public utility vehicle while providing emergency service or repairs;
- f. when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the Maine Department of Transportation; and

- g. any vehicle when roads are solidly frozen. "Solidly frozen" means that the air temperature is below 32 degrees Fahrenheit and "No Water" is showing in the cracks of the road; and
- h. any vehicle whose owner or operator holds a valid permit from the Road Commissioner/ Public Works Director as provided herein.

## **Section 5.     Permits**

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Road Commissioner/Director of Public Works for a permit to operate on a posted way or bridge notwithstanding the restriction. The Road Commissioner/Director of Public Works may issue a permit only upon all of the following findings:

- a. no other route is reasonably available to the applicant;
- b. it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- c. the applicant has tendered cash, a bond or other suitable security to the Town in an amount sufficient, in their judgment, to repair any damage to the way or bridge that may reasonably result from the applicant's use of same.

Even if the Road Commissioner/Director of Public Works makes the foregoing findings, he/she need not issue a permit if he/she determines the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. He/she may also limit the number of permits issued or outstanding as may, in his/her judgment, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the Road Commissioner/Director of Public Works shall consider the following factors:

- a. the gross registered weight of the vehicle;
- b. the current and anticipated condition of the way or bridge;
- c. the number and frequency of vehicle trips proposed;
- d. the cost and availability of materials and equipment for repairs;
- e. the extent of use by other exempt vehicles; and
- f. such other circumstances as may, in his/her judgment, be relevant.

The Road Commissioner/Director of Public Works may issue permits subject to reasonable conditions, including but not limited to, restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

## **Section 6.     Administration and Enforcement**

This ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee (such as the Road Commissioner/Director of Public Works, Code Enforcement Officer, or Law Enforcement Officer.)

## **Section 7.     Penalties**

Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$250 nor more than \$1,000. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.

Prosecution shall be in the name of the Town and shall be brought in the Maine District Court.

## **Section 8.     Amendments**

The Municipal Officers at any properly noticed meeting may amend this ordinance.

## **Section 9.     Severability; Effective Date**

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This ordinance shall take effect immediately upon enactment.

Pursuant to Title 30-A, M.R.S.A., Section 3009(1), State law grants the power to enact ordinances exclusively to the municipal officers. Seven (7) days' notice of the meeting at which the municipal officers intend to enact an ordinance is required. No hearing is required.

# Sabattus, Maine – Code of Ordinances

## **SEXUAL CONTACT ORDINANCE**

### **Section 1. Purpose**

The two purposes of this ordinance are:

1. To prohibit certain acts of commercial exploitation of human sexuality in business establishments within the Town of Sabattus, in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases and disturbances of the peace which may occur when such commercial exploitation is permitted in such places, and;
2. To protect the health, safety, welfare and morals of the community by using the governments recognized and traditional police power to protect societal order, morality and physical and emotional health in public places without infringing on protected First Amendment rights.

### **Section 2. Definitions**

For the purpose of this ordinance, the following definitions apply:

*Nudity* - means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in an obviously erect state.

*Profit* - means the exchange of money or any item of value in return for any sexual contact.

*Public indecency* - means the knowing or intentional commission of an act of sexual intercourse, a sexual act, sexual contact or nudity in a public place.

*Public place* - means a place to which the public at large or a substantial group has access, including but not limited to commercial or business establishments, public ways, schools, government-owned facilities, and the lobbies, hallways and basement portions of apartment houses, hotels, motels, public buildings and transportation terminals.

*Sexual act* - means any act of sexual gratification between two persons involving direct physical contact between the sex organs of one and the mouth or anus of the other, or direct physical contact between the sex organs of one and an instrument or device manipulated by the other. A sexual act may be proved without allegation or proof of penetration.

*Sexual contact* - means any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or

# Sabattus, Maine – Code of Ordinances

gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.

*Sexual intercourse* - means any penetration of the female sex organ by the male sex organ. Emission is not required.

*Sexual touching* - means any touching of the breasts, buttocks, groin, or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire.

## **Section 3. Sexual contact for the exchange of money or any item of value prohibited**

Engaging in, agreeing to engage in, or offering to engage in sexual contact, in return for a profit to be received by the person engaging in the sexual contact, or by a 3rd person is prohibited.

Providing or agreeing to provide a person for purposes of engaging in sexual contact, in return for a profit to be received by the person engaging in the sexual contact, or by a 3rd person is prohibited.

Causing or aiding another person to engage in sexual contact in return for a profit to be received by the person engaging in the sexual contact, or by a 3rd person is prohibited.

Leasing or permitting a place controlled by a person who is believed to be in violation of this Ordinance, alone or in association with others, to be used as a site for sexual contact for profit to any person is prohibited.

## **Section 4. Penalties**

The violation of any provision within Section 3 of this Ordinance will be punished by a fine according to the Town of Sabattus Fee Schedule.

Each and every day that any such violation occurs will constitute a separate offense. In addition to this penalty, the town may order additional penalties for any violation of this article by appropriate action, including but not limited to revocation of any town license for a premises or business in which sexual contact for profit benefit is transacted.

## **Section 5. Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision, and will not affect the validity of the remaining portions thereof.

# Sabattus, Maine – Code of Ordinances

## **Section 6. Public Indecency Prohibited**

Engaging in public indecency prohibited. Encouraging or permitting another person or persons to engage in an act or acts of public indecency, by the person who or entity which owns, leases or otherwise controls a premises in which the act or acts of public indecency occur(s) is prohibited.

## **Section 7. Penalties**

The violation of any provision within Section 6 of this Ordinance will be punished by a fine according to the Town of Sabattus Fee Schedule. Each and every day that any violation occurs will constitute a separate offense. In addition to this penalty, the Town may order additional penalties for any violations of this article by appropriate action, including but not limited to revocation of any Town license for a premises or commercial or business establishment in which the public indecency occurs.

## **Section 8. Severability**

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion will be deemed a separate, distinct and independent provision, and will not affect the validity of the remaining portions thereof.

## **Section 9. Nursing Women**

Notwithstanding any town ordinance to the contrary, no town ordinance shall prohibit, or be interpreted or construed to prohibit or regulate, women from nursing or breast-feeding in public or private.

Accepted:

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Original Adoption:

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Revision Dates:

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***SHORELAND  
ZONING  
ORDINANCE  
FOR THE  
MUNICIPALITY OF  
SABATTUS***

2009 Revised  
ADOPTED MAY 30, 2009



*Chief Sabattis*

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## Shoreland Zoning Ordinance for the Municipality of Sabattus

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas:
  - Within 250, horizontal distance, of the normal high-water line of the Sabattus River, or the 100 year floodplain, which ever is greater or
  - Within 250 feet, horizontal distance, of the normal high water line of Curtis Brook, Maxwell Brook, Fisher Brook and Barker Brook or
  - Within 250 feet, horizontal distance, of the upland edge of a freshwater wetland,
  - Within 250, horizontal distance, of the normal high-water line of any great pond.

And all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

## 4. Effective Date

**A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on MAY 30, 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

**B. Sections 15(O) and 15(O-1).** Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-B (5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
9. **Districts and Zoning Map**
  - A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
    - (1) Resource Protection
    - (2) Limited Residential

(3) General Development

(4) Stream Protection

**B. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

**C. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

**D. Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

**10. Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

**11. Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

## **12. Non-conformance.**

**A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

## **B. General**

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

## **C. Non-conforming Structures**

- (1) **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
  - (a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
  - (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C) (2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C) (1) (a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to

be an expansion of the structure.

- (2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C) (2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

- (4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion

and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and functionally water-dependent uses.

#### **D. Non-conforming Uses**

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

#### **E. Non-conforming Lots**

- (1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot

Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on June 20, 1992 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

### 13. Establishment of Districts

**A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for General Development I District need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and



wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of October 1, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
- (3) Within 250 feet, horizontal distance, of the normal high-water line of Curtis Brook, Maxwell Brook, and Fisher Brook.
- (4) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (5) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (6) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

**B. Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the General Development District.

**C.**

- . **General Development District.** The General Development District includes the following types of existing, intensively developed areas:

(1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

(a) Areas devoted to manufacturing, fabricating or other industrial activities;

(b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and

(c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

(2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

**E Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

**14. Table of Land Uses.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform to all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

**Key to Table 1:**

**Yes - Allowed (no permit required but the use must comply with all applicable land use standards)**

**No - Prohibited**

**PB - Allowed with permit issued by the Planning Board.**

**CEO - Allowed with permit issued by the Code Enforcement Officer**

**LPI - Allowed with permit issued by the Local Plumbing Inspector**

**Abbreviations:**

**No - Prohibited**

**PB - Allowed with permit issued by the Planning Board.**

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**Abbreviations:**

**RP - Resource Protection                      GD - General Development**

**LR - Limited Residential**

**SP - Stream Protection**

**TABLE 1. LAND USES IN THE SHORELAND ZONE**  
**LAND USES**  
**DISTRICT**

	SP	RP	LR	LC	GD
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CE	CEO	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes2	yes2	yes2	yes2
10. Mineral extraction including sand and gravel extraction	no	PB3	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes
14. Aquaculture	PB	PB	PB	yes	yes
15. Principal structures and uses					
A. One and two family residential, including driveways	PB4	PB9	CEO	CEO	CEO
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no10	no10	PB	PB
D. Industrial	no	no	no	no	PB
E. Governmental and institutional	no	no	PB	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB4	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB4	PB	CEO	CEO	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland	CEO1	CEO1	CEO	CEO1	CEO
a. Temporary	1	1	11	1	11
b. Permanent	PB	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	CEO	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB6	PB6	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO6	CEO6	yes12	yes12	yes12
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB6	PB6	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB6	PB6	PB	PB	PB
D. Other essential services	PB6	PB6	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no7	PB	PB	PB
26. Road construction	PB	no8	PB	PB	PB
27. Land management roads	yes	PB	yes	yes	yes
28. Parking facilities	no	no7	PB	PB	PB

29. Marinas	PB	no	PB	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO
32. Signs	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

1In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

2Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

3In RP not allowed in areas so designated because of wildlife value.

4Provided that a variance from the setback requirement is obtained from the Board of Appeals.

6See further restrictions in Section 15(L) (2).

7Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

8Except as provided in Section 15(H) (3).

9Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

10Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

11Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

12Permit not required, but must file a written “notice of intent to construct” with CEO.

A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

15. Land Use Standards. All land use activities within the shoreland zone shall conform to the following provisions, if applicable.

**A. Minimum Lot Standards**

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit	40,000	200
(b) Governmental, Institutional, Commercial		

<b>Or Industrial per principal structure</b>	<b>60,000</b>	<b>300</b>
<b>(c) Public and Private Recreational Facilities</b>	<b>40,000</b>	<b>200</b>

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.**
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.**
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.**
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.**

#### **B. Principal and Accessory Structures**

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.**

#### **In addition:**

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an**

operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

- (b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to rivers that do not flow to great ponds classified GPA, where lot coverage shall not exceed seventy (70) percent.

- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - (b) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - (c) The total height of the wall(s), in the aggregate, are no more than 24 inches;
  - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
  - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
  - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
    - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;



- (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (iii) Only native species may be used to establish the buffer area;
  - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
  - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.**

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal

high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

- (6) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

**D. Campgrounds.** Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

**E. Individual Private Campsites.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the sitting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**F. Commercial and Industrial Uses.** The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories

- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

#### **G. Parking Areas**

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

- (b) Internal travel aisles: Approximately twenty (20) feet wide.

#### **H. Roads and Driveways.**

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H) (1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to

permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
  - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<b>Grade (Percent)</b>	<b>Spacing (Feet)</b>
<b>0-2</b>	<b>250</b>
<b>3-5</b>	<b>200-135</b>
<b>6-10</b>	<b>100-80</b>
<b>11-15</b>	<b>80-60</b>

**16-20**  
**21 +**

**60-45**  
**40**

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
  - (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
  - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- I Signs.** ,The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:
- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
  - (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
  - (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
  - (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
  - (5) Signs relating to public safety shall be allowed without restriction.

- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

#### **J. Storm Water Runoff**

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

#### **K. Septic Waste Disposal**

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

#### **L. Essential Services**

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.



**M. Mineral Exploration and Extraction.** Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M) (3) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

- (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

## **N. Agriculture**

- (1) All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal

distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

## **O. Timber Harvesting**

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
  - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
    - (1) The ground is frozen;
    - (2) There is no resultant soil disturbance;
    - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
    - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
    - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
  - (b) Beyond the 75 foot strip referred to in Section 15(O) (1) (a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O) (1) above, timber harvesting shall conform with the following provisions:
  - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any

lot in any ten (10) year period is permitted. In addition:

- (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
  - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clear-cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
- (b) Timber harvesting operations exceeding the 40% limitation in Section 15(0) (2) (a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
  - (i) Surface waters are frozen; and
  - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

**O-1. Timber Harvesting – Statewide Standards** [Effective on effective date established in Section 4(B)]

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite

such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(0-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

- (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

- (b) Adjacent to great ponds, rivers and wetlands:

- (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
- (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

- (a) Option 1 (40% volume removal), as follows:

- (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

- (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a wetland, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) Option 2 (60 square foot basal area retention), as follows:
- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
  - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
  - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau)

for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
  - (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
  - (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
  - (c) Setbacks:
    - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
    - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling



basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(0-1)(7) of this rule.

- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:

- (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or wetland;
- (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
- (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

- (b) The minimum 100 foot setback specified in Section 15(0-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(0-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(0-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(0-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(0-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming

conditions are not made more nonconforming.

- (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of water bodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).

- (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
  - (i) a map showing the location of all proposed permanent crossings;
  - (ii) the GPS location of all proposed permanent crossings;
  - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(0-1)(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
  - (i) concentrated water runoff does not enter the stream or tributary stream;
  - (ii) sedimentation of surface waters is reasonably avoided;
  - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
  - (iv) fish passage is not impeded; and,
  - (v) water flow is not unreasonably impeded.

Subject to Section 15(0-1)(6)(f)(i-v) above, skid trail

crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

(i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.

(ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

- (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
- (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
  - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
  - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
  - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
  - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
    1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
    2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
    3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

**Average slope of land between exposed mineral soil and the shoreline (percent)**  
**shoreline**

**Width of strip between exposed mineral soil and**

**(feet along surface of the ground)**

0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

#### **P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting**

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the



purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area..

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development Districts.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

#### **Q. Erosion and Sedimentation Control**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
  - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

- (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
  - (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- R. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- S. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- T. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine

Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

## 16. Administration

### A. Administering Bodies and Agents

- (1) **Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) **Board of Appeals.** A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) **Planning Board.** A Planning Board shall be created in accordance with the provisions of State law.

**B. Permits Required.** After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
  - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
  - (b) The replacement culvert is not longer than 75 feet; and
  - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **C. Permit Application**

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

**D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application,

or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will avoid problems associated with floodplain development and use; and



- (8) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

**E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and
  - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in

compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

**F. Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

**G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

## H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

(a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) Variance Appeals. Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific

provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

- a. That the land in question cannot yield a reasonable return unless a variance is granted;
- b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c. That the granting of a variance will not alter the essential character of the locality; and
- d. That the hardship is not the result of action taken by the applicant or a prior owner.

(d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

(e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and

in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

### (3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

#### **(4) Appeal Procedure**

##### **(a) Making an Appeal**

- (i)** An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii)** Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

  - a.** A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - b.** A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii)** Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv)** The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

##### **(b) Decision by Board of Appeals**

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
  - (ii) The person filing the appeal shall have the burden of proof.
  - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
  - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision

shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

## **I. Enforcement**

(1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

### **(2) Code Enforcement Officer**

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

(b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.



- (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

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NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in

a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

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## **17. Definitions.**

**Accessory structure or use** - 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 a common wall is considered part of the principal structure.

**Aggrieved party** - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Agriculture** - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

**Aquaculture** - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Basal Area** - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

**Basement** - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Boat Launching Facility** - a facility designed primarily for the launching and landing of watercraft, and which may include

an access ramp, docking area, and parking spaces for vehicles and trailers.

**Bureau** - State of Maine Department of Conservation's Bureau of Forestry

**Campground** - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy** - the more or less continuous cover formed by tree crowns in a wooded area.

**Commercial use** - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

**Cross-sectional area** - the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**DBH** - the diameter of a standing tree measured 4.5 feet from ground level.

**Development** - a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Dimensional requirements** - numerical standards relating to

spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability** - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**Disruption of shoreline integrity** - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

**Driveway** - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

**Emergency operations** - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**Essential services** - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but

shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a structure** - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of use** - the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

**Family** - one or more persons occupying a premises and living as a single housekeeping unit.

**Floodway** - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Forest management activities** - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Forested wetland** - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**Forest Stand** - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

**Foundation** - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

**Freshwater wetland** - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

**Great pond** - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

**Great pond classified GPA** - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

**Ground cover** - small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Harvest Area** - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

**Height of a structure** - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

**Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in

lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**Individual private campsite** - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

**Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**Institutional** - a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Land Management Road** - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

**Licensed Forester** - a forester licensed under 32 M.R.S.A.  
Chapter 76.



**Lot area** - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Marina** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**Market value** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**Mineral exploration** - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral extraction** - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Minimum lot width** - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Multi-unit residential** - a residential structure containing three (3) or more residential dwelling units.

**Native** - indigenous to the local forests.

**Non-conforming condition** - non-conforming lot, structure or use which is allowed solely because it was in lawful

existence at the time this Ordinance or subsequent amendment took effect.

**Non-conforming lot** - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

**Non-conforming structure** - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Non-conforming use** - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Normal high-water line** - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

**Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.**

**Temporary:** Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

**Permanent:** Structures which remain in or over the water

for seven (7) months or more in any period of twelve (12) consecutive months.

**Principal structure** - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**Principal use** - a use other than one which is wholly incidental or accessory to another use on the same premises.

**Public facility** - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Recent floodplain soils** - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

**Recreational facility** - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

**Recreational vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**Replacement system** - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

**Residential dwelling unit** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

**Residual basal area** - the average of the basal area of trees remaining on a harvested site.

**Riprap** - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**Residual Stand** - a stand of trees remaining in the forest following timber harvesting and related activities

**River** - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

**Road** - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

**Service drop** - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service

- a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service

- a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback** - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore frontage** - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond; within 250 feet horizontal distance, of the normal high-water line of Sabattus River, or the 100 year floodplain, which ever is greater; within 250 feet, horizontal distance, of the normal high-water line of Curtis Brook, Maxwell Brook, Fisher Brook and Barker Brook; within 250, horizontal Distance, of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream and as depicted on the Official Shoreland Zoning Map.

**Shoreline** - the normal high-water line, or upland edge of a wetland.

**Skid Road or Skid Trail** - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

**Slash** - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

**Stream** - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area or as depicted on the Official Shoreland Zoning Map.

**Structure** - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

**Substantial start** - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface sewage disposal system** - any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the

shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

**Timber harvesting and related activities** - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Tributary stream** - means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

**Vegetation** - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

**Volume of a structure** - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water body** - any great pond, river or stream.

