

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 30-A M.R.S. §4404.

SECTION II. AUTHORITY, ADMINISTRATION AND EFFECTIVE DATE.

A. Authority

1. This Ordinance is adopted pursuant to Article VIII, Part 2, Section I of the Maine Constitution, 30-A M.R.S. §3001 and 30-A M.R.S. §4403.
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, herein 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 unless such land or dwelling units has received subdivision approval by the Board, approval under title 38, chapter 3, subchapter 1, article 6, where applicable, and been recorded in the Androscoggin County Registry of Deeds.
4. No public utility, water district, sanitary district or utility company of any kind shall install services to any lot or dwelling unit in a subdivision unless such land or

dwelling units has received subdivision approval by the Board and been recorded in the Androscoggin County Registry of Deeds. A Subdivision Plan recorded with the Registry of Deeds without Board approval shall be void.

5. Construction, including 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 by the Board and recorded in the Androscoggin County Registry of Deeds.
6. Any person violating any provision of this Ordinance shall be fined a minimum of \$100 and a maximum of \$5,000 for each violation in accordance with 30-A M.R.S. §4452. Each day a violation exists shall be considered as a separate violation.

C. Burden of Proof

In all instances, the burden of proof is upon the applicant proposing the subdivision.

D. Effective Date

This Ordinance shall take effect upon adoption by the municipal legislative body of the Town of Sabattus.

SECTION III. ADMINISTRATIVE PROCEDURES.

A. Purpose

The purpose of this Section is to establish a procedure for reviewing subdivision applications in the Town of Sabattus in accordance with 30-A M.R.S. §§ 4403, 4404.

B. Agenda and Procedures

1. The Board shall prepare an agenda for each regularly scheduled meeting to facilitate review of applications. Applicants shall request to be placed on the Board's agenda by letter to the Board Chair, addressed to the Town Office. Requests for review shall be submitted to the Town at least ten (10) calendar days in advance of a regularly scheduled meeting.
2. If the applicant, or applicant's representative, does not attend the Board meeting in which the application is scheduled for review, the Board shall not review the application. The Board shall reschedule review of the application to its next regular meeting.
3. The Board may, after a public hearing, adopt, amend or repeal additional reasonable regulations governing subdivisions which shall control until amended, repealed or

replaced by regulations adopted by the Selectboard. The Board shall give at least 7 days' notice of this hearing.

C. Joint Meetings

If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application shall be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under 30-A M.R.S. §4407 for a revision or amendment to a subdivision that crosses municipal boundaries shall be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the criteria described in 30-A M.R.S. §4404(19).

SECTION IV. PRE-APPLICATION MEETING

Applicants shall schedule a Pre-Application meeting with the Board prior to formal submission of a subdivision application. The applicant shall present a Sketch Plan of the proposed subdivision and make a verbal presentation regarding the site characteristics.

A. Submissions

1. The Pre-Application Sketch Plan shall show, in simple sketch form, the proposed development area, and other features in relation to , and existing conditions on the land. The Sketch Plan may be supplemented with general information to describe or outline the existing conditions of the site and the proposed development.
2. The applicant shall provide to the Board written evidence showing right, title or interest (option, contract for sale, etc.) in the property to be developed.
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 adopted pursuant to 12 M.R.S. §8869(14).

B. Notification

Upon receipt of the Sketch Plan, the Board shall notify all owners of property within 1,000 feet of the proposed subdivision application in writing by mail.

C. Contour Interval and On-Site Inspection

Within thirty (30) days of the pre-application meeting, the Board shall conduct an on-site inspection of the property and inform the applicant in writing of the contour interval required on the development plan.

SECTION V. SUBMISSION REQUIREMENTS

A. Application

The application form shall be furnished by the Board, filled out by the applicant and shall include the following information:

