

SECTION 6 – ADMINISTRATION AND ENFORCEMENT

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.

A. CREATION OF ADMINISTERING BODIES AND AGENTS

1. **CODE ENFORCEMENT OFFICER** – The Code Enforcement Officer shall approve or deny those applications on 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. The Code Enforcement Officer shall be responsible for the enforcement of this Ordinance, including all requirements of permits issued by the Code Enforcement Officer and approvals granted by the Planning Board.
2. **TOWN PLANNER** – The Town Planner shall provide technical assistance and staff support to the Planning Board and, in appropriate circumstances, to the Board of Appeals. Such assistance by the Town Planner may include, without limitation, providing professional assistance in the Board's review of applications, recommending that additional studies and/or analysis be conducted at the expense of the applicant, and assisting the Board in the preparation of proposed findings of fact, conclusions of law, and conditions of approval.
3. **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 Select Board.

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.

4. **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 Select Board.

B. APPROVAL REQUIRED

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

C. APPLICATION REQUIRED

1. Code Enforcement Officer Applicants

Applications for a Code Enforcement Officer Permit shall be submitted in writing, on forms provided by the Town, to the attention of the Code Enforcement Officer who shall oversee the Code Enforcement Officer permitting process and record keeping. The Code Enforcement Officer may require the submission of additional information deemed necessary to determine conformance of an application for a CEO permit with the provisions of this Ordinance.

2. Planning Board Applications

Applications requiring Planning Board approval shall be submitted in writing, on forms provided by the Town, to the attention of the Town Planner in accordance with Section 7.D.

3. Right, Title or Interest

Applicants shall provide information to show that the applicant has sufficient right, title or interest in the property where the proposed project is to occur. No application shall be considered complete until such time as this information is provided by the applicant. Where the sufficiency of the applicant's right, title or interest in the property is disputed, the Code Enforcement Officer or the Planning Board, as applicable, may undertake review of the applicant's right, title or interest in the property prior to determining that the application is complete.

D. CODE ENFORCEMENT OFFICER PERMIT AND PLANNING BOARD APPROVAL

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

1. ACTIVITIES REQUIRING CEO 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 CEO permit or Planning Board approval shall be submitted with the applicable fee established by the Select Board.
- b. **SUBMISSIONS** – All applications requiring a CEO permit or Planning Board approval 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 reasonably required by the Code Enforcement Officer or the Town Planner, as applicable.
- c. **TO WHOM ISSUED** – No CEO permit shall be issued, or Planning Board approval granted, except to an applicant who has demonstrated right, title or interest in the property or their 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 for a CEO permit: request additional information; issue a permit, if all proposed construction and uses meet the provisions of this Ordinance; or deny the application. All decisions of the Code Enforcement Officer shall be in writing.

- ## E. PLANNING BOARD REVIEW AND PUBLIC NOTICE

- F. OTHER PERMITS REQUIRED BEFORE COMMENCEMENT OF GROUND CLEARING OR CONSTRUCTION**

G. VIOLATIONS

H. COMMENCEMENT AND COMPLETION OF WORK

Administration and Enforcement

Construction and other activities, not requiring Planning Board approval, for which a Code Enforcement Officer permit has been granted, shall commence within one (1) year of the date of the CEO permit and shall be completed within twenty-four (24) months of the date of the CEO permit.

If such construction and other activities are not commenced or completed within the time limits provided above, the Planning Board approval or CEO permit shall be null and void and a new Planning Board approval or CEO permit shall be required, subject to the provisions of this Ordinance, and any other requirements, then in effect.

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 Select Board on its own initiative, or upon notice from the Code Enforcement Officer, is 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 established by the Select Board 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.