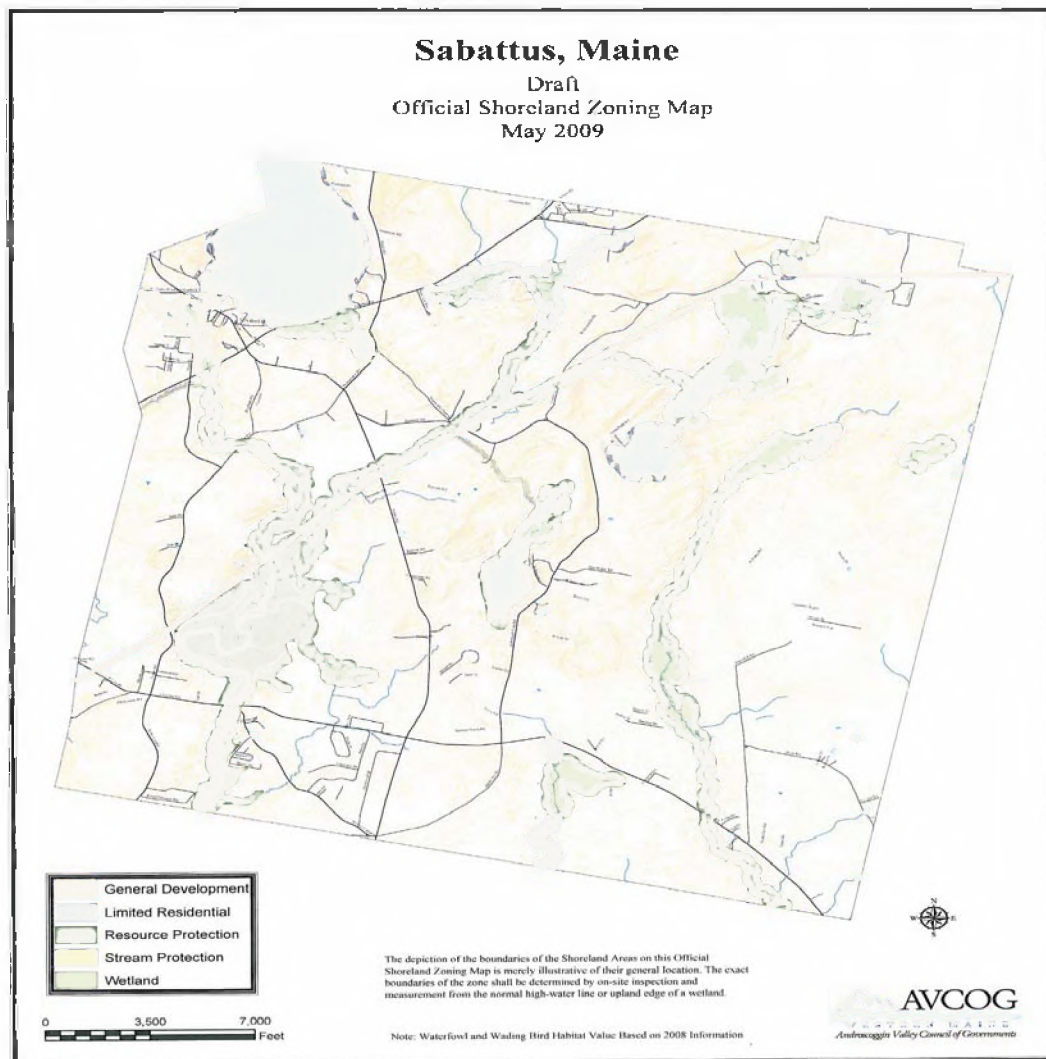
**Water crossing** - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Wetland** - a freshwater wetland.

**Windfirm** - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

**Woody Vegetation** - live trees or woody, non-herbaceous shrubs.





# **TOWN OF SABATTUS, MAINE SITE PLAN REVIEW ORDINANCE**

## **Section I. Purpose**

Substantial development or major changes in the uses of land can cause a profound impact upon the cost and efficiency of municipal services and upon the environment of the town. Such development can impact schools, sewers, waterlines and other public utilities; recreational facilities, liquid and solid waste disposal; police and fire protection, open space, road systems and circulation, traffic congestion, placement of building/s and structure/s; property values; water quality; the aesthetic and visual characteristics of the neighborhood and town, (natural resources), and the general health, safety and welfare of the community. It is the purpose of this ordinance to avoid such impacts when caused by development/s including, (but not limited to, subdivision), commercial, retail, industrial, recreational and institutional building/s, structure/s and use/s and multiple family dwelling/s consisting of three or more attached dwelling units.

## **Section II. Definitions**

- A. Agricultural Land Management Practices - Means those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- B. Accessory Use or Structure - A subordinate use of a building, other structure or land, or a subordinate building or other structure:
  - 1. Whose use is customary in connection with the principal building, other structure or use of land; and
  - 2. Whose use is clearly incidental to the use of the principal building, other structure or use of land; and
  - 3. Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment?
- C. Alteration - Structural changes, rearrangement, change of location or addition to a building, or structure other than repairs and modification in building equipment, involving more than 500sqft increase in the overall floor space or bulk of the building or structure at any time or in total since the effective date of this ordinance.
- D. Building - Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind. A building shall include a multiple family dwelling.
- E. Campground - A tract or parcel of land intended for the placement of recreational vehicles, tents and utility and service buildings.
- F. Commercial - Connected with the buying or selling of goods or services or the provision of facilities for a fee.

- G. Erosion and Sediment Control Plan - A plan depicting effective soil conservation measures for the activity proposed. This plan shall contain but not be limited: topographic features; types, depth, slope and extent of soils; staging of activities; temporary and permanent erosion control measures and facilities and guidelines for their interim and continued maintenance.
- H. Forest Management Activities - Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, or creation, or maintenance of land management roads.
- I. Gravel Pit - The term “gravel pit” shall mean all of the land area disturbed or otherwise involved in the excavation, processing or storage of sand, or gravel, or crushed stone or soil. Gravel pits operated and/or owned by the same person, firm or cooperation and separated by less than 800 horizontal feet of undisturbed land shall be considered one in the same gravel pit provided that all such pits and partial pits are located on the same deeded land parcel as recorded in the Registry of Deeds, Androscoggin County.)
- J. Industrial - Connected with the assembling, fabrication, finishing, manufacturing, Packaging or processing of goods or the extraction of minerals.
- K. Institutional - A building devoted to some public, governmental education, charitable, medical or similar purpose.
- L. Multiple Family Dwelling - A building/s consisting of two or more attached dwelling units.
- M. Mining Activity - “Mining activity” means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of product or overburden from the earth; and activity or process that accomplishes the extraction the extraction or removal of the product or overburden; and the preparation, or washing, or cleaning, or other treatment of the product so as to make it suitable for commercial, industrial or construction use.
- N. Persons - Means any person, firm, association, partnership, cooperation, municipal or other local government entity, quasi-municipal entity, state agency, educational or charitable organization or institution or other legal entity.
- O. Recreational Vehicle -A vehicle or vehicular attachment for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer and motor home.
- P. Retail - Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.
- Q. Reclamation Plan - A plan which depicts how the project will be restored after the excavation is complete. Such a plan shall include but not be limited to final grading the re-vegetation.)

- R. Structure - Anything constructed erected or placed on the ground or attached to something on the ground which is permanent, temporary or mobile. Structure/s include but are not limited to building's, recreational vehicles, piers and floats and storage and processing facilities. Boundary walls, fences and flag poles are not considered structures.
- S. Substantial Enlargement - An expansion of the land are of the development site by more than 500sqft at any one time or in total since the effective date of the ordinance.
- T. Substantial Start – Completion of at least 30% of a permitted structure or use measured as a percentage of the total estimated cost.
- U. Topsoil Removal - Shall mean the excavation of loam or loamy materials from an area for placement elsewhere.
- V. Use - Any purpose for which the building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also any activity, occupation, business, or operation carried on or intended to be carried on in a-building or other structure or on a tract of land.
- W. Variance - A relaxation of terms of this ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.
- X. Wetland – Freshwater swamps, marshes, bogs and similar areas which are:
  - 1. inundated or saturated by surface or ground water at a frequency for a duration sufficient to support, and which normal circumstances do support a prevalence of wetland vegetation typically adapted for life in saturated soils; and
  - 2. not considered part of a great pond, river, stream or brook

### **Section III. Authority and Administration**

#### **A. Authority**

- 1. This ordinance is adopted pursuant to Home Rules Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A M.R.S.A. Section 3003.
- 2. This ordinance shall be known as the “Site Plan Review Ordinance” of the Town of Sabattus, Maine, adopted and effective by vote at the Town Meeting on May 29, 2004.

#### **B. Administration**

- 1. The Planning Board of The Town of Sabattus shall administer this ordinance.
- 2. No activity requiring a Site Plan Review approval, or a building permit, plumbing permit or certificate of occupancy for any use or development within the scope of this Ordinance shall be issued until a Site Plan of Development application has been review and approved by the planning board.

## **Section IV. Applicability.**

This ordinance shall apply to all development proposals. Development proposals include but are not limited to, new construction and alterations or substantial enlargements of commercial, retail, industrial, recreational and institutional building/s or structures, and use/s and multiple family dwelling/s, consisting of three or more attached dwelling units and their accessory uses and structures. This ordinance shall also apply to campgrounds and mining activities. This ordinance does not apply to detached single and two family dwelling units, accessory structures under 100sqft, agricultural land management practices and forest management practices. Except as provided elsewhere in the ordinance, the excavation of topsoil, loam, sand, peat, gravel, stone or any earth materials from land in the Town of Sabattus is hereby prohibited except as such excavation is authorized by a permit issued by the Planning Board.

## **Section V. Site Plan Content and Application Procedures.**

A. The Site Plan of Development Application shall include as a minimum:

- a. name and address of the applicant or his authorized agent and name of proposed development;
- b. existing soil conditions as described by either a soil scientist, geologist, engineer or S.C.S. medium intensity soil surveys;
- c. lot numbers according to municipal tax maps and names of abutting landowners;
- d. perimeter survey of the parcel made and certified by a Professional Land Surveyor relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage;
- e. existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private right-of-way;
- f. location, ground floor area and elevations of buildings and other structures on this parcel existing and proposed; and the total area and location of parking lots, roads, paved areas or areas to be stripped or graded and not to be revegetated;
- g. if the site is not to be served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site-evaluator shall be provided. The report shall contain the types of soil, location of test pits, and proposed location and design of the best practical subsurface disposal system for the site;
- h. location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site on to public streets and curbs and sidewalk lines; a Driveway or Entrance Permit issued by the Maine Department of Transportation, if required..
- i. Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening;
- j. topography indicating contours at intervals of either 5, 10, or 20 feet in elevation as specified by the Planning Board.
- k. location of aquifers and aquifer recharge areas, as delineated on the aquifers and aquifer recharge areas, as delineated on the aquifer and aquifer

recharge map for the Town of Sabattus.

- l. Mining activity proposals shall require a description of the scope of activities to be undertaken on the site, i.e. area and depth of proposed excavation.
  - m. Mining activity proposals shall include a sedimentation and erosion control plan.
  - n. Mining activity proposals shall include a reclamation plan.
  - o. Location of fresh water wetlands.
  - p. The location of any 100 – year floodplain.
  - q. The location, size and character of signs and exterior lighting.
- B. A written statement by the applicant that shall consist of:
- a. Evidence by the applicant of his title and interest in the land for which the application covers;
  - b. Description of the proposed uses to be located on the site, including quantity and type of residential unit, if any;
  - c. Summary of existing and proposed easements, restrictions and covenants placed on the property;
  - d. Method of solid waste and/or liquid waste disposal;
  - e. Erosion and sedimentation control plan;
  - f. Certification to the planning board of financial capability or bonding to ensure completion of project;
  - g. A statement by the applicant of services required by the proposed development to include water, sewerage, streets, fire protection, solid/ liquid waste disposal or any utilities and/or special waste disposal or any utilities and/or special services required from the town;
  - h. An estimate of the date when construction will start and when the development will be completed.
  - i. An estimated of the volume and type of traffic to be generated by the development expressed in peak hour and average vehicle trip ends.
  - j. A storm water drainage plan.
  - k. If located in the direct watershed of a great pond, a phosphorous control plan.
  - l. A list of abutters within 350ft, even if on the other side of road or river, including postal addresses, map and lot numbers according to Sabattus Tax Maps.
- C. Application Procedures
- a. The application shall be filed with the Planning Board for review. Within 30 days of the receipt of the application, the Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been received, it shall notify the applicant in writing and begin its review of the proposed development.
  - b. The Planning Board may hold a public hearing within 30 days of the declaring an application as complete, the Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing, in a newspaper of area wide circulation. The abutting land-owners shall be notified of the hearing. Public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30A, M.R.S.A., Section 2691.

- c Within 30 days of the public hearing or 60 days of declaring a complete application the Planning Board shall approve, approve with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
- d Within fourteen (14) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.

## **Section VI. Performance Standards.**

- A. The following standards are to be used by the Planning Board in judging applications for site plan reviews and shall serve as minimum requirements for approval for the site plan. The site plan shall be approved, unless in the judgment of the Planning Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.
1. **Preserve and Enhance the Landscape:** The landscape will be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and or structures in order to enhance the physical design of the building-s or site, and to minimize the encroachment of the proposed use on neighboring land uses.
  2. **Relationship of the Proposed Buildings to Environment:** Proposed structures will be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of the building/s and such natural features as slope, soil type and drainage ways.
  3. **Vehicular Access:** The proposed site layout will provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including site distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal road systems.
    - a. any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurement shall be from the drivers seat of a vehicle standing on the portion of the exit driveway from distance of between 10 and 15ft behind the curb line or edge of the shoulder with the height of the eye 3.5ft to the top of the object 4.25ft above the pavement.

## MINIMUM SIGHT DISTANCE

Posted Speed Limit	Minimum Sight Distance
25 mph	250ft
30 mph	300ft
35 mph	350ft
40 mph	400ft
45 mph	450ft
50 mph	500ft
55 mph	550ft

b. Where more than one business or structure is located on a single parcel, all vehicular access to and from a public or private road shall be by a common access or entrance way(s) serving all business and structures (single family and duplex homes are exempt).

c. The grade of any exit driveway or proposed street for a distance of fifty (50) feet from the intersection with any existing street will be a maximum of three (3) percent.

4. **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas will provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.
5. **Surface Water Drainage:** Adequate provisions will be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion or the public storm drainage system. Whenever possible, on-site absorption of runoff waters shall be utilized to minimize discharges from the site.
6. **Existing Utilities:** The development will not impose an unreasonable burden on sewers, sanitary and storm drains, water lines or other public utilities.
7. **Advertising Features:** The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features will not detract from the design of proposed buildings and structures and the surrounding properties.
8. **Special Features of the Development:** Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures will have sufficient setbacks and screening to provide an audio-visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.
9. **Exterior Lighting:** All exterior lighting will be designed to minimize adverse impact on neighboring properties.
10. **Emergency Vehicle Access:** Provisions will be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
11. **Municipal Services:** The development will not have an unreasonable, adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.
12. **Will not result in undue water pollution.** In making this determination the Planning Board will at least consider the elevation of the land above sea level and its relation to the flood plains, the nature of soils and sub soils and if necessary,



- their ability to adequately support waste disposal and/or any other D.E.P. approved licensed discharge; the slope of the land and its effect on effluents; the aquifers and aquifer recharge areas; the availability of streams for disposal of surface runoff; and the applicable federal, state local laws, ordinances, codes and regulations.
13. Will not result in undue air pollution. In making this determination the Planning Board will consult federal and state authorities to determine applicable air quality laws and regulations.
  14. Has sufficient water available for the reasonably foreseeable needs of the development.
  15. Will not cause an unreasonable burden on an existing water supply, is one is to be utilized.
  16. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
  17. Will provide for adequate sewage waste disposal.
  18. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
  19. The applicant has adequate financial and technical capacity to meet the above standards.
  20. Whenever situated in whole or in part, within 250 feet of any pond, lake, or river, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
  21. Provide for the general health, safety and welfare of the community.
  22. Mining activity will be subject to the following setback requirements: The minimum setbacks for all excavation operations shall be maintained 100 feet from public road or right of way, 50 feet from adjacent property lines and 200 feet from existing occupied residences. The Planning Board at its discretion shall determine whether the 50 foot setback from an adjacent property line and the 200 foot setback from occupied residences shall be measured laterally or in accordance with existing topography. The setback requirements for adjacent property lines and occupied residences shall not apply where the Planning Board is presented with a written waiver of such requirements executed by the adjacent property owner or the owner of the occupied residence.
  23. Any operation discontinued for 12 consecutive months must submit a new application.
  24. The mining activity provisions of this ordinance shall not apply to:
    - a. The removal of topsoil, sand, gravel or subsoil material necessarily incidental to the construction, alteration, grading of buildings, public roads or driveways. For the purposes of this exemption, a "driveway" shall be no more than 30 feet wide, nor shall a driveway be allowed to switch back in such a way as to subvert the intention of this ordinance.
    - b. To the carrying out of standard soil conservation practices.
    - c. Existing operation as long as no expansion occurs since the date this ordinance is adopted. Expansion shall be defined, for the purpose of this section, as excavation which continues beyond the property lines of the lot which contains the existing operations described and recorded at the Androscoggin County Registry of Deeds.
    - d. The excavation, grading or transferring of earth materials from one part of a lot to another part of the same lot except where the piling earth materials is for the purpose of subverting the intentions of this ordinance.
  25. Sand and Gravel Pits
    - a. Any gravel pit which requires a permit from the Maine Department of

Environmental Protection under the Site Location of Development Act shall obtain written approval from the D.E.P and approval by the Planning Board under the Site Plan Review procedures of this Ordinance. In addition to the submissions requirements contained in Section 5. A and B, the application and development plan shall include items Section c. 1—15 below.

b. Any gravel pit or mineral extraction activity which is removed for other than personal use in 12 successive months or which does not require a permit from the Maine D.E.P under the Site Location of Development Act shall require a permit from the Planning Board.

In addition to the submission requirements contained in Section 5. A and B, the application and development plan shall include items c. 1-12 below.

c. Submission Requirements

1. The existing and proposed limits of excavation clearly delineated.
2. Location, function and ground area of all structures, facilities, parking lots, roads, and mud runoff areas.
3. Entrance and exit layout.
4. Gates or other means for controlling access.
5. Pre- and post- development topography using an interval of 10ft contours for pits of less than five (5) acres and no greater than ten (10) ft contours for pits of five (5) acres or more if deemed necessary by the Planning Board.
6. Location of topsoil stockpile areas.
7. Areas where natural vegetation will be left and where planting will be made to screen the operation from view.
8. Slopes and vegetation for protecting adjacent structures.
9. Location of any test pits or borings and observation wells documenting the seasonal high water table.
10. Proposed disposal method of stumps and grubblings.
11. Plans and schedule for reclamation.
12. A spill prevention and countermeasure plan to control spills of petroleum products and other hazardous materials.
13. The phases of excavation and reclamation.
14. Surface drainage and watersheds on parcel, pre- and post excavation.
15. For pits of five (5) acres or more, at least one cross section along the long axis of the pit and another cross section at a right angle to it. The cross section diagrams should show the existing grade, the proposed final grade including maximum depth of elevation, depth to ground water and the stratigraphy of the surficial deposits at the site.

d. Review Criteria and Standards

1. All petroleum products shall be kept out of the pit and no refueling or oil changes shall be conducted in the pit unless such activities comply with applicable standards promulgated by the Maine D.E.P and a spill prevention and countermeasure plan is provided.
2. There shall be no storage or dumping on the pit of any substances that could produce harmful leachate unless such substances are placed under cover and on impermeable, spill-proof base. Such potentially deleterious substances include, but are not limited to, salt, rubbish, creosoted timber and petroleum products.
3. No oiling of access and haul roads is permitted.
4. No gravel shall be excavated below a position that is 5feet above the

seasonally high water table without approval of the Maine D.E.P and the Planning Board.

5. No ditches, trenches, pumping or other methods shall be used to lower the water table to permit more gravel extraction than could occur under natural conditions unless a plan for such activities has been approved by the Maine D.E.P and the Planning Board.
6. Access to the pit shall be strictly controlled.
7. All final reclaimed slopes shall not exceed a horizontal to vertical ratio of 2:1.
8. Reclamation of the pit shall not be made with any substance that could either have a harmful leachate or create an impermeable base.
9. Stumps and grubbings shall be disposed of in a manner approved by the Planning Board and in conformance with all applicable State of Maine Regulations.
10. Suitable traffic control measures shall be made available by the operator at all access points to public streets. Truck routes shall be restricted to collector and arterial streets. When direct access is not possible to a collector or arterial street, the Planning Board shall designate a suitable route to such a street.
11. Upon cessation of the extraction of materials or upon the expiration of the Planning Board approval, the site shall be rehabilitated in accordance with a plan approved by the Board.
12. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480 – C, no part of any extraction operation including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high – water line of a great pond, and within seventy – five (75) feet of the normal high - water line of any other water body, tributary stream, or the upland edge of a wetland as defined.