Subdivision Application Submission Requirements	
<i>Items marked with an "X" shall be required in all instances; items marked with "Possibly" may be required at the discretion of the Board</i>	
1. Name and address of owner. If the owner is a corporate or business entity, state whether the entity is licensed to do business in Maine and attach a copy of Secretary of State's Registration.	X
2. Name and address of applicant (if other than owner). If the applicant is a corporate or business entity, state whether the entity is licensed to do business in Maine and attach a copy of Secretary of State's Registration.	X
3. Name of the owner's and/or applicant's authorized representative.	X
4. Name, address and number of Registered Professional Engineer, Registered Professional Land Surveyor or Planner who prepared the plan.	X
5. Address to which all correspondence from the Board should be sent.	X
6. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, recorded ownership, etc.)?	X
7. What interest does the applicant have in any property abutting the parcel to the subdivided?	X
8. State whether the subdivision covers the applicant's entire holdings of the applicant, including contiguous parcels.	X
9. Location of property: book and page (from the Registry of Deeds).	X
10. Location of property: map and lot (from the Assessor's Office).	X
11. Current zoning of property.	X
12. Acreage of parcel to be subdivided.	X
13. Proposed method of sewage disposal and the results of an on-site soil investigation for each lot.	X
14. Soil report for entire area.	Possibly

15. 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.	X
16. Names and mailing address of all property owners within 1,000 feet of the proposed subdivision including those across any road or street.	X
17. Proposed restrictive covenants to be placed on the deeds.	X
18. A statement of financial and technical capability.	X
19. A written statement from the Fire Chief and Road Commissioner as to the Departments' capacity to serve the proposed subdivision along with recommendations as to any improvements necessary to provide fire protection.	X
20. A phosphorus impact analysis and control plan when located in the direct watershed of a great pond in compliance with the Best Management Practices in the Maine Stormwater Management Design Manual Phosphorus Control Manual Volume II and the Per Acre Phosphorus Allocations for Selected Maine Lakes in Appendix C. Per Acre Phosphorus Allocations are defined for the following waterbodies: • Curtis Bog, Jimmy Pond, Loon Pond, Sabattus Pond, and Sutherland Pond	Possibly
21. A ground water impact analysis.	Possibly
22. 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 analysis 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.	Possibly
23. A stormwater control plan designed to accommodate the 25-year storm.	Possibly
24. Maine Department of Transportation Driveway/Entrance Permits if the subdivision will have access to: • Route 9, Route 126, Route 132, Route 197, High Street, Main Street, Green Street, Grove Street, Bowdoinham Road, or Crowley Road.	Possibly
25. Other local, state or federal permits as required	Possibly
26. A statement concerning timber harvesting resulting in any violation of the Liquidation Harvesting Rule.	Possibly
27. Statement from the Sewer and/or Water District that they will permit connection into the sewer or water district system.	Possibly
28. Legal documents creating Homeowners or Road Owners Associations.	Possibly
29. Any waivers requested accompanied by a narrative justification	X

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:

Subdivision Plan Requirements	Preliminary Plan	Final Plan
<i>Items marked with an "X" shall be required in all instances; items marked with a "Possibly" may be required at the discretion of the Board.)</i>		
1. Name of proposed subdivision; location of subdivision; name of subdivider, and signature and seal of Registered Professional Land Surveyor or Professional Engineer.	X	X
2. Lot numbers.	X	X
3. Date, magnetic north point and graphic map scale.	X	X
4. Proposed lot lines with approximate dimension and lot areas, and total area of land to be subdivided.	X	—
5. 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.	—	X
6. Location of temporary markers to enable the Board to locate each lot readily and appraise the basic lot layout in the field.	X	—
7. Location of permanent markers, both natural and man-made.	—	X
8. Location of all parcels to be dedicated to public use and the conditions of such dedication.	X	X
9. Names of abutting property owners and subdivisions. Reference to recorded subdivision plans of adjoining lands by book and page number.	X	X
10. 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.	X	X
11. 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.	X	X
12. Location and size of existing buildings.	X	X
13. Location of buildings, subsurface sewage disposal systems and wells.	Possibly	Possibly

