

Town of Vassalboro
Enforcement and Appeals Ordinance

CERTIFIED BY

TOWN CLERK

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TOWN OF VASSALBORO ENFORCEMENT AND APPEALS ORDINANCE

A. PRELIMINARY MATTERS

SECTION 1 - PURPOSE

In order to better promote the health, safety and general welfare of the residents of the Town of Vassalboro and the overall protection of its environment, the purpose of this Ordinance is to:

- (1) Streamline the procedures for enforcement of the Town's Ordinances and any other laws or rules administered and enforced primarily at the local level and set forth in 30-A M.R.S.A. §4452(5), (6) and (7), as amended from time to time;
- (2) Set forth in one ordinance the establishment, organization, procedure and jurisdiction of the Board of Appeals for the Town;
- (3) Limit the issuance of permits to those who are, at the time, in compliance with all Town ordinances and state laws pertaining to land use; and
- (4) Limit those undertaking work related to the permits including contractors, developers, and other personnel or businesses that will gain monetary benefit to those who are at the time, in compliance with all Town ordinances and state laws pertaining to land use

SECTION 2 – AUTHORITY

This Ordinance is adopted pursuant to the Home Rule provisions of the Maine Constitution and its enabling legislation, Me. Const. Art. VIII, Pt. 2, §1; 30-A M.R.S.A. §3001; and 30-A M.R.S.A. §2691.

SECTION 3 - APPLICABILITY

The provisions of this Ordinance shall apply to the following land use ordinances of the Town: Subdivision, Site Review, Building Permit, Shoreland Zoning, Automobile Graveyard and Junkyard, Road Construction, Aquifer Protection, Floodplain Management, and any other ordinance enforced or administered by the Code Enforcement Officer. This Ordinance shall also apply to the state laws administered by the Local Plumbing Inspector including Maine Subsurface Wastewater Disposal Rules and the Maine Internal Plumbing Code and any state laws pertaining to land use that may be enforced at the local level as indicated in 30-A M.R.S.A. §4452(5), (6) and (7), as amended from time to time; .

SECTION 4 – EFFECTIVE DATE

This Ordinance shall become effective immediately after approval by the voters of the Town of Vassalboro.

SECTION 5 – CONFLICT WITH OTHER ORDINANCES

In the event any provisions of this Ordinance conflict with any other provisions of this Ordinance, or in the event any provisions of this Ordinance conflict with the provisions of any other Ordinance, the provisions with the stricter standards shall apply.

SECTION 6 – VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared invalid, such invalidity shall not void or make invalid any other section or provision of this Ordinance.

B. ENFORCEMENT

SECTION 1 – ENFORCEMENT AUTHORITY

The Code Enforcement Officer shall enforce the provisions of all the applicable Town Ordinances and state laws as indicated in Section A(3) of this ordinance in accordance with 30-A M.R.S.A. §4452, as amended from time to time. The Local Plumbing Inspector shall enforce the provisions of the Maine Subsurface Wastewater Disposal Rules and Maine Internal Plumbing Code in accordance with 30-A M.R.S.A. §4452, as amended from time to time.

SECTION 2 – ENFORCEMENT PENALTIES

Any person who violates a provision of any applicable Town ordinance or state law, including but not limited to the landowner, his agent(s), lessees(s) and/or contractor(s), shall be subject to the penalties set forth in 30-A M.R.S.A. §4452(3) as amended from time to time.

SECTION 3 – NOTICE OF VIOLATION

The appropriate enforcement authority as indicated in Section B(1) shall notify any person(s) and/or entity(ies) whom or which he determines has violated the applicable Town Ordinances, and any other laws or rules administered and enforced primarily by the Town, of said violation.

- a. The notice shall state the nature of the violation, and shall specify the necessary corrective action to be taken, which may include discontinuance of the illegal activity, removal of any illegal buildings or structures, and abatement of any nuisance conditions. The notice shall also state the time period in which the correction must be made.
- b. A copy of this notice shall be maintained as a permanent Town record.
- c. If the above action does not result in a resolution of the violation(s) that is satisfactory, the appropriate enforcement authority may seek approval from the municipal officers to commence legal action against the violator(s) pursuant to 30-A M.R.S.A. §4452, as amended from time to time.