## **Section VII. General provisions.**

- A. Where the Planning Board makes written findings of fact that due to special circumstances of a particular application, certain required improvements or standards of this Ordinance are not necessary to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan or this ordinance and further provided the performance standards of this ordinance have been or will be met.
- B. The Planning Board may require the filing of a performance bond or the execution of a conditional agreement with the municipality by the applicant. (Should the Planning Board require a performance bond, the procedure will be consistent with Section K, paragraphs 1, 2, and 3, Town of Sabattus Subdivision Regulations.)
- C. All construction performed under the authorization of a building permit or certificate of occupancy issued for development within the scope of this ordinance shall be in conformance with the approved site plan.
- D. All Site Plan Review approvals shall expire two (2) years after the date of issuance unless a substantial start of work thereunder is commenced. If work is not completed within

three (3) years from the date of approval, the approval lapses and a new application must be made and approved subject to all ordinances and standards then in effect. There will be no additional charge for application review provided the application is unchanged.

- E. Minor changes in approved plans necessary to address field conditions or structure orientation may be authorized by the Codes Enforcement Officer provided that any such change does not affect the standards of this ordinance or alter the intent of the approval. A request for a minor change to an approved plan shall be in writing to the Codes Enforcement Officer.

In making the determination to approve a minor change to an approved plan the Codes Enforcement Officer shall consult with the Planning Board Chair or the Chair's designee. All approvals for minor changes to approved plans shall be in writing by the Codes Enforcement Officer. A copy of the written approval and revised site plan shall be filed with the Planning Board within thirty (30) days from the date of the written approval.

- F. Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the applicant. Any variation from the plans, proposals and supporting documents, except minor changes as permitted above, is subject to review and approval by the Planning Board.

## **Section VIII. Violation, Enforcement and Fines**

It shall be the duty of the Code Enforcement Officer of the Town of Sabattus to enforce the provisions of this ordinance. If the Code Enforcement Officer shall find that any of the provisions are violated he/she shall notify in writing the person responsible indicating the nature of the violation and ordering measures to correct it.

- A. Violation and Enforcement's: The Planning Board, the Selectmen or the appropriate municipal official upon a finding that any provision of this ordinance or the conditions of a permit issued under this ordinance is being violated are authorized to institute legal proceedings to enjoin violations of this ordinance.
- B. Fines: A person who violates the provisions of this ordinance or the conditions of a permit shall be guilty of a civil violation and on conviction shall be fined a minimum of \$ 100 and a maximum of \$ 2,500. Each day such violation continues, shall constitute a separate violation. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the municipality.

## **Section IX. Validity and Separability and Conflict with Ordinances**

- A. Validity and Separability: Should any section or provisions of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the ordinance.
- B. Conflict with Other Ordinances: Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

## **Section X.**

### **A. Appeals**

If the Planning Board disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting land owner or any aggrieved party, or when it is claimed that the provisions of the ordinance do not apply, or that the true intent and meaning of the ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting land owner, or aggrieved party may appeal the decision of the Planning Board in writing to the Board of Appeals within 30 days of the Planning Board's decision. The Board of Appeals may reverse the Planning Board's decision after holding a public hearing and may grant a variance as defined herein. Public Hearings shall be held according to Title 30, M.R.S.A., Section 2411.

### **B. Appeal Procedure**

#### **1. Making an Appeal**

- a. An administrative or dimension appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.
- b. Such appeal shall be made by filing with the Codes Enforcement Officer a written notice of appeal on an application supplied by the CEO which he will forward to the Board of Appeals. The notice of appeal shall include but not be limited to the following:
  - 1) A concise written statement indicating what relief is requested and why it should be granted.
  - 2) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other and other physical features of the lot pertinent to the relief sought.
- c. Upon being notified of an appeal, the Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- d. The Board of Appeals shall hold a public hearing on the appeal within thirty – five (35) of its receipt of an appeal request.

#### **3. Decision by Board of Appeals**

- a. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Planning Board, or to

decide in favor of the applicant on any matter on which it is required to decide under this Ordinance from its stated terms. The Board of Appeals may reverse the decision, or failure to act was clearly contrary to specific provisions of this Ordinance.

- c. The person filing the appeals shall have the burden of proof.
- d. The Board of Appeals shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- e. All decisions shall become part of the record and shall include a statement of finding and conclusions as well as the reasons or basis therefore, and appropriate order, relief or denial thereof.

**C. Appeal to Superior Court**

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

**D. Reconsideration**

The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board of Appeals may conduct additional hearings and receive additional evidence and testimony.

**Section XI. Amendments**

- A. Initiation of Amendments: An amendment to this ordinance may be initiated by:
  - 1. The Planning Board, provided a majority of the board has so voted;
  - 2. Request of the municipal officers; or
  - 3. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last Gubernatorial Election
- B. The Planning Board shall hold a public hearing on the proposed amendment (s). Notification of the hearing will be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.
- C. Adoption of amendment: An amendment of this Ordinance will be adopted by a majority vote of the Board of Selectmen.

# **Sabattus, Maine – Code of Ordinances**

## **SOLID WASTE ORDINANCE**

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# Sabattus, Maine – Code of Ordinances

## **Section 1. Title**

This ordinance shall be known as the “Solid Waste Disposal Control Ordinance” of the Town of Sabattus.

## **Section 2. Purpose and Authority**

This ordinance is designed to control the disposal of solid waste material in the Town of Sabattus by providing for the establishment and enforcement of rules and establishing limitation and prohibitions to protect the health, safety and welfare of the citizens of Sabattus and to protect the environment and material resources of the town.

Authority of this ordinance is the M.R.S.A., Title 38, Section 1305.

## **Section 3. Definitions**

For the purposes of this ordinance, unless the context otherwise indicates, the following words and phrases have the following meaning.

*Agricultural waste* - means waste resulting from the growing of vegetables, fruit, seeds, nursery crops, poultry, livestock, field crops cultivated or pasture hay and farm woodlot products.

*Board* - Board of Selectmen, Town of Sabattus.

*Bulky waste* - means discarded tires, construction and demolition debris, and durable goods, such as household appliances, furniture furnishing and bicycles.

*Biomedical waste* - as defined in 38 M.R.S.A., section 1303-C, subsection 1-A, means waste that may contain human pathogens of sufficient virulence and in sufficient concentration that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

*Clean wood* - Branches, brush, trees or branches 3 to 18 inches in diameter and boards, dimensional lumber or any other lumber that has no man made coating such as plastic, tar or metal and does not qualify as contaminated wood.

*Commercial waste* - means solid waste that is generated as a result of commercial or industrial activity, excluding industrial or special waste.

*Construction and demolition debris* - as defined in 38 M.R.S.A., Section 1030-C subsection 8, means debris resulting from construction, remodeling, repair and demolition of structures. It excludes asbestos and other special wastes.

*Contaminated wood* - means any man made wood product such as plywood, particle board, flakeboard, etc. also wood that contains any chemical substance such as stains, paint, varnish, etc. and pressure treated wood.



## Sabattus, Maine – Code of Ordinances

*Hazardous waste* - as defined in 38 M.R.S.A., section 1030-C, subsection 15, means a waste substance or material, in any physical state, designated as hazardous by the Board under 38 M.R.S.A., section 1319-0. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or part or constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

*Incineration* - means the combustion of solid waste, including combustion for the generation of heat, steam or electricity.

*Industrial waste* - means solid waste generated by a manufacturing process, but does not include office waste.

*Inert fill* - as defined in 38 M.R.S.A., section 1303-C, subsection 17, means clean soil material, rocks, bricks, and cured concrete, that are not mixed with other waste, and that are not derived from an ore mining activity.

*Land clearing debris* - as defined in 38 M.R.S.A., section 1030-C subsection 18, means solid waste resulting from the clearing of land and consisting solely of brush, stumps, soil material and rocks.

*Municipality* - means a city or town.

*Municipal Solid Waste* or *MSW* - means residential and commercial solid waste. *MSW* includes solid waste that is delivered to a facility and processed into material-separated, refuse-derived fuel.

*Ordinance* - Town of Sabattus Solid Waste Disposal Control Ordinance.

*Permit* - Special form required which will allow second party use of the facility when hauling acceptable waste, as defined in the ordinance, which is generated in the Town of Sabattus.

*Police power* - means the power of the state and municipalities to enact laws to regulate public activities for the health, safety and welfare of the people.

*Private hauler* - means contracted private hauler hired by an individual.

*Recycle* - as defined in 38 M.R.S.A., section 1303-C, subsection 21, means to recover, separate, collect and process waste materials for sale or reuse other than use as a fuel for the generation of heat, steam or electricity.

*Residential solid waste* - means solid waste generated by individual and family activity within and around homes and includes, but is not limited to bulky wastes, yard wastes, wood waste, books, magazines and other paper, glass, plastic and metal containers, clothing and other fabric, cat litter, packaging, dry cell batteries and other objects used in households that may be placed within a common 30 Gallon garbage bag.

# Sabattus, Maine – Code of Ordinances

*Septage* - as defined in 38 M.R.S.A., Section 1303-C, subsection 27, means waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities.

*Site/Facility* - Demolition Debris site, Pleasant Hill Road, Sabattus, Maine.

*Solid waste* - as defined in 38 M.R.S.A., section 1030-C, subsection 29, means useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material, landscape refuse, construction and demolition debris, land clearing debris and special waste, but does not include hazardous waste, biomedical waste, agricultural waste returned to the soil as fertilizers, or septage. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

*Solid waste disposal facility* - means a facility for the incineration or landfilling of municipal solid waste or refuse-derived fuel, but excludes facilities that burn material-separated, refuse-derived fuel, either alone or in combination with fuels other than municipal solid waste or refuse-derived fuel.

*Special waste* - as defined in 38 M.R.S.A., section 1303-C, subsection 34, means any solid waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or therein the public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:

1. Oil, coal, and multi-fuel boiler and incinerator ash
2. Industrial and industrial process waste
3. Waste water treatment plant sludge, paper mill sludge and other sludge waste
4. Debris and residual from nonhazardous chemical spills and cleanup of those spills.
5. Contaminated soils and dredge spoils
6. Asbestos and asbestos-containing waste
7. Sand blast grit and non-liquid paint waste
8. High and low pH waste
9. Spent filter media and residue
10. Other waste designated by the Board, by rule

# Sabattus, Maine – Code of Ordinances

*Sticker* - Self adhering tag which must be affixed on a visible area of the vehicle which will allow use of the facility.

*Town* - Town of Sabattus, Maine

*Transfer Station* - means a site designed for the collection of solid waste for the specific purpose of transferring such waste to solid waste disposal facility or other facility.

*Wood wastes* - as defined in 38 M.R.S.A., section 1303-C, subsection 46, means brush, stumps, lumber bar, woodchips, shavings, slab edgings, slash and sawdust, which are not mixed with other waste.

## **Section 4. Authority to amend ordinance**

The Board of Selectmen is hereby granted the authority to establish and amend this ordinance, after public hearing, for all municipal waste collection transfer, reuse and disposal methods, systems and facilities. Public hearings will not be required to make changes to comply with Federal and State laws. The ordinance shall be reviewed and revised as required to meet the needs of the Municipality, Federal and State Laws and Regulations. The Board of Selectmen will set the operating hours of the facility. The use of the facility shall not be allowed outside of its normal operating hours.

## **Section 5. Permits/Stickers**

1. The solid waste facility is operated for the benefit of Sabattus residents only. Admission to the facility will be by permit or sticker. Permits and stickers are issued at the Town Office during normal business hours. See the Town of Sabattus Fee Schedule for Permit/Sticker Fee's.

### 2. Permits

a. Permits to be issued at the Town Office for the disposition of acceptable solid waste generated in the Town of Sabattus only. The permit is to be issued to the resident having the work done. It will be valid for one day.

b. Permits issued to private haulers bringing waste to the Town Transfer Station will be issued annually. Said waste must be generated in the Town of Sabattus only.

3. Permits must be presented to attendant for review and/or collection prior to use of the facility. Sticker must be displayed on vehicles to gain access to the facility. Permits may be revoked by the Board of Selectmen for violation of the ordinance.

4. Disposition of solid waste at the site during non-hours or at locations, sites or areas within the municipality which have not been designated as acceptable sites by the Board of Selectmen will be deemed illegal dumping and is a violation of this ordinance and subject to fine as outlined in Schedule 2. Fines.

5. Disposition of solid waste not generated in the Town of Sabattus will be subject to fine and/or revocation of permit.

# Sabattus, Maine – Code of Ordinances

## **Section 6. Attendant Authority**

The use of the facility by any person shall be at the direction of the attendant. No person shall violate any directives of the attendant or rules set forth by the Board of Selectmen in the use of the facility. The attendant shall have the authority to refuse access to the facility to any person violating any of the directives or rules.

## **Section 7. Hazardous and Special Wastes prohibitions**

Hazardous and special waste, see *"definitions"*.

Hazardous and Special wastes shall not be delivered to, dumped at or disposed of at the facility.

In the event that hazardous or special waste is deposited at the facility or illegally dumped, the cleanup and all costs associated with the proper disposal of, shall be borne by the person/persons responsible for the disposition, along with appropriate fines as outlined in Schedule 2. Fines.

## **Section 8. Waste disposition**

1. Waste will be deposited in appropriate areas after being inspected by the attendant. The areas will be designated by on site signs and/or the attendant. The following areas are included:

- A. Recycling area
- B. Demolition debris / contaminated wood and household waste
- C. Whitegoods / metal area
- D. Tire area
- E. Hot load area
- F. Clean wood only, and leaves.

2. All vehicles must be off loaded by hand.

3. Private Hauler curb side pick-up waste shall be in covered metal or plastic trash cans or sealed garbage bags. Covered cans keep animals out and reduce moisture contents. Trash may be placed curb side no earlier than 4:00 p.m. the day prior to the scheduled pick-up day. When a private hauler uses the Town site, item lists of acceptable and non-acceptable waste contained in this ordinance must be adhered to.

4. Residential household waste brought to the site by residents/private haulers must be in containers which will prevent loose flying trash and moisture penetration and allow easy attendant inspection.

# Sabattus, Maine – Code of Ordinances

5. White goods/metals. White goods/metals shall be placed in the designated storage area. Doors on refrigerators and freezers shall be removed prior to disposal. A fee will be charged for all items which rely on Freon for their operation. Example: Freezers, refrigerators, air conditioners, etc... This is to comply with the proper disposal of Freon mandated by the State and Federal Governments.

6. Tires. Tires will be deposited at the proper designated area after the appropriate fee has been paid. Tires With rims will not be accepted.

## **Section 9. Fees**

The Board of Selectmen shall establish fees by rule for the deposition of all items accepted at the site. If there is no cost incurred by the Town for the disposition of an item no fee shall be charged. See Schedule 1. Fees.

## **Section 10. Enforcement - Penalties**

1. The Sabattus Police Department will enforce this ordinance.
2. Any person convicted of a violation of this ordinance adopted pursuant here to will be subject to a fine(s). Each violation will be considered a separate violation and subjected to the proper fine(s) as outlined in Schedule 2. Fines.
3. The person or persons cited or convicted for violating the provisions of this ordinance will be liable for all cost incurred in the enforcement, legal cost and fines, including the cost for the proper disposition of the waste.

## **Section 11. Acceptable - Non Acceptable Waste**

1. Demolition Debris

### ***Acceptable:***

All debris which is the results of the demolition and construction of building in the town.

Furniture

Metals

Tires

Clean wood

Contaminated wood, remove glass

Leaves

Brush

## Sabattus, Maine – Code of Ordinances

Parts of trees no longer than 4 feet in length unless diameter is small than 3 inches, no larger than 12 inches in diameter for recycled wood or up to 18 inches in diameter after fees are paid.

TVs, stereo, etc.

Appliances

Car parts with no fluids, no gas tanks

### ***Non-Acceptable:***

Hazardous waste

Special waste

Stumps

Commercial waste

Agricultural waste

Biomedical waste

Industrial waste

Residential solid waste which is accepted curb-side

Food waste

Garden waste

Dead animals or parts of

Pressurized containers

Gas Tanks

Trees that are longer than 4 feet

Wood larger than 18 inches in diameter

### ***2. Private hauler using town facility***

#### ***Acceptable:***

Residential solid waste no larger than 2 feet x 2 feet

Pressurized containers such as spray paint, hair spray, etc. this also includes small propane tanks no larger than one quart. Example: small soldering torch tank.

Paint cans with covers removed & paint dried

All ordinary household waste with all recyclables removed

Plastic sheeting which is bundled and tied to dimensions no larger than 2' x 2'

# Sabattus, Maine – Code of Ordinances

## ***Non-Acceptable:***

- Hazardous waste
- Special waste
- Pathological waste
- Stumps
- Waste oil or solvents, etc.
- Fire arms, ammunition and explosives
- Dead animals or parts thereof
- Garden waste
- Lawn clippings
- Gas tanks
- Oil tanks, drums, etc.

### *3. Private haulers using other facilities*

These haulers to be responsible for all possible cost and fees.

*Acceptable* items to be outlined by private hauler's agreement with residents.

*Non-acceptable* items to be determined by private hauler's agreement with residents.

## **Section 12. Conflict with other Ordinances**

This ordinance shall supersede and rescind any ordinance pertaining to the Sabattus "Stump Dump" the "Dump" and /or "Land Fill" issued or passed prior to November 1992.

## **Section 13. Severity**

If any section, subsection, sentence or part of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

## **Section 14. Effective date**

This ordinance will go into effect on July 1, 1993.

# Sabattus, Maine – Code of Ordinances

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## SOLID WASTE / TRANSFER STATION

### **Schedule 1. Fee Schedule**

*Purpose:* To defray the cost of the disposition of the waste accepted at the Sabattus Demolition Debris Transfer Station.

Due to large variety of bulk waste not all fees are listed.

Mattress & Box spring	\$5.00 or \$2.50 each
Stuffed chair - recliner	\$3.00
Couch, regular	\$5.00
Sleeper couch	\$7.00
Automobile seat	\$4.00
Bucket seat	\$2.00
Roofing	\$80.00 per ton or \$30.00 cubic yd.
Sheet rock	\$80.00 per ton or \$44.00 cubic yd.
TVs 19" portable & below	\$2.00
TVs larger than 19" and console	\$4.00
Wood - contaminated	\$6.00 cubic yd.
Clean wood - Branches - Brush - Leaves	\$2.50 cubic yd.
Bagged leaves	.50 cents per 30 gal. bag

Tree trucks - Wood 3" in diameter or larger up to 18" in diameter, \$10.00 cubic yd. (If this wood is cut 12", 16", 24" or 48" and is 12" in diameter or smaller and set aside for re-use, as directed by the attendant, there will be no charge.)

Refrigerators, freezers, air conditioners or any item which uses Freon in its operation, \$15.00. This fee must be charged even if Freon was removed prior to disposal.

Tires: 13" - 15"	\$ 1.50
16"	\$ 3.00
20"	\$ 5.00
Tractor & loader	\$ 25.00

*\* Suggest tires be left with dealer when purchase is made.*

Due to the large variety of items brought to the transfer station this is solely an example of the type of fees to be charged.

Fees will be adjusted as tipping and disposal cost fluctuate.

# Sabattus, Maine – Code of Ordinances

## SOLID WASTE / TRANSFER STATION

### Schedule 2. Fines

1. Use during non-hours/illegal dumping a fine of not less than \$50.00 and not more than \$500.00 will be imposed to the violator of this provision of the ordinance. The violator will also be liable for the cost of all legal expenses in the collection of said fine. Also the full cost of cleanup, handling and disposition of said waste including any legal cost incurred by the town, in the event that legal action becomes necessary, will be included in the total liability of the violator.

2. Hazardous or special waste deposited at the facility or illegally dumped in the town. A fine of no less than \$5,000.00 plus all cost incurred by the Town for the conviction of the person or persons found liable for the violation of the provision of the ordinance will be imposed for each violation. The violator/violators will also be liable for the cost of all legal expenses in the collection of said fine, the full cost of cleanup, handling and disposition of said waste. This also includes any legal cost in the event that legal action becomes necessary for the collection said fines and expenses.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## **SPECIAL AMUSEMENT ORDINANCE**

### **Section 1. Purpose and Authority**

The purpose of this section is to control the issuance of special amusement permits for music, dancing or entertainment in facilities licensed by the State to sell liquor.