Subdivision Plan Requirements	Preliminary Plan	Final Plan
14. Location of all natural features or site elements to be preserved.	Possibly	Possibly
15. Location of any existing watercourses and other essential existing physical features.	X	X
16. Location and size of any existing sewers and water mains and other utilities; location and size of culverts and drains	Possibly	Possibly
17. Location, names and widths of existing and proposed streets, highways, easements and rights-of-way.	X	X
18. Plan profiles and cross-sections for roadways, sidewalks and storm drainage facilities.	X	X
19. A soil erosion and sediment control plan for construction and for permanent control.	X	X
20. Contour lines at an interval of not more than 5, feet, or other interval as specified by the Board.	X	X
21. The location and nature of significant wildlife habitats identified by the Maine Department of Inland Fisheries and Wildlife.	X	X
22. Any portion of the subdivision which is located in the direct watershed of a great pond.	X	X
23. The location of archaeological and historic sites, scenic areas, and rare and natural areas as identified in the Comprehensive Plan.		
24. Subdivision Plan designed, sealed, and signed by a Registered Professional Land Surveyor.	X	X
25. Roadway designed, sealed, and signed by a Registered Civil Engineer.	X	X
26. Location of new and existing sewers, wastewater disposal systems, wells, water mains, utility poles, and easements.	X	X
27. Location Maps, U.S.G.S. Soil Map, and Aquifer Map.	X	X
28. Location of 911 address points.	X	X
29. Suitable space to record on the approved plan, the date and conditions of approval, if any.	X	X
30. Other information as required by the Board.	Possibly	Possibly

SECTION VI. PRELIMINARY PLAN

- A. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five (5) years of the date of approval and signing of the plan shall render the plan null and void. The Board may, but is not required to, record a notice in the Androscoggin Registry of Deeds to that effect.

The applicant shall submit twelve (12) copies of the Preliminary Plan and twelve (12) copies of the Preliminary Plan application for the proposed subdivision, inclusive of the materials detailed in Section V *Submission Requirements* to the Code Enforcement Officer by the first day of the month in which the Board shall consider the Preliminary Plan application. The Board shall issue a dated receipt to the applicant and shall forward copies of the Preliminary Plan application to the Selectboard, Fire Chief, and Road Commissioner for review and comment.

1. Within thirty (30) days of receipt of a Preliminary Plan application, the Board shall notify the applicant in writing that the Preliminary Plan and application are complete or, if incomplete, the specific additional materials needed to make the application complete. Determination by the Board that the Preliminary Plan application is complete in no way commits or binds the Board as to the adequacy of the Plan in meeting the criteria of 30-A M.R.S. §4404, or any provision of this Ordinance.

- D. Upon receipt of a Preliminary Plan and Preliminary Plan application, the Board shall notify all owners of property within 1,000 feet of the proposed subdivision in writing by mail. The applicant shall provide the Town with 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: (Please see permit fee structure)
2. Review Fee: Per lot or dwelling unit. (Please see permit fee structure)
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 review and advice related to the developer's application as the Board deems necessary. The Board shall provide the applicant with

notice of its intent to expend any portion of this account and shall specify the purpose for the proposed expenditures.

If at any point the balance in the applicant's portion of the Board's Review Escrow Account shall be drawn down by 75%, the Board shall require that an additional amount per lot or dwelling unit be deposited in the Review Escrow Account by the applicant.

Monies in the applicant's portion of the Review Escrow Account that are not spent or committed by the Board in the course of its review shall be returned to the developer within sixty (60) days of the Board's final decision on the application. For the prior sentence "final decision" is defined by 30-A M.R.S. §2691(3)(H), unless the application is subject to judicial review in which case "final decision" shall mean "final judgment."

- F. After notice, the Board may hold a public hearing on the Preliminary Plan. Procedures for such notice and hearing shall be in accordance with Title 30-A M.R.S. §4403 and Section VIII of this Ordinance.
- G. Within thirty (30) days of a public hearing, or within sixty (60) days of having received a complete Preliminary Plan and Preliminary Plan application if no hearing is held, the Board shall deny, approve, or conditionally approve the Preliminary Plan in accordance with Title 30-A M.R.S. §4403, and all other provisions of this Ordinance.
- H. In issuing its decision, the Board shall make a written finding of facts establishing how the Preliminary Plan does or does not meet the provisions of this Ordinance and 30-A M.R.S. §4404. Approval of the Preliminary Plan in no way commits or binds the Board to approve the Final Plan.

SECTION VII. FINAL PLAN

- A. The applicant shall submit twelve (12) copies of the Final Plan to the Code Enforcement Office by the first day of the month in which the Board shall consider the Final Plan application. The applicant shall submit the Final Plan before one (1) year from the date of approval of the Preliminary Plan, on which date the Preliminary Plan approval shall expire. The Board shall issue a dated receipt to the applicant.
- B. The Final Plan shall meet all conditions of Preliminary Plan approval and include and any other 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 prepared in a manner suitable for permanent recording in the Androscoggin County Registry of Deeds.

