

**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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**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.

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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 an 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



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).

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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.

- \_\_\_\_\_ 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.)

	<b>Preliminary Plan</b>	<b>Final Plan</b>	
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.   |
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- |     |              |              |   |
|-----|--------------|--------------|---|
| 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:

\_\_\_\_\_

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#### 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:

- 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

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