

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

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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.

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- 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.

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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

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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.

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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.

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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

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Accepted:

Original Adoption:

Revision Dates:
