

## SECTION 6 – ADMINISTRATION AND ENFORCEMENT

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SECTION USERS GUIDE: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearing.

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### A. CREATION OF ADMINISTERING BODIES AND AGENTS

1. **CODE ENFORCEMENT OFFICER** – The Code Enforcement Officer shall approve or deny those applications of which he/she is empowered to act as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.
2. **PLANNING BOARD** – The Planning Board of the Town of Sebago is hereby designated as the Planning Board, established in accordance with Article VIII, Pt 2, Section 1, of the Maine Constitution and Title 30-A MRSA, Section 3001. The Planning Board members shall be appointed by the Town of Sebago Selectmen.

The Planning Board shall approve, approve with conditions, or deny those applications on which it is empowered to act as stated in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

3. **BOARD OF APPEALS** – The Board of Appeals for the Town of Sebago is hereby designated as the Board of Appeals heretofore, established in accordance with Article VIII, Pt 2, Section 1 of the Maine Constitution and with Title 30-A, MRSA, Section 4353. The Board of Appeals members shall be appointed by the Town of Sebago Selectmen.

### B. APPROVAL REQUIRED

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer, as provided herein.

### C. APPLICATION REQUIRED

Applications for approval shall be submitted in writing, on forms provided, to the Code Enforcement Officer who shall oversee the permitting process and record keeping. The Code Enforcement Officer may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

### D. CODE ENFORCEMENT OFFICER PERMIT

A permit issued by the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities:

## 1. ACTIVITIES REQUIRING PERMIT

- a. **FLOOD HAZARD AREAS** – All construction or earth moving activities or other improvements within the one hundred (100) year flood plain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency
- b. **NEW CONSTRUCTION** – New Construction of buildings or structures
- c. **ALTERATION** – Alteration on a building, structure, or land, or parts thereof, including, but not limited to:
  - 1. Interior renovations for change in use
  - 2. Enclosing open frame porch, for the creation of additional sleeping space or any activity which increases the amount of water used daily
  - 3. Creation of driveways
  - 4. Construction of decks and porches
- d. **PLACEMENT OF SIGNS** – Placement of signs, except temporary signs
- e. **MOVING OR DEMOLITION** – All buildings or structures which are removed from or moved onto, or moved around within a lot, or demolished.
  - 1. Permits will be granted to the owner of record or agent. The project is to be completed within six (6) months from issuance.
- f. **SECTION 4 – F (SCHEDULE OF USES)** – Any activity requiring Planning Board or CEO approval in accordance with the Land Use Ordinance Schedule of Uses.

## 2. PROCEDURE

- a. **APPLICATION** – All applications requiring a permit shall be submitted, with appropriate fee, in writing to the Code Enforcement Officer on forms provided.
- b. **SUBMISSIONS** – All applications requiring a permit shall be accompanied by a sketch plan, accurately drawn to scale and depicting actual dimensions or distances, as required below:
  - 1. The actual shape and dimensions of the lot for which a permit is sought
  - 2. The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies
  - 3. The existing and intended use of each building or structure
  - 4. Where applicable, the location of soil test pits, subsurface sewage disposal system, parking lots, driveways, signs, buffers, and private wells

5. Such other information as may be reasonable required by the Code Enforcement Officer to provide for the administration and enforcement of this Ordinance.

- c. **TO WHOM ISSUED** – No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.
- d. **COMPLIANCE WITH LAND USE ORDINANCE** – All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section 5 of this Ordinance.
- e. **DEADLINE FOR DECISION** – The Code Enforcement Officer shall, within thirty (30) days of receipt of an application: issue a permit, if all proposed construction and uses meet the provisions of this Ordinance; refer the application to the Planning Board for their review; or deny the application. All decisions of the Code Enforcement Officer shall be in writing.
- f. **COPIES** – One (1) copy of the application, with the permit or other written decisions of the Code Enforcement Officer, shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision shall be retained by the Code Enforcement Officer as a permanent public record.
- g. **POSTING** – The applicant shall post any permit issued in a conspicuous location on the lot clearly visible from the street.
- h. **COMMENCEMENT AND COMPLETION OF WORK**
  - 1. Construction and alteration activities on projects for which a permit has been granted under this Section shall commence within one (1) year of the date of issuance of the permit and shall be completed within twenty-four (24) months of that date.
  - 2. Activities which are not commenced or completed within the time limits provided above shall be subject to a new application and the permit issued under this Section shall be considered null and void.
  - 3. Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for extension is submitted not later than thirty (30) days prior to the expiration of the prior permit.

3. **APPEALS** – Appeals from decisions of the Code Enforcement Officer may be taken pursuant to the provisions of this Ordinance.

## **E. PLANNING BOARD PERMIT REVIEW**

The Planning Board shall review all applicable Land Use Permit applications pursuant to Section 4 subsection F (Schedule of Uses) according to the Site Plan Review provisions of Section 7 (Site Plan Review).