- C. After notice, the Board may hold a public hearing on the Final Plan. Procedures for such notice and hearing shall in accordance with Title 30-A M.R.S. §4403 and Section VIII of this Ordinance.
- D. 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, approve, or conditionally approve the Final Plan in accordance with 30-A M.R.S. §4403, and this Ordinance. 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 30-A M.R.S. ch. 187. Subch. 4.

SECTION VIII. PUBLIC HEARING

- A. The decision to hold a public hearing is discretionary. In making its decision, the Board may consider the size and type of subdivision, the community impact, and any written requests for a hearing.
- B. In the event that the Board determines to hold a public hearing on the Preliminary Plan or the Final Plan of the proposed subdivision, the public hearing shall be held within thirty (30) days of notification to the applicant of a complete application. Notice of the date, time, and place of the public hearing shall be provided to the applicant 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 in accordance with 30-A M.R.S. §4403.
- C. Any public hearing shall be conducted in accordance with the procedures in 30-A M.R.S. §4403. The Board shall notify all property owners within 1,000 feet of the boundaries of any Public Hearing.

SECTION IX. PERFORMANCE GUARANTEE

- A. Prior to approval of the Final Plan, the Board may require that the subdivider file a performance guarantee in an amount sufficient to pay for all expenses of the proposed public improvements.

1. The performance guarantee may be provided 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 approved of by the Town of Sabattus. The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the of the Selectboard or officials who may be concerned. The amount shall be at least 125% of the total cost of furnishing, installing, connecting, and completing all street grading, paving, storm drainage, utilities, or other public improvements specified on the plan.
- B. All performance guarantees shall be conditioned upon the completion of all such public improvements within two years from the date of the approval of the plan, as recorded on the plan, and the approval of the Final Plan shall be voided if all such public improvements are not completed within that time. 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 Selectboard, good cause for such extension. Such recommendation shall be referred to the Selectboard 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 be sold and no permit for construction on any lots in the subdivision be issued until the Board has received all certifications it requires under subsection D that all public improvements have been made.
- D. The Board shall require certification from the Selectboard or officials (Inspecting Official, Road Commissioner, Fire Chief, etc.) that all improvements have been completed in accordance with all applicable local, State and federal standards prior to a released from any obligation requiring a guarantee of performance.

SECTION X. 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 protect the rights of adjacent landowners. The Board will consider the following in establishing audio/visual buffer strips.

1. Plant materials shall be at least four (4) feet in height and be of such evergreen species that will produce a dense audio/visual screen of at least eight (8) feet in

height. A six (6) foot high wooden fence, without openings wider than one (1) foot may be substituted.

2. The buffer will be maintained permanently, and any plant material which does not live shall be replaced within one (1) year of planting.
3. The plantings of the buffer shall be placed in a manner that at maturity 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 detailed in 38 M.R.S. §482, the applicant shall secure the approval from the Department of Environmental Protection and provide a copy of the approval to the Board before any construction activity may begin in the subdivision.

C. Impact on Community Services and Facilities

All proposed subdivisions shall be reviewed by the Board in relation to current capacity of existing community services and facilities. When the Board finds that municipal services do not have the capacity to provide services to the proposed subdivision based on the recommendations of the Selectboard and the results of any municipal impact analysis, 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 Selectboard, 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. Payment shall be expended within five (5) years of collection in all cases, unless otherwise agreed upon by the Board and the applicant.
 - d. Any unexpended funds shall be refunded to the applicant 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. Phasing of the subdivision development, or limiting the number of lots that can be developed at any one time, to allow the expansion of municipal services over time.
 - 4. Denial of the subdivision application.

D. Lots and Density

- 1. All buildings shall have a minimum setback of 25 feet from any street line and ten (10) feet from an adjoining lot line. The depth of any lot shall not exceed the width by a ratio of 3 to 1.

- 2. **Minimum lot size shall be governed by the criteria below.**

The Planning board may impose differing dimensional requirements to accommodate existing site characteristics. Wetland areas and land within existing or proposed easements shall not be included in the minimum lot area calculation. All subdivision plans shall show the total area of wetlands and total area of easements on the lot proposed for subdivision.