This section is adopted pursuant to 28-A M.R.S.A. ss 1054 and 30-A M.R.S.A. ss 3001.

### **Section 2. Definitions**

The following definitions apply unless the context clearly indicates another meaning:

*Entertainment* - includes any live amusement, performance, exhibition, or recreation for patrons or customers of the licensed premises whether provided by:

- a. professional entertainers;
- b. full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value; or
- c. patrons induced by prizes or otherwise to act as entertainers.

*Licensee* - includes the holder of a license issued by the State for the sale of liquor to be consumed on the premises owned by said licensee, or any agent or employee of any such licensee.

*Premises* - includes all parts of the adjoining real estate occupied by a licensee over whom the licensee has direct or indirect control or interest, which the licensee uses in the operation of the licensed business.

### **Section 3. Special Amusement Permit Required**

No licensee shall permit on the licensed premises any music, except radio or mechanical device, dancing or entertainment of any sort unless the licensee has obtained, from the Board of Selectmen, a special amusement permit under this ordinance.

# Sabattus, Maine – Code of Ordinances

## **Section 4. Applications**

Applications for special amusement permits and annual renewals thereof shall be made in writing to the Board of Selectmen and shall state:

1. the name of the applicant;
2. his business address;
3. the nature of the business, including a specific description of the entertainment to be offered;
4. the location to be used;
5. a copy of the applicant's current liquor license;
6. whether the applicant has ever had a license to conduct the type of business therein described either denied or revoked and if so, the applicant shall describe those circumstances specifically;
7. whether the applicant, including all partners and corporate officers, has ever been convicted of a felony and if so, the applicant shall describe those circumstances specifically; and
8. any additional information as may be required by the Board of Selectmen prior to the issuance of the permit.

## **Section 5. Entertainment Regulated**

No special amusement permit shall be issued for a premise that will offer entertainment which includes:

1. Exposing to view the genitals, pubic hair, anus, vulva, or any portion of the female breasts at or below the areola area thereof. "Exposing to view" includes, without limitation, appearing without an opaque covering or appearing with only an opaque covering which adheres to the skin, such as body paint;
2. The actual or simulated touching, caressing or fondling of the breasts, buttocks or genitals by the performer;
3. The actual or simulated touching, caressing or fondling of the performer by members of the viewing audience.

## **Section 6. Code Compliance**

No special amusement permit may be issued for any purpose or act, on or off the premises, if the premises and buildings to be used do not comply with all ordinances, codes, and regulations of the Town of Sabattus.

# Sabattus, Maine – Code of Ordinances

## **Section 7. Fees**

The fee for a special amusement permit shall be paid per year and shall be paid at the time of application. See the Town of Sabattus Fee Schedule for appropriate Fees.

## **Section 8. Public Hearing on Applications**

Prior to granting a special amusement permit, the Board of Selectmen shall hold a public hearing. Reasonable notice of the hearing shall be given by the town to the applicant and shall be published at least once in a newspaper having general circulation in Androscoggin County. At the public hearing, testimony of the applicant and any interested person(s) shall be heard.

## **Section 9. Issuance of Permits**

After public hearing and within fifteen (15) days of the Board of Selectmen's receipt of the completed application, the Board of Selectmen shall grant the special amusement permit requested unless the issuance of the permit would violate any prohibition in this ordinance or any State law or other town ordinance or is otherwise contrary to the public health, safety and welfare. In granting a permit, the Board of Selectmen may impose reasonable restrictions to protect property owners in the vicinity of the licensed premises from any nuisance aspects of the proposed amusements including, without limitation, noise, noise levels, days and hours of operation. The applicant shall be informed in writing of the decision on his application and the reasons for the decision.

## **Section 10. Term and Transferability**

Special amusement permits shall be issued for a term of one (1) year to coincide with the applicant's existing liquor license. Special amusement permits are not transferable.

## **Section 11. Appeal**

An appeal by the applicant or any aggrieved person may be taken from the decision of the Board of Selectmen to the Board of Appeals as provided in 28-A M.R.S.A. ss 1054(8).

# Sabattus, Maine – Code of Ordinances

## **Section 12. Suspension or Revocation**

After a public hearing, preceded by notice to the permit holder and the public, the Board of Selectmen may suspend or revoke a special amusement permit on the grounds that the licensed premises or activities on the premises violated or violate public order, the provisions of this ordinance, and/or any of the terms or provisions of any other town ordinance or regulation or any State law. Appeals from such a decision by the Board of Selectmen may be taken to the Zoning Board of Appeals as provided in 28-A M.R.S.A. ss 1054(8).

## **Section 13. Admission Charges**

A licensed hotel, Class A restaurant, Class A restaurant malt liquor licensee, as defined in Title 28-A of the Maine Revised Statutes, that has been issued a special amusement permit, may charge admission in designated areas as approved in the permit.

## **Section 14. Inspection of Premises**

Each permit holder, by accepting a special amusement permit, agrees to allow inspection of his/her premises by representatives of the Town during business hours without prior notice and at other times with prior notice.

## **Section 15. Prohibited Activities**

No permit holder shall allow on the permitted premises any activity described in paragraph B, section 1(a) or 1(b) of this ordinance, regardless of whether such activity is carried out by professional entertainer(s), employees, or any other person and without regard as to whether any compensation is paid by the permit holder.

## **Section 16. Penalty**

Violation of any provision of this ordinance shall be punished by a civil penalty of not less than \$500 dollars nor more than \$1,000 dollars. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the town may enjoin or abate any violation of this ordinance by appropriate court action. In the event that the town shall prevail in any court action to enforce this ordinance, the town shall recover its costs of suit, including reasonable attorney's fees.

# Sabattus, Maine – Code of Ordinances

## **Section 17. Severability**

In the event that any provision of this ordinance is held invalid by a court of competent jurisdiction, such ruling shall not affect the remaining provisions that shall remain in full force and effect.

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## STREET CONSTRUCTION ORDINANCE

### **Section 1. State of Purpose**

The purpose of this ordinance is to promote the health, safety, and public welfare of the residents of Sabattus through establishing minimum construction standards for streets.

### **Section 2. Authority, Administration, and Effective Date**

*Authority:* This ordinance is enacted pursuant to and consistent with Article VII-A of the State of Maine Constitution and Title 30-A, MRSA Section 3001.

*Administration:* This ordinance will be administered by the Planning Board.

*Effective Date.* The effective date of this ordinance is July 31, 1996, which is 30 days after the adoption of this ordinance at Town Meeting. Adoption of this ordinance will repeal any previously adopted road construction and acceptance standards. It does not affect any new road or changes to an existing road that has been reviewed and approved by the Planning Board and recorded at the Androscoggin County Registry of Deeds prior to the effective date of this ordinance.

### **Section 3. Applicability**

- A. *New Construction:* This ordinance will apply to the construction of all new streets within the town whether public, private or common drive. No Streets will be accepted as a town way unless they meet the provisions of this ordinance. Final acceptance of a proposed road will occur only after an affirmative vote at a Town Meeting.
- B. *Alterations:* Alterations, widening, and improvements will be consistent with Section 7. Street Construction Standards of this ordinance.
- C. No Building permits will be issued on streets, roads, discontinued roads, or unmaintained roads, unless they meet the minimum road design standards for a common drive.
- D. *Higher Design and Construction Standard:* Nothing in this ordinance will be construed to prevent the design and construction of streets which meet higher standards, use improved methods, or higher quality materials.



# Sabattus, Maine – Code of Ordinances

## **Section 4. Application Procedures**

Prior to the construction any new street or the reconstruction or lengthening of an existing street, the applicant will request to be placed on the Planning Board's agenda by writing to the Chairman with their intentions. The letter must be received by the Chairman at least ten (10) working days before that month's meeting.

Ten copies of the completed application form, required plans and related information will be submitted to the Code Enforcement Officer with the required fees, no later than the first day of the month in which the meeting will be held. The Codes Enforcement Officer will forward one copy to the Chairman and each member of the Planning Board.

### **A. Submission Requirements:**

1. The name(s) of the applicant(s);
2. The name(s) of the owner(s) on record of the land upon which the proposed street is to be located;
3. A statement of any legal encumbrances of the land upon which the proposed street is to be located;
4. The anticipated starting and completion date of each major phase of street construction; and
5. A statement indicating the nature and volume of traffic expressed in Average Daily Traffic expected to use the proposed street.

**B. Plans:** The plans and illustrations submitted as part of the application will be prepared by a Registered Land Surveyor or Professional Engineer to include the following information.

1. The scale of the plan. (All streets and roadway plans and profile drawings will be drawn to a scale 1" = 50' horizontal and 1" = 10' vertical;
2. The direction of magnetic north;
3. A plan profile and typical cross section views of all proposed streets;
4. The starting and ending point with relation to established roads, streets, or ways and any planned or anticipated future extensions of the streets. (All terminal points and the center line alignment will be identified by survey stationing.);
5. The roadway and roadway limits with relation to existing buildings and established landmarks;
6. Dimensions, both lineal and angular, necessary for locating boundaries and necessary for locating subdivisions, lots, easements, and building lines;

## Sabattus, Maine – Code of Ordinances

7. The lots, if any, as laid out and numbered on said street showing the names of all owners of abutting property;
  8. All natural waterways and watercourses in or on land contiguous to the said streets or ways;
  9. The kind, size, location, profile, and cross-section of all existing and proposed drainage ways and structures and their relationship to existing natural waterways;
  10. A soil erosion and sedimentation control plan showing interim and final control provisions;
  11. Curve data for all horizontal and vertical curves will be the center line radius, arc length, beginning of curve, and end of curve points;
  12. All center line gradients will be shown and expressed as a percent;
  13. All curve, property lines and radii or intersections;
  14. The limits and location of any proposed sidewalks and curbing;
  15. The location of all existing and proposed underground utilities to include, but not limited to, the following: (Note: When a location, in the case of any underground utility, is an approximate, it will be noted on the plan as such.)
    - a. Storm drains;
    - b. Telephone lines or underground vaults;
    - c. Electrical power lines or underground vaults;
    - d. Public water supply lines.
    - e. Sanitary sewer lines.
  16. The name(s) of each proposed new road or street laid out in accordance with the requirements set forth in the Sabattus Street Naming Ordinance.
- C. Upon receipt of plans for a proposed public street, the Planning Board will forward one copy to the Municipal Officers and one copy to the Road Commissioner for review and comment. Plans for streets which are not proposed to be accepted by the municipality will be sent to the Road Commissioner for review and comment.
- D. Streets within proposed subdivisions: Streets proposed as part of a subdivision as defined in the Town of Sabattus' Subdivision Ordinance shall be submitted to the Planning Board as an integral part of the Subdivision Application. Plans will conform to the provisions of this Ordinance as well as that required by the Town of Sabattus' Subdivision Ordinance.

## Sabattus, Maine – Code of Ordinances

E. *Application Fee*: An application fee as listed in the Town of Sabattus Fee Schedule will be paid to the Town of Sabattus upon submission of an application. The Planning Board will have the authority to review and revise the application fee. The application fee will be waived if the street is being reviewed as an element of the Subdivision Application.

F. *Application Review*:

1. *Compete Application*: Within thirty (30) days from the date of receipt, the Planning Board will notify the applicant in writing either that the application is compete, or if incomplete, the specific additional material needed to make them complete.

Determination by the Planning Board that the application is complete in no way commits or binds the Planning Board as to the adequacy of the application to meet the requirements of this ordinance.

2. *Application Approval*: The Planning Board will, within thirty (30) days of a public hearing or within sixty (60) days of having received the completed application or within such other time limit as may be mutually agreed to, deny or grant approval on such terms and conditions as it may deem advisable to satisfy this ordinance and to preserve the public health, safety, and general welfare. In all instances, the burden of proof will be upon the applicant. In issuing its decision, the Planning Board will make a written finding of fact establishing that the application does or does not meet the provisions of this ordinance.

3. *Public Hearing*: The Planning Board may hold such public hearing within thirty (30) days of having notified the applicant in writing that a complete application has been received and will cause notice of the date, time, and place of such hearing to be given to the applicant, all property owners abutting the proposed street, and published in a newspaper or general circulation in Sabattus as least two (2) times; the date of the first publication will be at least seven (7) days prior to the hearing.

### **Section 5. Public Acceptance of Streets**

The approval by the Planning Board of a proposed public street will not be deemed to constitute or be evidence of any acceptance by the Municipality of the Street. Final acceptance of the proposed public street will be by an affirmative vote at a Town Meeting.

# Sabattus, Maine – Code of Ordinances

## **Section 6. Street Design Standards**

- A. These design standards will be met by all streets and will control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
- B. Streets will be designed to discourage through traffic within a residential subdivision and must be a minimum of one thousand feet in length to be presented to the Town for acceptance as a Town Way.
- C. The character, extent, width, and grade of all streets will be considered in their relation to existing or planned streets.
- D. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this ordinance) or when the comprehensive plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan will indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes". Land reserved for such purposes may not be included in computing lot area or setback requirements.
- E. Any common drive serving four dwelling units or less that is being used to meet the town's road frontage requirement must be inspected by the Code Enforcement Officer. It does not require pavement or approval by the Planning Board. The road surface and other factors applicable to the road, must be visible if it is to be inspected.
- F. Privately-Owned Roads: Where streets are to remain privately owned roads, the recorded plan must be annotated to indicate this status.
- G. All privately owned roads will remain private roads to be maintained by the developer or the Home Owners Association and will not be accepted or maintained by the Town of Sabattus unless they meet the provisions set forth in this ordinance.
- H. For all new privately-owned roads the developer will form a Home Owners' Association for the street maintenance and be placed on the recorded plan.
- I. For all new privately-owned roads, the home owners will present the Code Enforcement Officer with a signed maintenance agreement before permits may be issued. The following design standards apply according to street classification:

# Sabattus, Maine – Code of Ordinances

## ROAD DESIGN STANDARDS

ROAD TYPE	MINOR	MAJOR	PRIVATE MINOR	PRIVATE MAJOR	COMMON DRIVE
Ave. Daily Traffic	0 – 250	251 +	0 - 250	251 +	0 - 100+
Right-of Way Width	50 feet	60 feet	50 feet	50 feet	50 feet
Minimum Pavement	20 feet	22 feet	20 feet	20 feet	N/A
Minimum Grave Width	26 feet	30 feet	26 feet	26 feet	18 feet
Minimum Shoulder Width	3 feet	4 feet	3 feet	3 feet	N/A
Minimum Aggregate Subbase Required Compacted	22 inches	24 inches	18 inches	18 inches	18 inches
Minimum Hot Bituminous Pavement	2" base 1" surface	2" base 1" surface	N/A	2" base	N/A
Minimum Roadway Crown	1/4" /ft	1/4" /ft	1/4" /ft	1/4" /ft	1/2" /ft
Minimum Grade	5%	5%	5%	5%	N/A
Minimum angles at intersection	75	90	75	90	75
Minimum Center Line Radius for Curves	150 ft	220 ft	150 ft	220 ft	150
Minimum Tangent Length Between Curves	100 ft	100 ft	100 ft	100 ft	50

J. The centerline of the roadway will be the centerline of the right-of-way.

K. Dead-end streets will be constructed to provide a Cul-de-sac turnaround with the following requirements for a radius: 65 feet to property lines and 50 feet to the edge of pavement from center. Dead-end streets may provide a permanent "Hammerhead" or "T" type turnaround in lieu of the cul-de-sac. Such turnarounds will be a minimum of 65 feet in length from property line to property line and 50 feet in

## Sabattus, Maine – Code of Ordinances

width. The pavement will be 50 feet in length from the edge of the property line and 20 feet in width and have 3 foot gravel shoulders.

# Sabattus, Maine – Code of Ordinances

## L. Grades, Intersection, and Sight Distances

1. Where new street intersections or driveways are proposed, sight distances, as measured along the road onto which traffic will be turning, will be based upon the posted speed limit and conform to the table below:

Posted Speed Limit	Sight Distance
25 Mph	250 feet
30 Mph	300 feet
35 Mph	350 feet
40 Mph	400 feet
45 Mph	450 feet
50 Mph	500 feet
55 Mph	550 feet

Where necessary, corner lots will be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

2. Cross (four cornered) street intersections will be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. The posted speed limit will affect the minimum sight distance and the area to be cleared.

## M. Sidewalks, where installed, shall be at least five (5) feet wide and meet these minimum requirements:

### 1. Bituminous Sidewalks

- a. The gravel aggregate sub-base course will be no less than twelve (12) inches thick.
- b. The Portland Cement concrete will be reinforced with six-inch-square, number 10 wire mesh and will be no less than Six (6) inches thick.

N. Curbing, where installed, shall be quarried granite stone, pre-cut Portland Cement Concrete, or a machine formed bituminous hot mix and shall be installed on a properly compacted base.

O. Road and driveway culvert sizes will be determined on the basis of the estimated runoff from the total land area served.

# Sabattus, Maine – Code of Ordinances

## **Section 7. Street Construction Standards**

### A. Preparation:

1. After the clearing and grading has started on the traveled way, the side lines of the new road will be staked or flagged at 100 foot intervals.
2. Before grading is started, the developer will present the Planning Board with a Street Construction Plan. This plan will establish phases for the removal of all stumps, roots, brush, rocks larger than 6" in diameter, and organic material not suitable for a Road Base. Consideration must be given to preventing erosion. Each phase must be inspected by the Road Commissioner or his designee and/or a member of the planning board who has been designated to do this function by the Planning Board. A record of this inspection must be made and a copy provided to the developer.
3. Road and driveway culvert sizes will be determined on the basis of estimated runoff from the total area served. Minimum culvert size shall be 12" in diameter and the culvert shall be either aluminum coated or aluminum-zinc coated corrugated metal pipe. Aluminum coated is preferred.
4. Side slopes, whenever possible, will be no steeper than a slope of three feet horizontal to one foot vertical, and will be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.
5. All underground utilities will be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections will be installed to the edge of the right of way prior to paving.

### B. Bases and Pavement Specifications:

1. Base Material: This material will meet Maine Department of Transportation (MDOT) standard Specification #703.06 (B) Type D for the entire 22" or 24" fill thickness. Depth of fill material will be as measured after compaction. For 22" of material, compaction will occur after each 11" lift. For 24" of material, compaction is required after each 12" lift. All aggregate subbase material will be free of rocks or rock particles which exceed six (6) inches in diameter. Roads that are not compacted in accordance with this section will not be paved until they:
  - a. Remain unpaved and allowed to compact naturally for a minimum of eighteen (18) months.
  - b. Are tested by an independent testing company, selected by the Town of Sabattus, at the developer's expense to ensure it meets a ninety (90) percent compaction rate. Testing intervals will be determined by the Road Commissioner and the Testing Company, but must be at least one test per one hundred linear feet.



# Sabattus, Maine – Code of Ordinances

## 2. Pavements:

- a. Minimum standards for the base layer of pavement shall be the MDOT specifications for plant mix B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15th and November 15th, provided the air temperature in the shade at the paving location is 35 degrees Fahrenheit or higher and the surface to be paved is not frozen or unreasonable wet.
- b. Minimum standards for the surface binder of pavement shall be the MDOT specifications for plant mix for grade C or D with an aggregate size no greater than 3/4 inch and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15th and October 15th, provided the air temperature in the shade at the paving location is 50 degrees Fahrenheit or higher.

## **Section 8. Additional Improvements and Requirements**

- A. *Erosion Control*: The procedures outlined in the erosion and sedimentation control plan will be implemented during the site preparation, construction, and clean up stages.
- B. *Cleanup*: Following street construction, the developer or contractor will conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site will be indicated on the Plan and be suitably covered with fill and topsoil, limed, fertilized, and seeded.
- C. *Street Names, Signs, and Lighting*: Streets which join and are in alignment with streets of butting or neighboring properties will bear the same name. Names of new streets will not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and will be subject to approval of the Planning Board. The developer will reimburse the Municipality for the cost of installing street name, traffic safety, and control signs.