**F. OTHER PERMITS REQUIRED BEFORE APPROVAL**

Applications for approval under this Ordinance will not be considered complete for processing until all other required local, state, and federal permits have been secured and evidence that they have been secured has been provided unless state or federal regulations require local approval first.

**G. VIOLATIONS**

Violations of the terms and conditions of this Ordinance shall be corrected within thirty (30) days of receipt of Notice of Violation, unless an extension of time is granted by the Code Enforcement Officer or Planning Board, said violation may void all permits.

**H. COMMENCEMENT AND COMPLETION OF WORK**

Construction and alteration activities for which approval has been granted under this Ordinance shall commence within one (1) year of the date of issuance of the permit and shall be completed within twenty-four (24) months of that date. Activities which are not commenced or completed within the time limits provided above shall be subject to a new application and the permit issued under this Section shall be considered null and void.

**I. CERTIFICATE OF OCCUPANCY REQUIRED**

After a building, structure, or part thereof has been erected, altered, enlarged, or moved, pursuant to approval under this Ordinance, a Certificate of Occupancy shall be obtained from the Code Enforcement Officer for the proposed use before the same may be occupied or used. A Certificate of Occupancy is required for the following:

1. Activities granted approval under the provisions of this Ordinance
2. Any change in tenant housing

**J. ENFORCEMENT**

1. **NUISANCES** – Any violation of this Ordinance shall be deemed to be a nuisance.
2. **CODE ENFORCEMENT OFFICER** – It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
3. **LEGAL ACTIONS** – When the above does not result in the correction or abatement of the violation or nuisance condition, the Selectpersons, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of the Ordinance in the name of the municipality.

4. **FINES** – Any person who continues to violate any provisions of this Ordinance after receiving notice of such violation shall be liable for civil penalty of a minimum of one hundred to two-thousand-five-hundred (\$100.00 - \$2500.00) for each violation. Each day the violation continues shall constitute a separate violation.
5. **LIABILITY** – Any property owner or authorized agent involved in any activity regulated by the provision of this Ordinance may be held liable for violating this Ordinance if the necessary permits for said activity have not been obtained or if work performed does not conform to all conditions of approval of the permit or the terms of this Ordinance.

## K. APPEALS

1. **ADMINISTRATIVE APPEALS** – The Board of Appeals shall hear and decide appeals where it is alleged that there is any error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or the Planning Board in the administration of this Ordinance. When errors of administration procedures or interpretation are found, the case shall be remanded to the Code Enforcement Officer or Planning Board for correction.
2. **VARIANCES** – The Board of Appeals shall authorize variances upon appeal, within the limitations set forth in this Ordinance.
  - a. Dimensional variances may be granted only from dimensional requirements including frontage, lot area, lot width, height, and setback requirements.
  - b. Variances shall not be granted for establishment of any use otherwise prohibited by this Ordinance.
  - c. The Board shall not grant a variance unless it finds that:
    1. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought.
    2. The strict application of the terms of this Ordinance would result in an undue hardship.

The term “undue hardship” shall mean all of the following:

- a. The land in question cannot yield a reasonable return unless a variance is granted.
- b. The need for a variance is due to the circumstance of the property and not to the general conditions in the neighborhood.
- c. The granting of a variance will not alter the essential character of the locality.
- d. The hardship is not the result of action taken by the applicant or a prior owner.

- d. The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living or regularly visits the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment of the construction of structures necessary for access to, or egress from, the property by the person with the disability.
- e. The Board may grant a variance to a property owner from a setback requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. A variance under this section may not exceed twenty percent (20%) of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage (if applicable). If the petitioner has obtained the written consent of an affected abutting landowner, the twenty percent (20%) limitation may be extended. The term "undue hardship" for this section means:
  - 1. The need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood.
  - 2. The granting of a variance will not alter the essential character of the locality.
  - 3. The hardship is not the result of action taken by the applicant or a prior owner.
  - 4. The granting of the variance will not substantially reduce or impair the use of abutting property.
  - 5. The granting of a variance is based upon demonstrated need, not convenience and no other feasible alternative is available.

### **3. APPEAL TO SUPERIOR COURT**

An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State Law.

### **4. RECORDING OF VARIANCE**

If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form, the final written approval of the variance or the variance is null and void. A variance is not valid until recorded as provided in this section. The date of the final written approval shall be the date stated on the written approval.

## **L. SCHEDULE**

All application fees for permits shall be paid to the Town of Sebago in accordance with the fee schedule as established by the Selectman of the Town of Sebago. Fees shall be for the cost of processing the permits and shall not be refundable regardless of the final decision to issue or deny a permit. Advertising

costs, technical or legal assistance and associated costs deemed necessary by the Town for review of applications shall be the responsibility of the applicant.

1. **PLUMBING PERMITS** – Fees for Plumbing Permits shall be pursuant to the established fee schedule of the Town Of Sebago.
2. **LAND USE PERMITS** – Fees for Land Use Permits shall be pursuant to the established fee schedule of the Town of Sebago.