- a. Lots located in the Shoreland Zone: The minimum lot size, frontage, and setback standards shall be in accordance with the standards of the Shoreland Zoning Ordinance for the Town of Sabattus.
- b. Lots Served by the Sabattus Sanitary & Water District and not located in the Shoreland Zone:
 - i. Minimum lot size: 20,000 sq. ft.
 - ii. Minimum road frontage: 100 feet.
- c. Lots not Served by the Sabattus Sanitary & Water District, not located in the Shoreland Zone, and located over the sand and gravel aquifer (delineated on the Sand and Gravel Aquifer Map produced by the Maine Geological Survey¹):

¹ The Sand and Gravel Aquifer Map has been reproduced on a 1" = 1,000' scaled map and is

- i. Minimum lot size: 80,000 sq. ft.
 - ii. Minimum road frontage of 200 feet
- d. Lots not Serviced by the Sabattus Sanitary & Water District, not located in the Shoreland Zone, and not located over the sand and gravel aquifer (delineated on the Sand and Gravel Aquifer Map produced by the Maine Geological Survey):
 - i. Minimum lot size: 40,000 sq. ft.
 - ii. Minimum road frontage: 200 feet
- 3. lot sizes defined in 2.-d. above may only be decreased or increased by a majority vote of the municipal legislative body at 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 the applicant to reserve an area of land as an open space or a recreational area for use by landowners in the subdivision.
 - a. If such an area is reserved, the Final Plan shall detail how title to the reserved land shall be held, and how costs of development, maintenance, and taxes shall be provided.
 - b. The instrument of conveyance (deed) to each lot within the subdivision shall include a statement of:
 - i. The manner of providing for the cost of development, maintenance, and property taxes of the reserved land.
 - ii. If appropriate, the individual lot owner's pro rata share of development costs, maintenance cost, and property taxes of the reserved.
 - c. Land designed for public use shall not be subdivided for any other purpose. This prohibition does not apply to land areas designated for development if the approved subdivision includes provision for development in phases.
 - d. Any area designated for common use shall be arranged so that each property owner has access to it.

F. Storm Drainage

Adequate provision shall be made for disposal of all stormwater generated within the subdivision through a management system of ditches, swales, culverts, underdrains, and/or storm drains. The stormwater management system shall be designed to conduct stormwater flows to existing watercourses or storm drains.

1. All components of the stormwater management system shall be designed in accordance with the Maine Stormwater Management Design Manual Volume III BMP Technical Design Manual published by the Maine DEP.
2. The Best Management Practices outlined in the Maine Stormwater Management Design Manual Volume III BMP Technical Design Manual published by the Maine Department of Environmental Protection shall be employed. Outlets shall be stabilized by stone riprap or other suitable materials to reduce stormwater velocity and soil erosion.
3. The stormwater management system shall be designed to accommodate upstream drainage and shall include a surplus design capacity of 25% for potential increases in upstream runoff.
4. The stormwater management system shall not over encumber existing or planned stormwater drainage systems located downstream from the proposed subdivision. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle increased stormwater flow from the proposed subdivision.

G. Erosion and Sedimentation Control

All subdivisions shall be designed to minimize erosion of soil and sediment. The following measures shall be included as part of subdivision review and approval.

1. The Best Management Practices set forth in the Maine Erosion and Sediment Control Best Management Practices Manual for Designers and Engineers published by the Maine Department of Environmental Protection shall be employed.
2. Stripping of vegetation, regrading, or other development shall be conducted to minimize erosion on the site and adjacent properties.
3. Development shall minimize cut-fill operations and ensure conformity with topography to create the least erosion potential and to adequately handle surface water runoff.

4. The disturbed area and the duration of exposure of the disturbed area shall be minimized. Temporary mulch shall be placed in all disturbed areas where seeding, construction, or stabilization activities will not take place for over fourteen (14) consecutive days.
5. Temporary vegetation or mulching shall be used to protect exposed critical areas during development. The Board may require hay bales or silt fencing where appropriate during construction to mitigate the impacts of soil erosion and sedimentation.
6. All permanent vegetation and structural erosion control measures shall be installed in accordance with the Erosion and Sediment Control Plan approved by the Board.
7. Sediment in stormwater runoff shall be trapped by the use of debris basins, sediment basins, silt traps or other methods acceptable to the Board until the disturbed area is stabilized.
8. Whenever sedimentation is caused by stripping vegetation, it shall be the responsibility of the developer to repair any damage and to remove all sedimentation from adjoining surfaces, drainage systems, and watercourses.
9. Maintenance of drainage facilities or watercourses originating on private property shall be the responsibility of said property owner to the point of open discharge at the property line, or at a communal watercourse within the property.