## **Section 9. Performance Guarantees**

- A. *Types of Guarantees*: With submittal of the application for street approval, the applicant will provide one of the following performance guarantees for an amount adequate to cover the total construction costs taking into account the time-span of the construction schedule and the inflation rate for construction costs:
  1. Either a certified check payable to the Town of Sabattus or a savings account or certificate or certificate of deposit naming the Town as owner for the establishment of an escrow account;

## Sabattus, Maine – Code of Ordinances

2. A performance bond payable to the Town issued by a surety company approved by the Municipal Officers;
3. An irrevocable letter of credit from a financial institution establishing funding for the construction from which the Town may draw if construction is inadequate approved by the Municipal Officers; or
4. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of a performance guarantee will be determined by the Planning Board with the advice of the Road Commissioner and Municipal Officers.

- B. *Contents of Guarantee*: The performance guarantee will contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default, and the town will have access to the funds to finish construction.
- C. *Escrow Account*: A cash contribution to the establishment of an escrow account will be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For an account opened by the subdivider, the municipality will be named as owner or co-owner, and the consent of the municipality will be required for a withdrawal. Any interest earned on the escrow account will be returned to the applicant except for any portion of the interest earned which was needed in addition to the principle of the escrow account to pay for completion of the required improvements.
- D. *Performance Bond*: A performance bond will detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents will specifically reference the project for which approval is sought.
- E. *Letter of Credit*: An irrevocable letter of credit from a bank or other lending institution will indicate that funds have been set aside for the construction of the street and may not be used for any other project or loan.
- F. *Release of Guarantee*: Prior to the release of any part of the performance guarantee, the Planning Board will determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- G. *Default*: If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the Code Enforcement Officer will so report in writing to the Municipal Officers, the Planning Board, and the subdivider or builder. The Municipal Officers will take any steps necessary to preserve the town's rights.

# Sabattus, Maine – Code of Ordinances

## **Section 10. Inspection**

- A. *Notification of Construction*: At least five (5) days prior to commencing street construction or alteration of roads, the applicant will notify the Code Enforcement Officer in writing of the time when he proposes to commence construction so that the municipal officers can cause inspection to be made to assure that all municipal specification and requirements will be met during the construction. The area to be inspected must be visible at time of inspection. Snow cover or other factors that prevent or impede the inspector from doing a thorough inspection must be eliminated prior to the inspection.
- B. *Noncompliance With Plan*: If it is found upon inspection the improvement (s) is not being or has not been constructed in accordance with the approved plans and specifications, the inspector will so report to the Municipal Officer and Planning Board. The Municipal Officers will then notify the applicant, and, if necessary, the bonding company, and take all necessary steps to preserve the municipality's rights under the guarantee, security, or bond.
- C. *Modification During Construction*: If at any time before or during the construction of the street, it is demonstrated to the satisfaction of the appointed inspector that unforeseen conditions make it necessary or preferable to modify the location or design of the street, the appointed inspector may, upon approval of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval. The appointed inspector will issue any authorization under this section in writing and will transmit a copy of such authorization to the Planning Board at its next regular meeting.
- D. *Inspection Fee*: The Planning Board may assess the applicant a fee to cover the costs of construction inspections.

## **Section 11. Variances and Waivers**

- A. Where the Planning Board makes written findings of fact that the applicant will suffer an undue economic or other hardship if the requirements of this ordinance are strictly applied, it may waive the necessity for strict compliance with the requirements of this ordinance in order to provide relief from the hardship in question and to permit a more practical and economical development provided, however, that the public health, safety, and welfare will not be compromised and further provided that the waivers in question will not have the effect of nullifying the effect of this ordinance.
- B. In granting waivers to any provision of this ordinance in accordance with Section 12.A, the Planning Board will require such conditions as that will assure the objectives of this ordinance are met.

# Sabattus, Maine – Code of Ordinances

## **Section 12. Separability**

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct, and independent provision and such holding will not affect the validity of the remaining portions thereof.

## **Section 13. Appeals**

An appeal may be taken within 30 days from the Planning Board's decision on the application, by any party to Superior Court in accordance with Rule 80B. Of the Maine Rules of Civil Procedure.

## **Section 14. Amendments**

*A. Initiation of Amendments:* An amendment to this ordinance may be initiated by:

1. The Planning Board, provided a majority of the Board has so voted;
2. Request of the Municipal Officers; or
3. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last Gubernatorial Election.

*B. The Planning Board will hold a public hearing on the proposed amendment. Notification of the hearing will be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.*

*C. Adoption of Amendment:* An amendment of this Ordinance will be adopted by a majority vote of the Board of Selectmen.

## **Section 15. Definitions**

In this ordinance, the following terms have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Terms not defined will have their customary dictionary meaning.

*Privately Owned Street* - A Street which is not intended to be dedicated as a town way.

*Street* - Public and private ways such as alleys, avenues, highways, roads and other rights-of-ways, as well as areas on a subdivision plan designated as rights-of-ways for vehicular access, other than driveways, farm roads or logging roads.

*Arterial Street* - A major thoroughfare which serves as a major traffic way for travel between and through the municipality.

# Sabattus, Maine – Code of Ordinances

*Major Street* - A street which serves as a feeder to arterial streets and collector or traffic from minor streets and has an average weekly traffic level of 250 or more per day.

*Existing Public Street* - Road which are maintained by the Town of Sabattus and the State of Maine.

*Industrial or Commercial Street* - A street servicing industrial or commercial uses.

*Minor Street* - A street whose sole function is to provide access to abutting properties that will generate an average weekly traffic level of less than 250 per day.

*Reconstructed* - Reconstructed means the rebuilding of a road or section of a road to improve its serviceability.

*Repair* - Repair means to take necessary action to fix normal damage or storm damage.

*Reserve Frontage Street* - A street which provides residential frontage other than that on a through traffic street.

*Common Drive* - A vehicle access way serving four dwelling units or less that does not need Planning Board approval.

*Private Minor Street* - A street that cannot be presented to the town for acceptance as a Town Way and whose sole function is to provide access to abutting properties that will generate less than 250 average weekly traffic trips.

*Private Major Street* - A street that cannot be presented to the town for acceptance as a Town Way but which serves as a feeder to arterial streets and collector of traffic from Minor Streets. Average Weekly Trip Generation is 250 or greater.

## Appendices:

Appendix 1 - Cul-De-Sac Turn

Appendix 2 - "T" Turn Around

Appendix 3 - Hammer Head Turn Around

Appendix 4 - Typical Cross-Section

Accepted:

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Original Adoption:

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Revision Dates:

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# Sabattus, Maine – Code of Ordinances

## **STREET OPENINGS - EXCAVATIONS ORDINANCE**

<b>SECTION 1.</b>	<b>PURPOSE</b>
<b>SECTION 2.</b>	<b>RULES AND REGULATIONS</b>
<b>SECTION 3.</b>	<b>PERMIT REQUIRED</b>
<b>SECTION 4.</b>	<b>TIME OF ISSUE RESTRICTED</b>
<b>SECTION 5.</b>	<b>FEE SCHEDULE</b>
<b>SECTION 6.</b>	<b>INSPECTIONS</b>
<b>SECTION 7.</b>	<b>VIOLATIONS</b>
<b>SECTION 8.</b>	<b>COSTS AND PENALTIES</b>

### **SECTION 1. PURPOSE**

The Purpose of this ordinance is to regulate and control the application and issuance of Street Openings-Excavations Permits granted by the Town of Sabattus (hereinafter "Town"), and the excavation, use and repair of Town roads by permittees. Furthermore, this ordinance seeks to ensure that proper and safe standards of work are achieved when performing any Street Openings-Excavations on a Town street or sidewalk and that the work to close and seal the roadway or sidewalk after the opening-excavation is complete is done to an acceptable and safe standard to ensure public safety, protect property, and protect Sabattus taxpayer infrastructure assets.

### **SECTION 2. RULES AND REGULATIONS**

- A. Issuance. The Sabattus Road Foreman may execute and issue a Street Openings-Excavations Permit on behalf of the Town and establish such rules as to implement the provisions of this ordinance.
- B. Limitation. Permits for any portion of a road or sidewalk, the construction of which was completed within the time frames detailed below prior to the date of the permit, will be referred to the Sabattus Selectmen before a permit may be granted; except in the case of an emergency no work shall be done on any such section of road or sidewalk until the permit has been approved by Sabattus Selectmen or their designee.
  - 1. Any overlay more than 5/8 inch "maintenance paving": 3 years
  - 2. Any construction work of higher order than an overlay, such as; "reclaiming," "foamed asphalt," and full depth base replacement; 5 years

## Sabattus, Maine – Code of Ordinances

If the applicant can show that the need for an Opening-Excavation Permit could not have been reasonably anticipated before the road was paved, and has made an effort to investigate alternate installation procedures, an "emergency" permit may be issued. For any Opening-Excavation Permit issued within the timeframe mentioned above, the Town may make sufficient additional charge to offset the cost of additional inspection and/or paving adjacent to the opening.

No Permit, except in the case of emergency, shall be granted unless the work contemplated is to be completed within the paving zone dates specified in Section 4 of this ordinance.

When an opening is deemed to be an emergency, The Town will require more stringent winter conditions and the permit holder will be required to provide temporary paving and to maintain the trench until the frost is out of the ground.

C. Conditions. All permits shall be granted subject to the following conditions.

1. The traveling public shall be adequately protected.
2. At least one-way traffic shall be maintained at all times unless the Road Foreman approves full road closure to improve safety and/or shorten construction time.
3. Work shall be signed, lighted and traffic officers will be supplied when necessary. All traffic controls shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, as issued by the Federal Highway Administration.
4. Construction methods shall be such that excessive excavation and excessive destruction of pavement will be avoided. Pavements shall be cut in advance along the proposed edges of excavation. All trench work shall comply with current OSHA regulation.
5. The Town shall limit the permit by setting the time(s) of day within which the work must be accomplished and may prohibit work on Saturdays, Sundays, and holidays.
6. The backfill material shall be as follows:
  - a) Top 12 inches, or full depth of gravel base in more recently constructed roads, shall conform to the Maine Department of Transportation's gravel base specifications.
  - b) All other backfill shall be equivalent to material removed, except that special backfill of suitable material may be used immediately around pipe, cable, conduit, etc. or to replace material which cannot be compacted.
7. Backfill material shall be uniformly distributed in layers of not more than 12 inches and thoroughly compacted by use of approved mechanical compactors before successive layers are placed. Water shall be added when necessary to increase the moisture content of the backfill material in order to obtain adequate compaction. Puddling or jetting of backfill will not be allowed.
8. Surplus material shall be removed from the site and the area shall be left in a clean, presentable condition.

## Sabattus, Maine – Code of Ordinances

9. Permanent pavement shall be replaced to the full depth and extent of the existing pavement removed.
  10. Compliance with the terms and conditions of this permit shall be the responsibility of the permit holder. The Town will not assume any liability for damages arising out of or resulting from a violation of the permit terms.
  11. If the Town determines that work is being conducted in an improper manner, the Town will notify the permittee, both verbally and in writing, of the deficiency (or deficiencies) and may also require additional actions to correct and/or verify work that has been accomplished and to prevent further issues on the project. Examples of such actions may include:
    - a) Requiring the permittee to retain the inspection services of an engineering firm, at the permittee's expense,
    - b) re-excavating and backfilling questionable or deficient areas as may be necessary, or
    - c) cleaning areas that were not properly addressed.
  12. If the permittee does not undertake the required corrective actions, the Town reserves the right to address the issues as necessary and will charge the permittee for all associated costs.
- D. In general, there is no opening fee if an installation is made immediately before or during reconstruction of a road. Although an opening fee may not be charged, the permit holder will be billed for any damage to the road. If traffic is to pass over the location, the trench shall be capped with 3 inches of cold mix bituminous pavement for openings made before construction. The permittee shall be responsible for maintaining the trench area until such time that the roadway falls under jurisdiction of the construction project.
- E. Installations proposed to be made under paved areas shall be designed to use the shortest possible distance under the pavement consistent with the particular installation involved. The Town may require, or the permittee may propose, a method of installation (such as tunneling or jacking) which will not cause damage to or opening of the pavement. When such method is required or proposed; the method to be used shall be developed by the permittee and approved by the Town. Approval by the Town will not relieve the permittee of its responsibility for performing the work in a satisfactory manner.
- F. Installations subject to freezing shall be sufficiently deep so that it will not be damaged by frost penetration.
- G. All permits shall be made on prepared forms.
- H. All permits shall be signed by the Sabattus Road Foreman.
- I. Every permit shall contain:
1. A permit number
  2. Date of issuance



## Sabattus, Maine – Code of Ordinances

3. Name(s) of the applicant (a.k.a. “permittees”)
  4. Location of the purpose excavation
  5. Time limitation or period during which the excavation may remain open.
  6. Any standard or special instruction together with such safety precautions to be observed as may be required due to the particular circumstances.
- J. Permittee must contact and notify Dig Safe and the Sabattus Sanitary District-Water Division before any work commences.

### **SECTION 3. PERMIT REQUIRED**

No person or utility shall make any opening, excavation, modify, or fill any excavation, excluding a previously permitted location, in any public place which shall include all public water, sewer, and stormwater drainage systems without first obtaining a permit to do so from the Town; except as otherwise provided in this chapter or the rules and regulations. Any opening-excavation within the Town's streets, sidewalks, esplanades or other public rights-of-way including public water, sewer, and stormwater drainage systems shall only be permitted in accordance with this ordinance, and other applicable rules and regulations. The granting of such a permit shall cover all required activities and mandate conformance with this ordinance and other applicable rules and regulations.

### **SECTION 4. TIME OF ISSUE RESTRICTED**

Except in an emergency as determined by the Road Foreman, no street or sidewalk opening permit shall be issued between November 15 and March 15 of the following year unless the Road Foreman determines that the temperatures, road condition, and timeframe for project completion are all favorable to allow work to be fully completed without risk of damage to any Town infrastructure, or substandard final work product.

### **SECTION 5. FEE SCHEDULE**

- A. The Sabattus Selectmen shall establish a fee which shall be paid for the issuance of an excavation permit for each instance of a Street Openings-Excavations.
- B. There shall be no permit fee assessed to the Sabattus Sanitary District & Water Division (“the District”). However the District shall be required to submit a permit application and obtain approval from the Road Foreman prior to any work commencing. Furthermore, the District shall be subject to all other provisions of this ordinance. In cases of an emergency such as a water main break, the District personnel shall notify the Road Foreman as soon as is practically possible, but the

# Sabattus, Maine – Code of Ordinances

District will not be subject to any fines or penalties as a result of a Street Opening to remedy an emergency situation without a permit.

- C. Utilities and contractors have the option to pay an annual fee established by the Sabattus Selectmen for unlimited street openings-excavations throughout the year. Interested parties must apply for annual fee approval and must be pre-qualified by meeting evaluation criteria established by the Road Foreman and Town Manager as outlined in the application forms. A prequalified utility or contractor must still notify the Sabattus Road Foreman at least three days in advance of a street opening and must comply with all other provisions in this ordinance.

## **SECTION 6. INSPECTIONS**

- A. The Town shall make such inspections as are reasonably necessary in the enforcement of this ordinance.
- B. The Road Foreman may order such actions as he/she deems necessary to ensure that the rules and regulations implementing this ordinance are not violated.
- C. In the event that any dispute exists as to the amount, nature, or scope of the work required under this ordinance, the decision and judgment of the responsible Town official will be final and binding unless appealed to or stayed by a court of competent jurisdiction.

## **SECTION 7. VIOLATIONS**

- A. Any person, contractor, or utility found to be conducting any opening-excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. A surcharge fee established by the Sabattus Selectmen shall be required in addition to all applicable permit fees. This section does not apply to excavations necessitated by an emergency situation, as determined by the Sabattus Road Foreman.
- B. Any person, contractor, or utility failing to comply with or violating any provision of this ordinance or the rules shall be served with written notice by the Road Foreman stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person, contractor, or utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.

## Sabattus, Maine – Code of Ordinances

- C. In order to ensure public safety, the Road Foreman shall have the right to verbally notify and require immediate corrective actions of any person, contractor, or utility whose failure to comply with this ordinance or the rules could cause a safety hazard.
- D. Any person, contractor, or utility who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this ordinance or the rules shall be guilty of a violation of this ordinance.
- E. Any person, contractor, or utility violating any of the provisions of this ordinance or the rules shall be liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation. The Town may seek injunctive relief for the purposes of enforcing this ordinance or the rules.
- F. Any permittee or other party that continues to violate any section of this ordinance or the rules and fails to correct violations in a timely manner shall receive no further permits and will be invoiced for permanent repairs until such time as the Town is satisfied that the permittee or party shall have corrected all violations in compliance with the terms of this ordinance and rules established to implement it.
- G. The Town reserves the right to notify a permittee's insurance and/or bond carrier of repeated violations.

### **SECTION 8. COSTS AND PENALTIES**

- A. Any violation of this chapter which is also a violation of 35-A M.R.S.A. § 2509 or 2511 or a violation of 23 M.R.S.A. § 3353 or 3355 shall subject the permittee or party to a fine as provided in said statutes, as said statutes may be amended from time to time.
- B. Any violation of this ordinance other than the violations of state law prescribed in the preceding paragraph shall subject the permittee or party to a daily fine, established by the selectmen, for each day that a violation continues.

Accepted:

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Original Adoption:

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Revision Dates:

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**Subdivision Ordinance  
Town of Sabattus, Maine**

**SECTION I. Purpose**

The purpose of this Ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Sabattus, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Sabattus, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this Ordinance have been met and that the proposed subdivision will meet the criteria of Title 30-A, M.R.S.A., Section 4404.

**SECTION II. Authority, Administration and Repeal of Existing Subdivision Ordinances.**

**A. Authority**

1. This Ordinance is adopted pursuant to Article VIII, Part 2, Section 1 of the Maine Constitution, Title 30-A Section 3001 and Title 30-A, M.R.S.A., Section 4403.2.
2. This Ordinance shall be known and cited as the "Town of Sabattus, Maine Subdivision Ordinance."

**B. Administration**

1. This Ordinance shall be administered by the Planning Board for the Town of Sabattus, Maine, hereafter referred to as the "Board."
2. The provisions of this Ordinance shall apply to all proposed subdivisions, as defined, located in the Town of Sabattus, Maine.
3. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision which has not received Board approval and recorded in the Registry of Deeds. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot or dwelling unit in a subdivision which has not received Board Approval and recorded in the Registry of Deeds. A Subdivision Plan recorded without Board approval shall be void.

Any person violating any provision of this Ordinance shall be fined a minimum of \$100 and a maximum of \$2,500 for each violation. Each day a violation exists shall be considered as a separate violation.

4. Construction Prohibited

Utility installations, ditching, grading or construction of roads, grading of land or lots, or construction of buildings or dwelling units shall not be started on any part of the proposed subdivision until the Final Plan has been approved and recorded in the Androscoggin County Registry of Deeds.

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Subdivision Ordinance*

**C. Repeal of Existing Subdivision Ordinance**

Adoption of this Ordinance shall repeal any and all previous adopted subdivision ordinances and regulations. This shall not prevent the enforcement of the repeal ordinances or regulations with respect to the time periods in which they were in effect.

**SECTION III. Administrative Procedure**

**A. Purpose**

The purpose of this Section is to establish an orderly, equitable and expeditious procedure for reviewing subdivision applications.

**B. Agenda**

In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least ten (10) days in advance of a regularly scheduled meeting by letter to the Board Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

**C. Joint Meetings**

If any portion of the proposed subdivision crosses the boundary of an adjacent municipality, the Board shall meet jointly with that municipality's planning board to discuss the application.

**SECTION IV. Pre-application Meeting**

Applicants shall schedule a meeting with the Board prior to formal submission, to present a sketch plan and make a verbal presentation regarding the site and the proposed subdivision.