H. Streets and Roads

1. Off-site streets proposed to serve a subdivision shall be in such condition and have the capacity to safely carry the traffic associated with the proposed subdivision.
2. All streets proposed through subdivision shall comply with the Street Construction Ordinance for the Town of Sabattus.
3. Access to the proposed subdivision shall be constructed perpendicular to the external street to allow for a sufficient line of sight for ingress and egress to the greatest extent practicable. Access to a subdivision shall intersect the external street at an angle of less than 60 degrees.

I. Historic & Archaeological Sites

The Board shall consider the proposed subdivision's impact on historic buildings and sites.

1. Subdivisions which involve structural development or soil disturbance on or adjacent to sites identified for historic or archaeological resources by the Maine Historic Preservation Commission, or which are listed on the National Register of Historic Places, shall be submitted to the Maine Historic Preservation Commission by the applicant 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 in issuing a decision on the application.
2. When a proposed subdivision includes a historic building or site identified in the Comprehensive Plan for the Town of Sabattus, the subdivision shall be designed to minimize impacts on the historic building or site.

J. Phosphorous Export

1. Phosphorus export from a proposed subdivision shall be calculated according to the procedures defined in Maine Stormwater Management Design Manual Volume II Phosphorus Control Manual.
2. 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 in accordance with the Per Acre Phosphorus Allocations for Selected Maine Lakes identified in Appendix C of the Maine Stormwater Management Design Manual Volume II Phosphorus Control Manual Phosphorus Control in Lake Watersheds. Maximum Per Acre Phosphorus Allocations
3. Phosphorus control measures shall meet the design criteria and best management practices contained in Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development published by Maine DEP.
4. The Board may require the reasonable use of vegetative buffers, limits on clearing, and reductions in street length to mitigate phosphorus export. The Board shall encourage the use of non-structural measures prior to allowing the use of high-maintenance, structural measures such as infiltration systems and fire ponds.

K. Protection of Significant Wildlife Habitat

1. When a subdivision is proposed within seventy-five (75) feet of significant wildlife resources or fisheries identified by the Maine Department of Inland Fisheries and Wildlife (MDIF&W), the applicant shall consult a recognized wildlife or fisheries consultant approved by the Board, or the MDIF&W, to provide written comment on the proposal.
2. Written comments shall be provided to the Planning Board to use in review of the application. The Board shall consider any recommended measures to minimize impacts on such habitats. Any conditions of approval to preserve wildlife or fisheries shall appear on the Final Subdivision Plan and be included as deed restrictions to the affected lots.

L. Construction in Flood Hazardous Areas

1. When any part of a proposed subdivision is located in a Special Flood Hazard Area (high-risk flood areas identified by FEMA on the Flood Insurance Rate Maps as having a 1% annual chance of flooding), the Subdivision Plan shall indicate that all principal structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation in accordance with the Floodplain Management Ordinance for the Town of Sabattus.
2. This restriction shall be identified on the Final Subdivision Plan and included by deed on any lot which is located in the Special Flood Hazard Area.

M. Common Land and Private Road Maintenance Standards

1. The Planning Board may require ongoing maintenance standards for common land such as open spaces, roads, and other facilities as a condition of subdivision approval. Maintenance standards may include conditions, obligations, or costs to maintain use of the common land.
 - a. The owner(s) of common land, open spaces, roads, or facilities shall be responsible for operation and maintenance of infrastructure within such common land(s).
 - b. If a Homeowners Association, Road Owners Association, or other agreement of the property owners is to be used, the subdivision applicant shall be responsible for maintenance of the common lands and facilities until 51% of the subdivision lots and/or units have been sold.