**A. Submissions**

1. The Pre-application Sketch Plan shall show, in simple sketch form, the proposed development area, and other features in relation to existing conditions. The Sketch Plan, which may be a freehand penciled sketch, will be supplemented with general information to describe or outline the existing conditions of the site and the proposed development.
2. The applicant will furnish written evidence showing right, title or interest (option, contract for sale, etc.) in the property to be developed to the Board.
3. A written statement indicating if the parcel to be subdivided has changed ownership within the past five years, if timber has been harvested within the past five years and if such harvesting resulted in a violation of the Liquidation Harvesting Rule.

**B. Notification**

Upon receipt of the Sketch Plan, the Board shall notify in writing all owners of property within 1,000 feet to the proposed subdivision by mail.

- C. **Contour Interval and On-Site Inspection**  
Within thirty (30) days of the pre-application meeting, the Board shall determine and inform the applicant, in writing, of the required contour interval on the development plan and conduct an on-site inspection of the property.

#### SECTION V. Preliminary Plan

- A. The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
- B. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.
- C. The applicant shall submit twelve (12) copies of the Preliminary Plan and twelve (12) copies of the application for the proposed subdivision as detailed in Section VII. A and B to the Code Enforcement Office by the first of the month that the Board shall consider the preliminary plan application. The Board shall forward copies to the Board of Selectman, Fire Chief and Road Commissioner for review and comment. The Board shall issue a dated receipt to the applicant. Within thirty (30) days from the date of receipt, the Board shall notify the applicant in writing either that the Preliminary Plan and application are complete, or if incomplete, the specific additional material needed to make them complete. Determination by the Board that the Preliminary Plan and Application are complete in no way commits or binds the Board as to the adequacy of the Plan to meet the criteria of Title 30-A, M.R.S.A., Section 4404, and the provisions of this Ordinance are met.
- D. Upon receipt of the Preliminary Plan, the Board shall notify in writing all owners of property within 1,000 feet to the proposed subdivision by mail. The applicant shall forward the names and mailing addresses of all property owners within 1,000 feet of the proposed subdivision, including those across the road or street.
- E. **Application Fee**

The following fee(s) shall be paid at the time of submission of any preliminary plan:

1. Application fee \$1,000. This pays to notify the abutters, placing new subdivision on town map, and subdivision fee.
2. Review Fee \$100 per lot or dwelling unit. This fee is not refundable.
3. Review escrow account, \$100 per lot (or dwelling unit for multiplex development(s) deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures.

If the balance in the applicant's portion of the Board Review Escrow Account shall be drawn down by 75%, the Board shall require that an additional \$50.00 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down to 75% of the original deposit.

*Town of Sabattus, Maine*  
*Subdivision Ordinance*

Those monies deposited by the developer in the review escrow account and not spent by the Board in the course of its review shall be returned to the developer within thirty (30) days after the Board renders its final decision on the application.

- F. The Board may hold a public hearing on the Preliminary Plan. Procedures for such a hearing shall be according to State Law as provided in Section VII.
- G. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of having received the complete Preliminary Plan and application, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in this Ordinance and in Title 30-A, M.R.S.A., Section 4404, and to preserve the public health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Board shall make a written finding of fact establishing that the Preliminary Plan does or does not meet the provisions of this Ordinance and Title 30-A, M.R.S.A., Section 4404. Approval of the Preliminary Plan in no way commits or binds the Board to approve the Final Plan.

#### SECTION VI. Final Plan

- A. The applicant shall submit the original and twelve (12) copies of the Final Plan to the Code Enforcement Office by the first of the month that the Board shall consider the final plan application within one (1) year from the date of approval of the Preliminary Plan. The Board shall issue a dated receipt to the applicant. The Final Plan shall include all changes recommended by the Board in their approval of the Preliminary Plan. There shall be no other substantial changes between the Preliminary Plan and the Final Plan. The Final Plan shall be drawn in ink on polyester film suitable for permanent recording in the Androscoggin County Registry of Deeds.
- B. The Board has the option of holding a public hearing on the Final Plan. Procedures for such a hearing shall be according to State Law as provided in Section VIII.
- C. The Board shall, within thirty (30) days of a public hearing or within sixty (60) days of having received the complete Final Plan, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval of the Final Plan or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in this Ordinance and in Title 30-A, M.R.S.A., Section 4404, and to preserve the public's health, safety, and general welfare. In issuing its decision, the Board shall make a written finding of fact establishing that the Final Plan does or does not meet the provisions of this Ordinance and Title 30-A, M.R.S.A., Section 4404.

**STATUTORY REVIEW CRITERIA:** When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that the following criteria as found in Title 30-A M.R.S.A. 4404 have been met, and other sections of this regulation have been met, before granting approval. The proposed project:

- A. Will not result in undue water or air pollution. In making this determination, it shall at least consider:
  - 1. The elevation of the land above sea level and its relation to the flood plains;
  - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
  - 3. The slope of the land and its effect on effluents;
  - 4. The availability of streams for disposal of effluents; and
  - 5. The applicable State and local health and water resources rules and regulations;
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be used;



- D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- F. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- G. Will not cause and unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized;
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- I. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, or site plan. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
- J. The developer has adequate financial and technical capacity to meet the standards of this section.
- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, sections 435 through 490, or within 250 feet of tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
  - 1. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage of 200 feet and setback from the normal high-water mark of 250 feet.
    - (a) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a Shoreland strip narrower than 200 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
    - (b) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under Shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;
- L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the

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Subdivision Ordinance*



subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

- N. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- O. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
- P. The proposed subdivision will provide for adequate storm water management;
- Q. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
- R. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
- S. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- T. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A. section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A. section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

#### SECTION VII. Submission Requirements

##### A. Application

The application form shall be furnished by the Board, filled out by the applicant and shall include the following information: (Items marked with an "X" shall be required in all instances; items with and "X" may be required at the discretion of the Board.)

- ☒ 1. Name and address of owner.
- ☒ 2. Name and address of applicant (if other than owner).

*Town of Sabattus, Maine  
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- ☒ 3. If the applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's Registration.
- ☒ 4. Name of applicant's authorized representative.
- ☒ 5. Name, address and number of Registered Professional Engineer, Professional Land Surveyor or Planner who prepared the plan.
- ☒ 6. Address to which all correspondence from the Board should be sent.
- ☒ 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, recorded ownership, etc.)?
- ☒ 8. What interest does the applicant have in any property abutting the parcel to the subdivided?
- ☒ 9. State whether the subdivision covers the entire or contiguous holdings of the applicant.
- ☒ 10. Location of property: book and page (from Registry of Deeds).
- ☒ 11. Location of property: map and lot (from Assessor's Office).
- ☒ 12. Current zoning of property.
- ☒ 13. Acreage of parcel to be subdivided.
- ☒ 14. Proposed method of sewage disposal and the results of an on-site soil investigation for each lot.
- ☐ 15. Soil report for entire area.
- ☒ 16. Indication of type of water supply to be used. Evidence of adequate ground water supply and quantity shall be submitted by a well driller or a hydrogeologist familiar with the area.
- ☒ 17. Names and mailing address of all property owners within 1,000 feet of the proposed subdivision including those across any road or street.
- ☒ 18. Proposed restrictive covenants to be placed on the deeds.
- ☒ 19. A statement of financial and technical capability.
- ☒ 20. A written statement from the Fire Chief and Road Commissioner as to the departments capacity to serve the proposed subdivision along with their recommendations as to any improvements necessary to provide for fire protection.
- ☐ 21. A phosphorus impact analysis and control plan when located in the direct water shed of a great pond.
- ☐ 22. A ground water impact analysis.

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- \_\_\_\_\_ 23. The applicant shall provide a municipal service impact analysis that includes a list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the Town of Sabattus or quasi-municipal districts. This list shall include but not be limited to: schools including busing; street reconstruction, maintenance, and snow removal; solid waste disposal; and fire protection. The applicant shall provide an estimate of the net increase in taxable assessed valuation upon build out of the subdivision.
- \_\_\_\_\_ 24. Storm water control plan designed to accommodate the 25-year storm.
- \_\_\_\_\_ 25. Maine Department of Transportation Driveway/Entrance Permits if the subdivision will have access to Routes 9, 126, 132, 197, High Street, Main Street, Green Street, Grove Street, Bowdoinham Road or Crowley Road.
- \_\_\_\_\_ 26. Other local, state or Federal permits as required.
- \_\_\_\_\_ 27. A statement concerning timber harvesting resulting in any violation of the Liquidation Harvesting Rule.
- \_\_\_\_\_ 28. Statement from the Sewer and/or Water District that they will permit connection into the sewer or water district system.
- \_\_\_\_\_ 29. Legal documents creating Homeowners or Road Owners Associations.
- \_\_\_\_\_ 30. Waivers requested accompanied by reasons and justification.

**B. Subdivision Plan**

The Subdivision Plan shall be a map of the tract to be subdivided, certified by a Professional Land Surveyor and tied to established reference points. The plan shall not be less than 18" by 24" and shall be drawn to a scale of 1" equals not more than 100'. The Subdivision Plan shall include the following information: (Items marked with an "X" shall be required in all instances; items without an "X" may be required at the discretion of the Board.)

	Preliminary Plan	Final Plan	
1.	<u>  X  </u>	<u>  X  </u>	Name of proposed subdivision; location of subdivision; name of subdivider; and signature and seal of Professional Land Surveyor.
2.	<u>  X  </u>	<u>  X  </u>	Lot numbers.
3.	<u>  X  </u>	<u>  X  </u>	Date, magnetic north point and graphic map scale.
4.	<u>  X  </u>	_____	Proposed lot lines with approximate dimension and lots areas and total area of land to be subdivided.
5.	_____	<u>  X  </u>	Proposed lot lines with dimensions, bearings, deflection angles, radii and central angles sufficient to reproduce any line on the ground and lot areas and total areas of land to be subdivided.

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6.	<u>  X  </u>	<u>      </u>	Location of temporary markers to enable the Board to locate each lot readily and appraise the basic lot layout in the field.
7.	<u>      </u>	<u>  X  </u>	Location of permanent markers, both natural and man-made.
8.	<u>  X  </u>	<u>  X  </u>	Location of all parcels to be dedicated to public use and the conditions of such dedication.
9.	<u>  X  </u>	<u>  X  </u>	Names of abutting property owners and subdivisions. Reference to recorded subdivision plans of adjoining lands by book and page number.
10.	<u>  X  </u>	<u>  X  </u>	Location of wetlands and if any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazards areas and the 100-year flood elevation shall be delineated on the plan.
11.	<u>  X  </u>	<u>  X  </u>	Location of all required soils investigation test pits. (Test pits for subsurface sewage disposal systems shall be in the area where such a system would likely be placed.
12.	<u>  X  </u>	<u>  X  </u>	Location and size of existing buildings.
13.	<u>      </u>	<u>      </u>	Suggested location of buildings, subsurface sewage disposal systems and wells.
14.	<u>      </u>	<u>      </u>	Location of all natural features or site elements to be preserved.
15.	<u>  X  </u>	<u>  X  </u>	Location of any existing watercourses and other essential existing physical features.
16.	<u>      </u>	<u>      </u>	Location and size of any existing sewers and water mains and other utilities; location and size of culverts and drains.
17.	<u>  X  </u>	<u>  X  </u>	Location, names and widths of existing and proposed streets, highways, easements and rights-of-way.
18.	<u>  X  </u>	<u>  X  </u>	Plan profiles and cross-sections for roadways, sidewalks and storm drainage facilities.
19.	<u>  X  </u>	<u>  X  </u>	A soil erosion and sediment control plan for construction and for permanent control.
20.	<u>  X  </u>	<u>  X  </u>	Contour lines at an interval of not more than (5, 10, 20) feet or other interval as specified by the Board.
21.	<u>      </u>	<u>      </u>	Other information not indicated above as required by the Board.
22.	<u>  X  </u>	<u>  X  </u>	The location and nature of significant wildlife habitats identified by the Maine Department of Inland Fisheries and Wildlife.

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- |     |               |               |                                                                                                                                    |
|-----|---------------|---------------|------------------------------------------------------------------------------------------------------------------------------------|
| 23. | <u>  X  </u>  | <u>  X  </u>  | Any portion of the subdivision which is located in the direct watershed of a great pond shall be identified.                       |
| 24. | <u>      </u> | <u>      </u> | The location of archaeological and historic sites, scenic area as identified in the Comprehensive plan and rare and natural areas. |
| 25. | <u>  X  </u>  | <u>  X  </u>  | Has the Subdivision Plan been signed by a Registered Professional Land Surveyor.                                                   |
| 26. | <u>  X  </u>  | <u>  X  </u>  | Has roadway been design seal and sign by a Registered Civil Engineer.                                                              |
| 27. | <u>  X  </u>  | <u>  X  </u>  | Does Subdivision show new and existing sewers, water mains, utility poles and easement.                                            |
| 28. | <u>  X  </u>  | <u>  X  </u>  | Location Maps, U.S.G.S., Soil Map and Aquifers Map.                                                                                |
| 29. | <u>  X  </u>  | <u>  X  </u>  | Does subdivision plan show 911 dots.                                                                                               |
- 
- |     |              |              |                                                                                                                                                   |
|-----|--------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| 30. | <u>  X  </u> | <u>  X  </u> | Suitable space to record on the approved plan, the date and conditions of approval, if any. This space shall be similar to the following example: |
|-----|--------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------|

Approved by the Town of Sabattus Planning Board:

Signed:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date:

\_\_\_\_\_

Conditions:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### SECTION VIII. Public Hearing

The decision to hold a public hearing is discretionary, and in making its decision, the Board may consider the size and type of the subdivision, the community impact and whether any written requests for such a hearing have been received. In the event that the Board determines to hold a public hearing on either the Preliminary Plan or the Final Plan of the proposed subdivision, it shall hold such public hearing within thirty (30) days of having notified the applicant in writing that a complete Subdivision Plan has been

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received and shall cause notice of the date, time and place of such hearing to be given to the subdivider, and published in a newspaper of general circulation in Sabattus at least two (2) times; the date of the first publication shall be at least seven (7) days prior to the hearing. Public hearings shall be conducted in accordance with the procedures in Title 30-A, M.R.S.A., Section 2691, Subsection 3 a, b, c, d, and e. The Planning shall notify all property owners within 1,000 feet of the boundaries of the Public Hearing.

#### **SECTION IX. General Requirements**

##### **A. Buffer Strips**

The Board may require buffer strips, to protect water bodies and streams from sedimentation, to provide space for movement of wildlife between important habitats and to shield adjacent users from unsightly development, noise and lighting. The Board will consider the following in establishing audio/visual buffer strips.

1. Plant materials shall be at least four feet in height and be of such evergreen species that will produce ultimately a dense audio/visual screen at least eight feet in height. Alternatively, a six-foot high wooden fence, without openings wider than 1", may be substituted.
2. The buffer will be maintained permanently, and any plant material which does not live shall be replaced within one year.
3. The plantings of the buffer shall be so placed that at maturity it will be no closer than eight (8) feet from any street or property line.
4. The buffer will be broken only at points of vehicular/pedestrian access. When the buffer is broken by pedestrian access it shall be designed to now allow direct visual access to the adjacent property.

##### **B. Conformance with Other Laws, Ordinance**

The proposed subdivision shall be in conformance with all pertinent local, state, and federal ordinances, statutes, laws, and Ordinance. If any proposed subdivision meets the definition of a subdivision as defined in the Site Location of Development Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Board of Environmental Protection and the Board before any construction activity may begin in the subdivision.

##### **C. Impact on Community Services and Facilities**

Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing community services and facilities. When the Board finds, based on recommendation of the selectman and the results of any municipal impact analysis, that municipal services do not have the capacity to provide services to the proposed subdivision, the Board will require one or more of the following.

1. A voluntary payment to the Town of Sabattus to mitigate the direct impact to municipal services that has been identified as the consequence of the proposed subdivision. Any such payment shall be subject to the following provisions.
  - a. The Board, with advice from the Selectman, shall find that the money offered will mitigate the identified direct impact of the subdivision.



- b. The payment shall be held in a reserve account and may only be expended to fund capital improvements agreed to by the applicant and Board to mitigate the identified direct impacts.
  - c. The payment in all cases shall be expended within five years of collection, unless otherwise agreed upon the Board and applicant.
  - d. Any payment not expended shall be refunded to the property owner(s) of record at the time of the refund with interest as earned by the Town of Sabattus for the period the payment was held by the Town.
- 2. The applicant will construct or pay to construct the required improvements necessitated by the subdivision.
  - 3. Require phasing of the subdivision or limiting the number of lots that can be developed at any one time to allow the expansion of municipal services over time.
  - 4. Deny the Subdivision.

**D. Lots and Density**

- 1. The lot size, width, depth, shape and orientation and the minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The depth of any lot shall not exceed the width by a ratio of 3 to 1.
- 2. *Lots served by Town Water or Sewerage must be a minimum of 20,000 sq. ft. Note: If lot is impacted by wetland or easements it must not decrease the lots 20,000 sq. ft. building area.*
- 3. *Lots of 40,000 sq. ft. impacted by wetland and easement must not decrease lot size by more than 10% of building area.*
- 4. Lots over the aquifer must be 80,000 sq. ft. NOTE: Area that is impacted by wetland and easement must not decrease lots area by more than 10%.
- 5. Lot size can only be decreased or increased by a majority vote at the annual town meeting.

**E. Open Space Provisions**

- 1. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" or more in diameter), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas.
- 2. The Board may require that the subdivider reserve an area of land as an open space and/or recreational area for use by property owners in the subdivision.
  - a. If such an area is reserved, the Final Plan shall provide how title to the reserved land shall be held and how costs of development, maintenance and taxes shall be met.
  - b. Included in the instrument of conveyance (deed) to each property owner of the subdivision shall be a statement of:

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- 1) The manner of providing for the cost of development and maintenance and for property taxes of the reserved land.
  - 2) If appropriate, the individual property owner's pro rata share of development costs, maintenance cost and property taxes of the reserved land.
- c. Land designed for public use shall not be subdivided for any other purpose. This prohibition does not apply to land areas designated for later development if the Subdivision Plan includes provision for development in discrete stages.
  - d. Any area designated for common use shall be so arranged that each property owner has access to it.

**F. Storm Drainage**

Adequate provision shall be made for disposal of all storm water generated within the subdivision through a management system of ditches, swales, culverts, underdrains, and/or storm drains. The Storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

1. All components of the storm water management system shall be designed to meet the criteria of a 25-year storm.
2. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
3. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.
4. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flow.
5. Will comply with low impact development (L.I.D.) manual from the most recent draft from the Maine State Planning office.

**G. Erosion and Sedimentation Control**

Erosion soil and sedimentation of watercourse and water bodies shall be minimized. The following measures shall be included, where applicable, as part of subdivision review and approval.

1. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
2. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and so as to adequately handle surface water runoff.



3. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
4. Disturbed soils shall be stabilized as quickly as practical. Temporary mulch will be placed on all disturbed areas where seeding or other construction or stabilization activities will not take place for over 14 consecutive days.
5. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
6. The permanent (final) vegetation and structural erosion control measure shall be installed in the time periods contained in the erosion and sediment control plan.
7. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
8. Whenever sedimentation is caused by stripping vegetation, grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense.
9. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.
10. The standards set for in the *Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices* (March 1991 and as amended) shall be employed.

#### **H. Streets and Roads**

1. Off site streets serving a proposed subdivision shall be in such condition and have the capacity to safely carry the traffic associated with the proposed subdivision.
2. Streets to be constructed to serve the proposed subdivision shall comply with the Town of Sabattus Street Construction Standards.
3. To the maximum extent practical, all subdivision accesses shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision accesses shall intersect the external street at an angle of less than 60 degrees.

#### **I. Archaeological Sites**

Any proposed subdivision activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the Board. The Board shall consider comments received from the Commission prior to rendering a decision on the application.

#### **J. Historic Locations**

The Board shall consider the proposed subdivision's impacts on historic buildings and sites as identified in the Sabattus Comprehensive Plan. When a proposed subdivision will include a historic building or site the applicant will design the subdivision to minimize the impacts on the historic building or site.

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**K. Phosphorous Export**

Subdivisions proposed within the direct watershed of Curtis Bog, Jimmy Pond, Loon Pond, Sabattus Pond and Sutherland Pond shall be designed to limit phosphorus runoff.

1. Phosphorus export from a proposed subdivision shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et.al., September 1989 with revision in 1992 and as may be amended). Copies of all worksheets and calculations shall be submitted to the board.
2. Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et.al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing street lengths, and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

**L. Protection of Significant Wildlife Habitat**

Applicants proposing to subdivide land in or within seventy-five (75) feet of significant wildlife resources or fisheries habitats identified by the Maine Department of Inland Fisheries and Wildlife shall consult with a recognized wildlife or fisheries consultant or the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Planning Board. The Board shall consider any recommended measures provided to minimize impacts on such habitats. Any conditions to the approval to wildlife or fisheries habitat preservation shall appear on the plan and as deed restrictions to the affected lots.

**M. Construction in Flood Hazardous Areas**

When any part of a subdivision is in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

**N. Common Land and Private Road Maintenance Standards**

1. Ongoing maintenance standards, where appropriate, shall be established, enforceable by the Town against the owner(s) of common land, including open space land, roads and other facilities as a condition of subdivision approval. Such maintenance standards may include such conditions, obligations, or costs to maintain their use.
  - a. The owner(s) of common land or facilities including open space lands shall have the responsibility of operation and maintenance of the respective neighborhood recreational facilities within such common land(s).
  - b. If a Home Owners Association or an agreement of owners of the lots or units is to be used, and a homeowners association has been formally organized, the applicant for such development shall be responsible for maintenance of the common lands and facilities until 51% of all lots and/or units have been sold.
2. Common lands, roads or facilities, including open space lands, must be clearly labeled or referenced on the Final Plan as to its use, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof, and shall

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contain a notation indicating the book and page of any conservation easements, deed restrictions, or other documents regarding those provisions required to be recorded to implement such reservations, restrictions or provisions.

3. Where any portion of a subdivision is proposed or required to be held in common by owners of lots, or owned in common by a Homeowners' Association (HOA) or similar entity, covenants from mandatory membership in the association setting forth the owners' rights, interest, privileges, responsibilities for maintenance, and obligations in the association and the common land, road or open space shall be approved by the Planning Board and included in the deed for each lot.
  - a. In such event, the ownership in the HOA or similar entity, or under the agreement of common ownership by all, the lot or unit owners shall be established or contain provisions covering the following:
    - 1) The HOA or common agreement must be in legal existence before the lots or units are sold;
    - 2) Each lot owner or unit owner shall be a member of the HOA or subject to the agreement and shall be required by recorded covenants and restrictions to pay fees to the HOA, or his pro rate share for taxes, insurance and maintenance of common areas or open space, private roads and other common facilities;
    - 3) Property owners must pay their pro rate share of the costs in 2) above, and the assessment levied by the HOA, and from time to time adjusted to meet changed needs. The amounts due from each lot owner or unit owner shall, if not paid when due, constitute a lien on the property; and
  - b. The attorney for the Planning Board shall find that the HOA documents or common lot owners' agreement presented satisfy conditions 1) through 3) above and such other conditions as the Planning Board shall deem necessary.

#### **SECTION X. Waivers**

- A. Where the Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, it may waive any provision of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Town of Sabattus Comprehensive Plan, or any other ordinance or law.
- B. In granting any waiver, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

#### **SECTION XI. Performance Bond**

- A. Prior to approval of a Final Plan, the Board may require that the subdivider file with the Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements.

This may be tendered in the form of a certified check payable to the Town of Sabattus, or a performance bond running to the Town of Sabattus and issued by a surety company acceptable to the Town of Sabattus. The conditions and amount of such certified check or performance bond shall be determined by the Board with the advice of the various municipal officers concerned. The amount shall be determined by the Board with the advice of the various municipal officers

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concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified on the plan within two years of the date of the certified check or performance bond.

- B. The Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the Board of Selectmen for official action.
- C. Upon approval of the Final Plan, the Board may, at its discretion, waive the requirements of a performance bond, under the condition that no lot in the subdivision may be sold and no permit shall be issued for construction of any building on any lots in the subdivision until it shall have been certified in the manner set forth in Section XI, that all improvements have been made. The Board shall set a reasonable completion date for said improvements, and approval of a Final Plan shall be voided if said improvements are not completed within the specified time. The Board may, upon request from the subdivider, extend the completion date.
- D. Before a subdivider may be released from any obligation requiring a guarantee of performance, the Board will require certification from the various municipal officers (Inspecting Official, Selectmen, Road Commissioner, Fire Chief) to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws and Ordinance).

#### **SECTION XII. Inspection of Required Improvements**

- A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. If the Inspecting Official finds, upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Inspecting Official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.
- D. At the close of each summer construction season, the Town shall, at the expense of the subdivider, shall have the site inspected by the Inspecting Official. By December 1 of each year during which the construction was done on the site, the Inspecting Official shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job

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they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.

- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be required by the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements. "As built" plans shall be submitted to the Municipal Officers.
- G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks and maintenance until acceptance of the improvements by the municipality.

#### **SECTION XIII. Plan Revisions After Approval**

No changes, erasures, modifications or revisions shall be made in any Subdivision Plan after Final Plan approval has been given by the Board and endorsed in writing on the plan, unless the plan is first resubmitted and the Board approves any modifications. In the event that the Subdivision Plan is recorded without complying with this requirement, the plan shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Selectmen and the Registry of Deeds.

#### **SECTION XIV. Validity, Effective Date and Conflict of Ordinances**

- A. Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.
- B. This Ordinance shall take effect and be in force from and after the date of its official adoption.
- C. This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, Ordinance, bylaw, permit or provision of law. Where this Ordinance imposes higher standard for the promotion and protection of health and safety, the provisions of the Ordinance shall prevail.

#### **SECTION XV. Amendments**

- A. An amendment to this ordinance may be initiated by:
  - 1. The Board provided a majority of the Board has so voted;
  - 2. Request of the Municipal Officers; or
  - 3. A written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality in the last Gubernational Election.
- B. The Board will hold a public hearing on the proposed amendment. Notification of the hearing will be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.
- C. An amendment of this Ordinance will be by a majority vote of the Board of Selectmen.

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## SECTION XVI. Appeals

An appeal may be taken within thirty (30) days from the Board's final decision on the preliminary or Final Plan by any party to the Board of Appeals.

**Powers and Duties:** The Board of Appeals shall have the following powers:

**Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance, except for a decision of the Planning Board relative to a subdivision application, which shall be appealable directly to Superior Court; and to hear and decide administrative appeals.

**Appeal Procedure:** Decision by Board of Appeals

**Standard of Review/Burden of Proof:** When acting in an appellate capacity, the Board of Appeals may reverse the decision of the Planning Board only upon a finding that the decision was contrary to specific provision of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may remand the matter to the Planning Board for further consideration.

## SECTION XVII. Definitions

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

**Direct Watershed of Lake or Pond:** Any land area that contributes stormwater runoff either by direct surface water or subsurface flow to a great pond without such runoff traveling through another great pond.

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

**Fresh Water Wetland:** Means fresh water swamps, marshes, bogs and similar areas which are:

- A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- B. Not considered part of great pond, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria.

**Historic Building/Site:** Building and sites on the National Register of Historic Places, identified as of historic importance in the Sabattus Comprehensive Plan.

**Inspecting Official:** An individual appointed by the Selectmen to inspect streets and other improvements during construction.

**Multi-unit Residential:** A residential structure containing three (3) or more residential dwelling units.

**Public Road/Street:** A street maintained by the Town of Sabattus and/or State of Maine.

**Setback:** The horizontal distance from a lot line or street right-of-way to the nearest part of a building or structure.

**Stream, River, or Brook:** River, stream or brook means a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics.

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topography map or if that is not available a 15-minute series topography map.
- B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
- C. The channel bed is primarily composed of material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, in the stream bed.
- E. The channel bed contains aquatic vegetation and is essentially devoid of upland vegetation.

River, stream or brook does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

**Street:** A vehicular way providing access to three or more lots or dwellings. The term does not include driveways, common driveways, farm roads or logging roads.

**Structure:** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kinds, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

**Subdivision:** A subdivision shall mean the division of a tract or parcel of land as defined in Title 30-A M.R.S.A., Section 4401 and as hereafter amended. The term subdivision shall also include such multi-family dwelling or dwellings, shopping centers and industrial parks where there are three or more units involved.

ADOPTED 5.19.07

*Town of Sabattus, Maine  
Subdivision Ordinance*

**WIRELESS  
TELECOMMUNICATIONS  
FACILITIES SITING  
ORDINANCE  
OF THE  
TOWN OF SABATTUS**



***CHIEF SABATTUS***

**DRAFT  
02/26/02**



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# **WIRELESS TELECOMMUNICATIONS FACILITIES SITING ORDINANCE OF THE TOWN OF SABATTUS**

## **SECTION 1. TITLE**

This Ordinance shall be known as the Wireless Telecommunications Facilities Siting Ordinance of the Town of Sabattus, Maine (hereinafter referred to as this ordinance).

## **SECTION 2. AUTHORITY**

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A, M. R. S. A., Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A, M. R. S. A., Section 4312 et seq.

## **SECTION 3. PURPOSE**

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to: implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities; establish clear guidelines, standards, and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities; ensure that all telecommunications carriers providing facilities or services within the Town of Sabattus comply with the ordinances of the Town of Sabattus; ensure that the Town of Sabattus can continue to fairly and responsibly protect the public health, safety and welfare; encourage the co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community; and to enable the Town of Sabattus to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development.

## **SECTION 4. EFFECTIVE DATE**

This Ordinance becomes effective on the date of the Town of Sabattus Annual Town Meeting in June, 2002.

## **SECTION 5.**

## **APPLICABILITY**

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in Section 5.1

### **5.1 Exemptions**

The following are exempt from the provisions of this ordinance:

- A. Emergency Wireless Telecommunications Facility.** Temporary wireless communications facilities for emergency communications by public officials.
- B. Amateur (ham) Radio Stations.** Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- C. Parabolic Antenna.** Parabolic antennas less than seven (7) feet in diameter that are an accessory use of the property.
- D. Maintenance and Repair.** Maintenance and repair of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- E. Temporary Wireless Telecommunications Facility.** Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
- F. Antennas as Accessory Uses.** An antenna that is an accessory use to a residential dwelling unit.

## **SECTION 6.**

## **REVIEW AND APPROVAL AUTHORITY**

### **6.1 Approval Required**

No person shall construct or expand a wireless telecommunications facility without approval of the Planning Board (PB) as follows:

- A. Expansion of an Existing Facility and Co-location.** Approval by the PB is required for any expansion of an existing wireless telecommunications facility; accessory use of an existing wireless telecommunications facility; or co-location on an existing wireless telecommunications facility.
- B. New Construction.** Approval of the PB is required for construction of a new wireless telecommunications facility.

### **6.2 Approval Authority**

In accordance with Section 6.1 above, the PB shall review applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this Ordinance.

## **SECTION 7. APPROVAL PROCESS**

### **7.1 Pre-application Conference**

All persons seeking approval of the PB under this Ordinance shall meet with the Code Enforcement Officer (CEO) no less than thirty (30) days before filing an application. At this meeting the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this Ordinance.

### **7.2 Application**

All persons seeking approval of the PB under this Ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

**Application for Planning Board Approval.** An application for approval by the PB must be submitted to the CEO. The application must include the following information:

1. Documentation of the applicants right, title, or interest in the property on which the facility is to be sited, including the name and address of the property owner and applicant.
2. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
3. A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above one hundred fifty (150) feet in height above ground level, except antennas located on rooftops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the Town of Sabattus. This requirement may be met by submitting current information (within thirty (30) days of the date the application is filed) from the FCC Tower Registration Database.
4. A Site Plan:
  - a. prepared and certified by a professional engineer registered in the State of Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
  - b. certification by the applicants Radio Frequency Engineer that the proposed facility complies with all FCC standards for radio emissions is required; and
  - c. a boundary survey for the project performed by a land surveyor licensed by the State of Maine.

## **7.2 Application, continued**

- 5. A scenic assessment, consisting of the following:**
  - a. Elevation drawings of the proposed facility, and any other proposed structures, showing the height above ground level;**
  - b. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing; the color of the structure; and the proposed lighting method.**
  - c. Photo and computerized simulations of the proposed facility taken from perspectives determined by the PB, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.**
  - d. A narrative discussing:**
    - 1. the applicant's analysis of the tower's impact on scenic values,**
    - 2. the tree line elevation of vegetation within one hundred (100) feet of the facility, and**
    - 3. proposed methods to minimize adverse visual impacts on scenic values.**
- 6. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.**
- 7. Evidence demonstrating that no existing building, site, or structure can accommodate the applicants proposed facility, the evidence for which may consist of any one or more of the following:**
  - a. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,**
  - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.**
  - c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:**
    - 1. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.**
    - 2. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.**
    - 3. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.**
  - d. For facilities existing prior to the effective date of this Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence**

## **7.2 Application, continued**

- shall also be satisfactory for a tower built after the passage of this Ordinance.
- e. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access.
  8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U. S. C. 47w(5); 36 CFR 60 and 800.
  9. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
    - a. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
    - b. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
    - c. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
    - d. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
  10. A form of surety approved by the PB to pay for the costs of removing the facility if it is abandoned.
  11. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

## **7.3 Submission Waiver**

The PB may waive any of the submission requirements based upon a written request of the applicant submitted at the time of the application. A waiver of any submission requirement may be granted only if the PB finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

## **7.4 Fees**

### **A. Planning Board Application Fee.**

An application for Planning Board approval shall include payment of an application fee. The application fee shall be \$100. The planning board shall review this fee once a year at the April meeting and by a majority vote increase or decrease the fee. There shall be a \$100 fee for a Board of Appeals review. The application shall not be considered complete until the fee is paid. An applicant is entitled to a refund of the application portion of the fee if the application is withdrawn within fifteen (15) days of the date of filing, less all expenses incurred by the Town of Sabattus to review the application.

### **B. Planning Board Review Fee.**

An applicant for approval by the PB shall pay a \$500 Review fee. All reasonable and customary fees incurred by the Town of Sabattus that are necessary to review the application shall be taken from this fee including a \$100 planning board fee. The review fee shall be paid in full prior to the start of construction. That portion of the review fee not used shall be returned to the applicant within fourteen (14) days of the PB's decision.

## **7.5 Notice of Complete Application**

Upon receipt of an application, the CEO shall provide the applicant with a dated receipt. Within fifteen (15) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. The PB shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application. If the application is complete, the CEO shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the PB and the abutters. If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application. If the application is deemed to be complete, then the CEO shall notify all abutters within 500ft of the site as shown on the Assessor's records, by first-class mail return receipt, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the PB meeting at which the application will be considered. Failure the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

## **7.6 Public Hearing**

For applications for PB approval under Section 5.1, a public hearing shall be held within thirty (30) days of the notice of the complete application.

## **7.7 Approval**

### **Planning Board Approval.**

Within ninety (90) days of receiving a complete application for approval under Section 7.2, the PB shall approve, approve with conditions, or deny the application in writing, together with the finding on which that decision is based. However, if the PB has a waiting list of applications that would prevent the PB from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within sixty (60) days of the public hearing, if necessary, or within sixty (60) days of the completed PB review. This time period may be extended upon agreement between the applicant and the PB.

## **SECTION 8 STANDARDS OF REVIEW**

### **8.1 Planning Board Approval Standards**

An application for approval by the PB under Section 7.2 must meet the following standards.

#### **A. Priority of Locations.**

New wireless telecommunications facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.

1. Co-location on an existing wireless telecommunications facility or other existing structure on Pleasant Hill, so-called, located on Pleasant Hill Road across from the Pleasant Hill Cemetery
2. A new facility on Pleasant Hill, so-called.
3. A new facility on public or private property in the Town of Sabattus

#### **B. Design for Co-location.**

A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three (3) additional wireless telecommunications facilities or providers. However, the PB may waive or modify this standard where the height limitation effectively prevents future co-location.

#### **C. Height.** A new wireless telecommunications facility must be no higher than the existing tower on Pleasant Hill in the Town of Sabattus.



## **8.1 Planning Board Approval Standards, continued**

### **D. Setbacks.**

A new or expanded wireless telecommunications facility must be set back one hundred five percent (105%) of its height from all property lines. The setback may be satisfied by including the areas outside of the property boundaries if secured by an easement. The following exemptions apply:

1. The setback may be reduced by the PB upon a showing that the facility is designed to collapse in a manner that will not harm other property.
2. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

### **E. Landscaping.**

A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

### **F. Fencing.**

A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

### **G. Lighting.**

A new wireless telecommunications facility shall be illuminated at the top of the facility by an FAA approved lighting apparatus. Security lighting may be used as long as it is shielded to be down-directional to retain lighting within the boundaries of the site, to the maximum extent practicable.

1. The lighting requirement may be waved or modified by the PB

### **H. Color and Materials.**

A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

### **I. Structural Standards.**

A new wireless telecommunications facility must comply with current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.

## **8.1 Planning Board Approval Standards, continued**

### **J. Visual Impact.**

The proposed wireless telecommunications facility will have no unreasonable adverse impact on scenic values.

1. In determining the potential unreasonable adverse impact of the proposed facility on scenic values, the PB shall consider the following factors:
  - a. the extent to which the proposed wireless telecommunications facility is visible above the tree line and areas identified in the applicant's analysis of scenic values;
  - b. the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
  - c. the extent to which the proposed wireless telecommunications facility has been situated to minimize visual impact;
  - d. the amount of vegetative screening; and,
  - e. the presence of reasonable alternatives that allow the facility to function consistently with its purpose.

### **K. Historic and Archaeological Properties.**

The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

## **8.2 Standard Conditions of Approval**

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the PB. Were necessary to ensure that an approved project meets the criteria of this Ordinance, the PB can impose additional Conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

- A. The owner of the wireless telecommunications facility and his or her successor and assigns agree to:
  1. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;
  2. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
  3. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
  4. require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to

accommodate a shared use without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the the wireless telecommunications facility.

- B. Upon request by the Town of Sabattus, the applicant shall certify compliance with all applicable FCC radio frequency emission regulations.

## **SECTION 9      AMENDMENT TO AN APPROVED APPLICATION**

Any changes to an approved application must be approved by the PB in accordance with Section 6

## **SECTION 10     ABANDONMENT**

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the Town of Sabattus may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation. If a surety has been given to the Town of Sabattus for removal of the facility, the owner of the facility may apply to the PB for release of the surety when the facility and related equipment are removed to the satisfaction of the PB.

## **SECTION 11     APPEALS**

Any person aggrieved by a decision of the PB under this Ordinance may appeal the decision to the Board of Appeals within thirty (30) days of final notification.

## **SECTION 12     ADMINISTRATION AND ENFORCEMENT**

The CEO, as appointed by the Board of Selectmen, shall enforce this Ordinance. If the CEO finds that any provision of this Ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this Ordinance. The Board of Selectmen, or the CEO, are authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow a violation of this Ordinance to continue unless: there is clear and convincing

evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

## **SECTION 13     PENALTIES**

Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A, M. R. S. A., Section 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

## **SECTION 14     CONFLICT AND SEVERABILITY**

### **14.1 Conflicts with other Ordinances**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall apply.

### **14.2 Severability**

The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

## **SECTION 15     DEFINITIONS**

The terms used in this Ordinance shall have the following meanings:

- Abutter:** means any landowner within five hundred (500) feet of the property that the tower or facility will be located on.
- Antenna:** means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.
- Antenna Height:** means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
- Co-location:** means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.
- Expansion:** means the addition of antennas, towers, or other devices to an existing structure or the increase in the height of a tower.

**FAA:** means the Federal Aviation Administration, or its lawful successor.

**FCC:** means the Federal Communications Commission, or its lawful successor.

**Height:** means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of building

**Historic or Archaeological Resources:**

means resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the Town of Sabattus's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

**Historic District:** means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the Town of Sabattus's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

**Historic Landmark:** means any improvement, building or structure of particular historic or architectural significance to the town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the Town of Sabattus's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

**Line of sight:** means the direct view of the object from the designated scenic resource.

**Parabolic Antenna (also known as a satellite dish antenna):**

means an antenna which is bowl-shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

**PB**

means Planing Board

**Principal Use:**

means the use other than the one which is wholly incidental or accessory to another use on the same premises.