2. Common lands, open spaces, roads, and facilities shall be clearly labeled on the Final Subdivision Plan with notation detailing the use, ownership, management, method of preservation, and rights of the property owners in the subdivision to such land or portions thereof.
3. The Final Subdivision Plan shall contain notation for the book and page number of any conservation easements, deed restrictions, or other documents required to be recorded to implement such reservations, restrictions or provisions.
4. If any portion of a subdivision is proposed or required to be held in common ownership, covenants detailing the rights, interest, privileges, responsibilities for maintenance, and obligations of the property owner shall be approved by the Planning Board and included in the deed for each lot.
 - a. The applicant shall be responsible for establishing provisions covering the following:
 - i. The Homeowners Association, Road Owners Association, or other agreement proposed to be used by the property owners shall be in legal existence before the lots or units are sold;
 - ii. Each lot owner, or unit owner, shall be a member of the Homeowners Association, Road Owners Association, or other agreement proposed to be used, and shall be required by recorded covenants to pay fees, or the pro-rate share for taxes, insurance, and maintenance of the common land, open spaces, roads, or facilities; and
 - iii. Property owners shall pay their pro-rate share of the costs in ii. above, as adjusted to meet the needs. If not paid when due, the outstanding amount shall constitute a lien on the property.
 - b. The Planning Board shall forward the documentation for the Homeowners Association, Road Owners Association, or other agreement of the property owners to be used to the Town Attorney for review, and such other conditions the Planning Board deems necessary.

SECTION XI. WAIVERS.

- A. Where the Board finds that an extraordinary and unnecessary hardship 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 XII. STATUTORY REVIEW AND APPROVAL CRITERIA.

The Planning Board shall find that the following criteria, as defined in 30-A M.R.S. §4404, have been met prior to issuing a subdivision approval.

The proposed project:

1. Will not result in undue water or air pollution.

In making this determination, the Board shall consider:

- a. The elevation of the land above sea level and its relation to floodplains;
 - b. The nature of soils and subsoils and their ability to adequately support waste disposal.
 - c. The slope of the land and its effect on effluents;
 - d. The availability of streams for disposal of effluents; and
 - e. The applicable State and local health and water resources rules and regulations;
2. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
 3. Will not cause an unreasonable burden on an existing water supply, if one is to be used;
 4. Will not cause unreasonable soil erosion or reduction in the lands capacity to hold water so that a dangerous or unhealthy condition results;

5. 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,
 - a. If the proposed subdivision requires driveways or entrances onto a State or State aid highway, the Department of Transportation shall provide documentation indicating that the driveways or entrances conform to 23 M.R.S. §704, and any rules adopted under that section;
6. Will provide for adequate waste disposal of sewage and will not cause an unreasonable burden on municipal services, if municipal services are to be utilized;
7. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;
8. Will not have an undue adverse impact on scenic resources, community character, historic sites, significant wildlife habitat of rare and irreplaceable natural areas identified by the Department of Inland Fisheries and Wildlife and the Town of Sabattus Comprehensive Plan, or any public rights for physical or visual access to the shoreline;
9. Conforms with all duly adopted subdivision regulations or ordinances, the Town of Sabattus Comprehensive Plan, development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;
10. The developer has adequate financial and technical capacity to meet the standards of this section.
11. 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 38 M.R.S. §435-§490, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
 - a. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan shall require principal structures to have a combined lot shore frontage of 200 feet and setback from the normal high-water mark of 250 feet.
 - i. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a Shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

- ii. The frontage and set-back provisions of this paragraph do not apply either within:
 - i. Areas zoned as General Development or its equivalent under the Mandatory Shoreland Zoning Act in Title 38 M.R.S., Chapter 3, Subchapter I, Article 2-B; or
 - ii. Areas designated by ordinance as densely developed. The determination of which areas are densely developed shall be based on a finding that existing development met the definitional requirements of 30-A M.R.S. §4401(l), on September 23, 1983.
- 12. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- 13. 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 subdivision. The proposed Subdivision Plan shall include a condition of plan approval requiring that all principal structures in the subdivision be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation;
- 14. 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 Androscoggin Valley Soil and Water Conservation District or its successor;
- 15. 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 38 M.R.S. §480-B(9);
- 16. The proposed subdivision will provide for adequate stormwater management;
- 17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as defined in 38 M.R.S. §480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

18. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a ponds phosphorus concentration during the construction phase and life of the proposed subdivision;
19. 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.
20. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S. §8869(14). If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board shall 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 Maine Department of Agriculture, Conservation, and Forestry, 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 M.R.S., 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.
 - a. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in 12 M.R.S. §8868(6).
 - b. For the purposes of this subsection, "parcel" means a contiguous area within one municipality, township, or plantation which is owned by one (1) person, a group of persons in common, or in joint ownership.

SECTION XIII. PLAN REVISIONS AFTER APPROVAL

No changes, erasures, modifications or revisions shall be made to any Subdivision Plan after Final Plan approval has been issued 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 Selectboard and the Androscoggin County Registry of Deeds.

SECTION XIV. INSPECTION OF REQUIRED IMPROVEMENTS

- A. The subdivision applicant or builder shall notify the Code Enforcement Officer in writing at least 7 days prior to commencing each major phase of construction of the required improvements of the time in which construction shall commence in order so that the Selectboard may cause inspection to be made to assure all municipal specifications and requirements are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. If upon inspection of the improvements the Inspecting Official finds that any of the required improvements have not been constructed in accordance with the approved Subdivision Plan, the Inspecting Official shall notify the Selectboard, Planning Board, and the subdivision applicant, or builder, in writing. The Selectboard shall take steps necessary to preserve the rights of the Town of Sabattus.
- 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 provide a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications such as the relocation of rights-of-way or property boundaries, and changes of grade by more than 1%, the subdivision application shall obtain approval from the Board to modify the plans.
- D. At the close of each summer construction season, the Town shall, at the expense of the subdivision applicant, have the site inspected by the Inspecting Official. By December 1 of each year during which the construction occurred on the site, the Inspecting Official shall submit a report to the Board detailing whether the stormwater and erosion control measures (both temporary and permanent) are in place, if the stormwater and erosion control measures are properly installed, and if the stormwater and erosion control measures appear adequate to handle stormwater runoff generated at the site. The report shall also include a discussion of and recommendations for any problems which were identified.
- E. Prior to the sale of any lot, the subdivision applicant shall provide the Board with a letter from a Registered Professional Land Surveyor, stating that monuments have been installed in accordance with the Subdivision Plan.
- F. Upon completion of street construction, and prior to a vote by the Selectboard to submit a proposed town way for a vote at town meeting, a written certification signed by a Professional Engineer registered in the State of Maine shall be submitted to the Selectboard at the expense of the applicant certifying that the proposed town way meets or exceeds design and construction requirements of the Street Construction Ordinance for the Town of Sabattus. All "As built" plans shall be submitted to the Selectboard.

- G. The subdivision applicant or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by vote of the municipal legislative body of the Town of Sabattus at town meeting.

SECTION XV. APPEALS.

An appeal may be taken by any party to the Board of Appeals within thirty (30) days of the Board's final decision on the Preliminary or Final Plan.

A. Powers and Duties: The Board of Appeals shall have the following powers:

- 1. 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. A decision of the Planning Board relative to a subdivision application may be appealable directly to Superior Court.

B. Appeal Procedure: Decision by Board of Appeals

- 1. 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 refer the matter to the Planning Board for further consideration and fact finding.

SECTION XVI. VALIDITY 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 standards for the promotion and protection of health and safety, the provisions of the Ordinance shall prevail.

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:

1. **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.
2. **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.
3. **Fresh Water Wetland:** Means freshwater 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.
4. **Historic Building/Site:** Building and sites on the National Register of Historic Places or identified as of historic importance in the Sabattus Comprehensive Plan.
5. **Inspecting Official:** An individual appointed by the Selectboard to inspect streets and other improvements during construction.
6. **Multi-unit Residential:** A residential structure containing three (3) or more residential dwelling units.
7. **Public Road/Street:** A street maintained by the Town of Sabattus and/or State of Maine.
8. **Setback:** The horizontal distance from a lot line or street right-of-way to the nearest part of a building or structure.
9. **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-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.

NOTE: 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.

- 10. 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.
- 11. 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. The term includes structures temporarily or permanently located, such as decks and satellite dishes.
- 12. Subdivision:** A subdivision shall mean the division of a tract or parcel of land, or a structure, in accordance with 30-A M.R.S.A, §4401, as amended.
- 13. Substantial Construction:** Means a continuous, on-site physical construction program has progressed to a point where 25% or more of the total project is completed, or where 25% or more of the total cost of the project has been expended.

ADOPTED 5.19.07

AMENDED: XXXX, XX, 2026

PROPOSAL