**Public Recreational Facility:**

means a regionally or locally significant facility, as defined and identified either by State statute or in the Town of Sabattus's comprehensive plan, designed to serve the recreational needs of municipal property owners.

**Designated Scenic Resource:**

means the specific location, view, or corridor, as identified as a scenic resource in the Town of Sabattus's comprehensive plan or by a State or federal agency, that consists of:

1. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skylight or a mountain range, resulting in a panoramic view corridor; or
2. lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

**Targeted Market Coverage Area:**

means the area which is targeted to be served by this proposed telecommunications facility.

**Unreasonable Adverse Impact:**

means that the proposed project would produce an end result which is:

1. excessively out-of-character with the designated scenic resources affected, including existing buildings, structures and features within the designated scenic resource; and
2. would significantly diminish the scenic value of the designated scenic resource.

**Viewpoint:**

means that location which is identified either in the Town of Sabattus's comprehensive plan or by a State or federal agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

**Wireless Telecommunications Facility or Facility:**

means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services and personal communications service (PCS) or pager services.

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# **ZONING ORDINANCE**

## **Section 1. Title**

This ordinance will henceforth be known as the "Town of Sabattus Zoning Ordinance."

## **Section 2. Purpose**

The purpose of this ordinance is to provide basic land use regulations for the municipality of Sabattus.

## **Section 3. Authority**

This ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

## **Section 4. Administration**

This ordinance shall be administered by the Code Enforcement Officer and/or the Town of Sabattus Planning Board as required based on the applicable land use being proposed.

## **Section 5. Zone Classifications**

The Town of Sabattus is broken down into 5 Zones as follows:

Resource Protection

General Residential

Village

Commercial / Mixed Use

Commercial / Industrial

## **Section 6. Resource Protection**

Purpose:

The purpose of the resource protection district is to:

- (1) Prevent and control water pollution;
- (2) Protect spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- (3) Control building sites, placement of structures and land uses; and



- (4) Conserve shore cover, visual as well as actual points of access to inland areas, especially on flood prone areas and slopes unsuitable for development.

Areas:

- (a) The resource protection district includes areas in which development would adversely affect water quality, productive habitat, biotic systems, or scenic and natural values.
- (b) This district shall include:
  - (1) Freshwater wetlands and areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands as depicted on the official zoning map.
  - (2) *Floodplains*. Floodplains along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record or in the absence of these, by soil types identified as recent floodplain soils.
  - (3) *Slopes*. Areas having sustained slopes greater than 25 percent, or unstable soil subject to slumping, mass movement, or severe erosion, when these areas are two acres or more in size.
  - (4) *Water supply*. Town water supply protection.
  - (5) *Wildlife habitat*. Significant wildlife habitat.
  - (6) *Scenic areas*. Natural sites of significant scenic or aesthetic value.
  - (7) *Natural areas*. Areas designated by federal, state or town governments as significant natural areas to be protected from development.
  - (8) Other areas depicted on the Official Zoning Map.
  - (9) Areas of two or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

Permitted uses:

Uses identified in Section 11. Land Use Chart are permitted by right in a resource protection district if they comply with all applicable federal, state and town laws and regulations.

Conditional uses:

The following Uses may be permitted in a resource protection district only upon the authorization of a conditional use permit by the planning board and upon compliance with all applicable federal, state and town laws and regulations:

- (1) *Single-family dwelling, three acres*. Single-family dwelling on a lot of three acres or more upon a finding of the planning board that the following criteria are met:
  - a. *Waste disposal*. Sanitary waste shall be adequately disposed of on suitable soils at least five feet in elevation above any inland wetland or floodplain.

- b. *Drainage field.* A minimum setback of the drainage field shall be 150 feet from the normal high water elevation of any water body or upland edge of a freshwater wetland.
  - c. *Building setback.* A minimum setback of any building shall be 100 feet from the normal high water elevation of any water body or upland edge of a freshwater wetland.
  - d. *Frontage.* A minimum street and shore frontage of 200 feet shall be provided.
  - e. *Other.* All other applicable requirements of this chapter shall be met in full.
  - f. *Floodplain areas.* The planning board shall determine that the applicant has met all of the following criteria for areas within 250 feet of the normal high water line in resource protection zones due to the 100-year floodplain:
    - 1. There is no location on the property, other than a location within the resource protection district, where the structure can be built.
    - 2. The lot on which the structure is proposed is undeveloped and was established as a lot of record and recorded in the county registry of deeds before the adoption of the resource protection district.
    - 3. The proposed location of all buildings, sewage disposal systems and other improvements are:
      - i. Located on natural ground slopes of less than 20 percent; and
      - ii. Located outside the floodway of the 100-year floodplain along rivers based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation.
    - 4. The total ground floor area of all principal and accessory structures located within the district is limited to a maximum of 1,500 square feet.
- (2) *Single-family dwelling, two acres.* Single-family dwelling on a lot of two acres upon a finding of the planning board that the following criteria are met:
- a. Water; sewer. Public water and sanitary sewer are available and shall be connected;
  - b. Setback. A minimum setback of any building shall be 100 feet from the normal high water elevation of any water body or upland edge of a freshwater wetland;
  - c. Frontage. A minimum street and shore frontage of 200 feet shall be provided;
  - d. Other. All other applicable requirements of this chapter shall be met in full; and
  - e. *Floodplain areas.* The planning board shall determine that the applicant has met all of the following criteria for areas within 250 feet of the normal high water line in resource protection zones due to the 100-year floodplain:
    - 1. There is no location on the property, other than a location within the resource protection district, where the structure can be built.

2. The lot on which the structure is proposed is undeveloped and was established as a lot of record and recorded in the county registry of deeds before the adoption of the resource protection district.
3. The proposed location of all buildings, sewage disposal systems and other improvements are:
  - i. Located on natural ground slopes of less than 20 percent; and
  - ii. Located outside the floodway of the 100-year floodplain along rivers based on detailed flood insurance studies and as delineated on the federal emergency management agency's flood boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation.
4. The total ground-floor area of all principal and accessory structures located within the resource protection district is limited to a maximum of 1,500 feet.

**Prohibited uses:**

Uses which are not specifically allowed as permitted uses or conditional uses in this division are prohibited.

**Dimensional requirements:**

Lots in the resource protection district shall meet or exceed the minimum requirements as identified Section 12. Minimum Lot Size and Dimensional Requirements.

**Section 7. General Residential**

**Purpose:**

The purpose of the general residential district is to provide for the uses and activities generally found in developed residential neighborhoods, while protecting the health, safety, welfare and property values of residents and property owners from encroachment by incompatible uses.

**Permitted uses:**

Uses identified in Section 11. Land Use Chart are permitted in the general residential district.

**Conditional uses:**

Uses identified in Section 11. Land Use Chart may be permitted in the general residential district only upon the authorization of a conditional use permit by the planning board.

Prohibited uses:

Uses which are not specifically allowed as permitted uses or conditional uses in this division are prohibited.

Dimensional requirements:

Lots in the general residential district shall meet or exceed the minimum requirements as identified in Section 12. Minimum Lot Size and Dimensional Requirements.

## **Section 8. Village**

Purpose:

The purpose of the village district is to:

- (1) Provide for the variety of land uses in a village where residential, public, semipublic, service, and retail activities are commonly mixed.
- (2) Maintain the historical and architectural integrity of existing village development and to ensure that future development is compatible both in character and use.

Permitted uses:

Uses identified in Section 11. Land Use Chart are permitted in the village district.

Conditional uses:

Uses identified in Section 11. Land Use Chart may be permitted in the village district only upon the authorization of a conditional use permit by the planning board, in accordance with the provisions of article III of this chapter.

Prohibited uses:

Uses which are not specifically allowed as permitted uses or conditional uses in this division are prohibited.

Dimensional requirements:

Lots in the village district shall meet or exceed the minimum requirements as identified in Section 12. Minimum Lot Size and Dimensional Requirements.

## **Section 9. Commercial / Mixed Use**

### **Purpose:**

The purpose of the commercial district is to:

- (1) Encourage the location of commercial uses on those lands within the town which are best suited for such development.
- (2) Provide minimum controls on those uses which, by virtue of their size or external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or auto, truck, or rail traffic) could otherwise create a public nuisance or endanger public health and safety.
- (3) Avoid the blight, congestion and inconvenience caused by inappropriate and poorly located development of commercial facilities.

### **Permitted uses:**

Uses identified in Section 11. Land Use Chart are permitted in the commercial / mixed use district.

### **Conditional uses:**

Uses identified in Section 11. Land Use Chart may be permitted in the commercial district only upon the authorization of a conditional use permit by the planning board.

### **Prohibited uses:**

Uses which are not specifically allowed as permitted uses or conditional uses in this division are prohibited.

### **Dimensional requirements:**

Lots in the commercial district shall meet or exceed the minimum requirements as identified in Section 12. Minimum Lot Size and Dimensional Requirements.

## **Section 10. Commercial / Industrial**

### **Purpose:**

The purpose of the commercial Industrial district is to:

- (1) Encourage the location of Industrial uses on those lands within the town which are best suited for such development.
- (2) Provide minimum controls on those uses which, by virtue of their size or external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or auto, truck, or rail traffic) could otherwise create a public nuisance or endanger public health and safety.

- (3) Avoid the blight, congestion and inconvenience caused by inappropriate and poorly located development of Industrial facilities.

**Permitted uses:**

Uses identified in Section 11. Land Use Chart are permitted in the commercial district.

**Conditional uses:**

Uses identified in Section 11. Land Use Chart may be permitted in the commercial district only upon the authorization of a conditional use permit by the planning board.

**Prohibited uses:**

Uses which are not specifically allowed as permitted uses or conditional uses in this division are prohibited.

**Dimensional requirements:**

Lots in the commercial district shall meet or exceed the minimum requirements as identified in Section 12. Minimum Lot Size and Dimensional Requirements.

## **Section 11. Land Use Chart**

**Land uses:**

All land use activities, as indicated in the Table of Land Uses, shall conform to all of the applicable performance standards. The district designation for a particular site shall be determined from the Zoning Map of Sabattus, Maine.

**(1) Key to Table of Land Uses:**

P	Permitted by right if they comply with all applicable federal, state and town laws and regulations and the performance standards. Uses may also require Subdivision and/or Site Plan Review approvals pursuant to other provisions of this Code.
C	Permitted upon authorization of a Conditional Use Permit by the planning board. Uses may also require Site Plan Review and/or Subdivision approval
No	Prohibited

(2) Abbreviations:

RP	Resource Protection
GR	General Residential
V	Village
C	Commercial / Mixed Use
CI	Commercial / Industrial

**Table of land uses:**

<b><u>Resource Based &amp; Recreation Uses</u></b>	<b>GR</b>	<b>V</b>	<b>C</b>	<b>CI</b>
Conservation/recreation	P	P	C	C
Plers/Docks/Floats	P	P	C	C
Agriculture	P	C	C	C
Forest Management Activities	P	P	P	P
Timber Harvesting	P	P	P	P
Open Space Use	P	P	C	C
Public/Private Recreation Facilities	P	P	C	C
Kennels & Animal Hospitals	C	C	C	C
Accessory uses/structures	P	P	P	P
<b><u>Residential Uses</u></b>	<b>GR</b>	<b>V</b>	<b>C</b>	<b>CI</b>
Single-family Dwelling	P	P	P	NO
Two-Family Dwelling	P	P	P	NO
Mobile Home	P	NO	NO	NO
Multifamily Dwelling	C	P	P	C
Mobile Home Parks	C	NO	C	NO

Home Occupations (See Home Occupation Ordinance for description)	P	P	P	NO
Raising of nondomestic animals	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
Raising of Domestic Pets (Limit set by State Guidelines for Kennels)	P	P	P	P
Accessory Uses & Structures	P	P	P	P
<b><u>Public/Semi-Public Uses</u></b>	<b>GR</b>	<b>V</b>	<b>C</b>	<b>CI</b>
Utility/Public Works	C	C	C	P
Church/Place of Worship, Parish House, Rectory, Convent & Religious Institutions	C	P	C	NO
Public, Private, Parochial Schools	C	P	C	C
Public Buildings	C	P	P	C
Semipublic activities, clubs & institutions	C	C	C	C
Parking Lot Public/Private	NO	P	P	P
Public Utilities	P	P	P	P
Public Garages and Storage Yards	C	C	P	P
Accessory Uses & Structures	P	P	P	P
<b><u>Commercial/Business Uses</u></b>	<b>GR</b>	<b>V</b>	<b>C</b>	<b>CI</b>
Child day care in home/twelve or fewer children (as established by the State of Maine guidelines)	C	C	C	NO
Children's Day Care Facility	C	C	C	C
Nursery school	C	P	C	C
Offices/office buildings not exceeding 2,500 sq. ft.	NO	P	P	P
Office Building greater than 2,500 sq. ft.	NO	C	P	P
Convalescent, rest, nursing, or boarding homes	C	C	P	C
Campgrounds	C	C	NO	NO



Hotel, motel, inn, tourist home, B&B	C	P	P	C
Medical/dental office or facility	NO	P	P	P
Retail Store or outlet, such as grocery, drug, furniture	NO	P	P	C
Service Establishment, such as barbershop, beauty parlor, cleaner	NO	P	P	C
Lawn & garden equipment sales/service	NO	P	P	C
Snowmobile, motorcycle, recreational vehicle, ATV, boat sales/service	NO	P	P	C
Automobile sales, etc	NO	P	P	C
Auto service station, auto repair, gasoline service establishment	NO	P	P	C
Bakery or Food Shop	NO	P	P	C
Eating Place	NO	P	P	C
Recreational use such as bowling, theaters, dance hall	C	P	P	C
Funeral home	NO	P	P	C
Auditoriums, gymnasiums, places of amusement or places of assembly	C	P	P	C
Self-storage facility	C	C	P	C
Shop of painter, carpenter or other skilled worker	NO	P	P	C
Wholesale establishment	NO	P	P	P
Warehouses	NO	P	P	P
Laboratory or research facility	NO	P	P	P
Laundry/dry cleaning	NO	P	P	C
Retail sales of lumber/building supplies	NO	P	P	C
Yards of electrical, heating, painting, or roofing contractor	NO	C	P	C
Light manufacturing	NO	P	P	P
Retail sales of products manufactured or produced on premises	C	P	P	C
Accessory Uses & Structures	NO	P	P	P

<b><u>Industrial Uses</u></b>	<b>GR</b>	<b>V</b>	<b>C</b>	<b>CI</b>
Junkyards	C	NO	C	C
Transmission facilities-radio, television, power, telephone	C	C	C	C
Sawmills	C	NO	C	C
Truck Terminal	NO	NO	P	P
Bottling & beverages	NO	C	P	P
Manufacturing, processing, assembly of products or Goods.	NO	P	P	P
Above ground storage of propane or flammable petroleum fuel products stored in accordance with rules promulgated by the state fire marshal	NO	C	C	C
Commercial & industrial uses and facilities not meeting criteria for permitted uses	NO	C	C	C
Accessory Uses & Structures	NO	NO	P	P

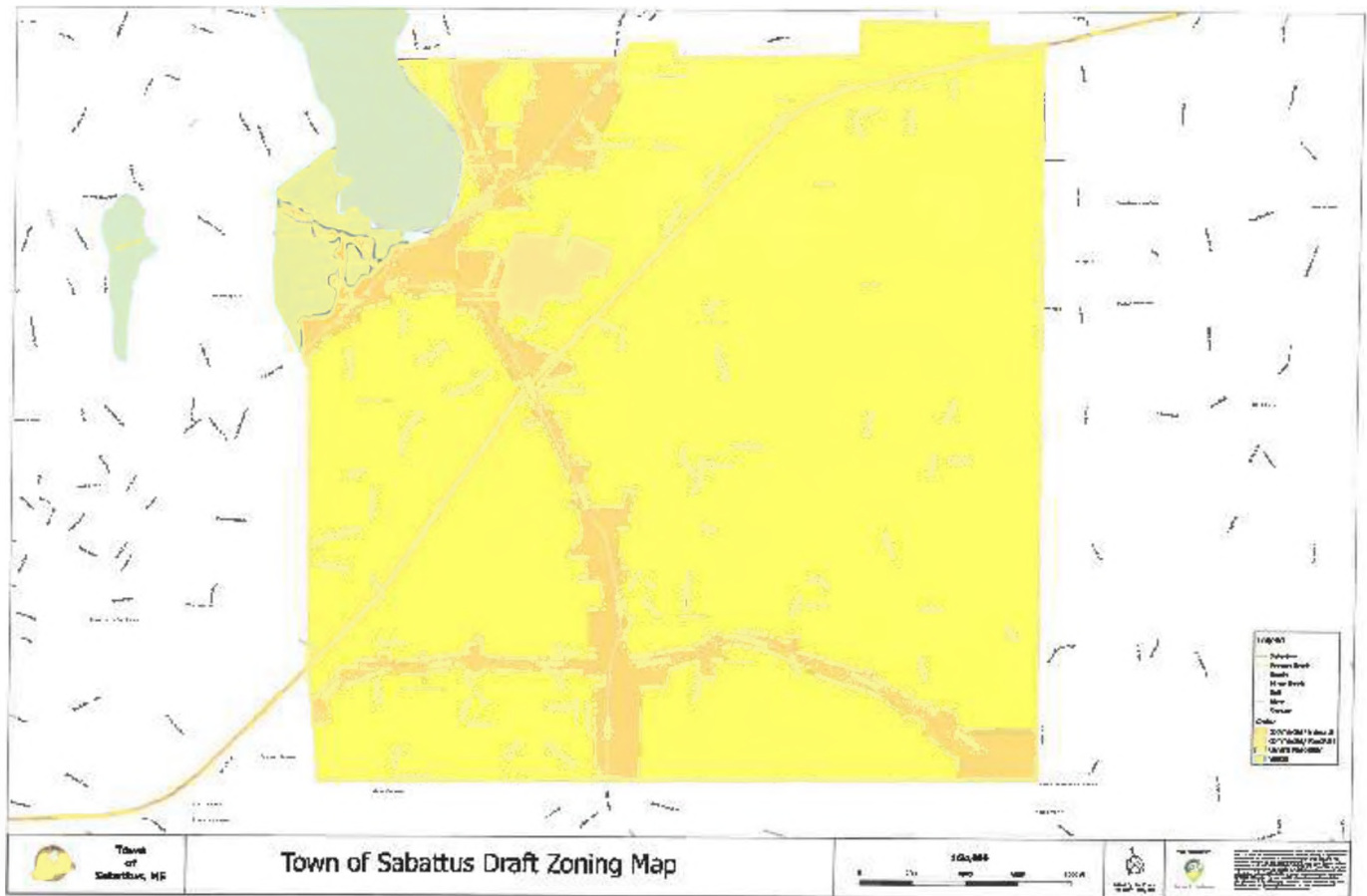
Notes:

1. Minimum Lot Size must be 40,000 sf. to raise nondomestic animals

## **Section 12. Minimum Lot Size and Dimensional Requirements**

1. Lots served by the public sewer system shall be 20,000 square feet with a minimum road frontage of 100 feet.
2. Lots located over an aquifer delineated on the Sand and Gravel Aquifer Maps produced by the Maine Geological survey and not connected to the public sewer system shall be a minimum lot size of 80,000 square feet.
3. The minimum lot size shall be 40,000 square feet with a minimum road frontage of 200 feet
4. Lots in the Resource Protection District must comply with all State and Federal regulations. Specific dimensional standards are listed in Section 6. Resource Protection.
5. Set Backs. All building shall be set back at least 25 feet from the right of way and not less than 10 feet from an adjoining lot line.

### Section 13. Zoning Map



### Section 14. Effective Date

This ordinance shall become effective as of \_\_\_\_\_(date).

Accepted:

\_\_\_\_\_

Original Adoption:

\_\_\_\_\_

Revision Dates:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