SECTION 4 – ENFORCEMENT IN FLOOD ZONES

In addition to any other action provided above, the Code Enforcement Officer shall, upon determining that a violation of any State or local law, regulation or ordinance intended to discourage or otherwise restrict development or occupancy in flood-prone areas exist, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The declaration shall contain the following:

- a. the name and address of the property owner and a legal description of the property sufficient to confirm its identity or location;
- b. a declaration that the property is in violation of a cited State or local law, regulation or ordinance as set forth above;
- c. a statement that the public body making the declaration has authority to do so and a citation to that authority;
- d. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
- e. a statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. §4023 (as amended)).

SECTION 5 – PROHIBITION OF ALL PERMITTING

A permit shall not be issued under the following conditions:

- a. The applicant for the permit is currently in violation of any ordinance or state law related to land use within the Town of Vassalboro.
- b. The landowner for whom a permit application has been submitted is currently in violation of any ordinance or state law related to land use within the Town of Vassalboro
- c. The applicant for the permit has engaged in activities requiring a permit under state laws or local ordinances without having obtained a permit with respect to any land within the Town of Vassalboro
- d. The landowner for whom a permit application has been submitted has engaged in activities requiring a permit under state laws or local ordinances without having obtained a permit with respect to any land within the Town of Vassalboro
- e. The applicant or landowner will be using a contractor, developer, or any business or person gaining monetary benefit to undertake work related to the issuance of the permit and the contractor, developer, business or person is currently in violation of any ordinance or state law related to land use in the Town of Vassalboro. The only

exception to the above permitting prohibition shall be for a subsurface wastewater disposal system permit if the original system has failed.

C. APPEALS

SECTION 1 – JURISDICTION

The Board of Appeals (sometimes referred to as the Board), previously established pursuant to 30-A M.R.S.A. §2691, shall have jurisdiction to hear appeals by any person with standing, affected directly or indirectly, from any decision, order, regulation or failure to act of the Code Enforcement Officer, Plumbing Inspector or Planning Board arising under the following ordinances and/or state laws: Building Permit, Road Construction, Automobile Graveyard and Junkyard, Floodplain Management, and Aquifer Protection, Shoreland Zoning and any other ordinance enforced or administered by the Code Enforcement Officer or Planning Board, the Maine Internal Plumbing Code, the Maine Subsurface Wastewater Disposal Rules, the special amusement permit statute (28-A M.R.S.A. §1054) and any other state law administered or enforced by the Code Enforcement Officer.

All appeals to the Site Review or Subdivision Ordinance shall be made to Superior Court within thirty days of the decision.

SECTION 2 – ADMINISTRATIVE APPEALS

a. Timing and fees

Written notice of appeals to the Board must be received by the Code Enforcement Officer, at the Town office, within thirty (30) days of the date of the determination being appealed, along with the appropriate appeal fee as set by the municipal officers each year.

b. Appeals Relevant to the Shoreland Zoning Ordinance

All appeals of the Shoreland Zoning Ordinance shall follow provisions of that Ordinance.

c. Notice of Appeal

The notice of appeal must include the following:

- (1) a written statement clearly describing the basis for the appeal; the specific or conclusions of law being appealed, if any; and, if the appellant claims that the decision violates any ordinance, regulation or statute, the specific ordinance, regulation or statute which the appellant claims has been violated.
- (2) a sketch plan drawn to scale showing lot lines, location of existing buildings and other structures, and other pertinent features on the lot that are relevant to the appeal.

d. Record of Appeal Transmitted to Board

Upon being notified of an appeal, the Code Enforcement Officer shall transmit the notice of appeal and all papers and other exhibits constituting the record of the proceeding on the original application to the Board of Appeals.

e. Hearing Required

The Board of Appeals shall schedule and hold a hearing on the appeal within thirty-five (35) days of its receipt of the notice of appeal and record.

f. Public Notice of Hearing

The Board of Appeals shall notify the Code Enforcement Officer of the date on which the hearing is scheduled. The Code Enforcement Officer shall then give written notice by regular mail to all owners of property abutting the property subject to the appeal, to the party making the appeal, and to the Town official(s) the decision of which is being appealed (Code Enforcement Officer, Plumbing Inspector or Planning Board).

Public notice of the hearing shall also be given in a newspaper of general circulation in the Town. The notice shall contain the date and time of the hearing, and shall provide a brief description of the decision being appealed, the location of the property involved in the appeal, and the name of the person taking the appeal.

g. Hearing Procedure

- (1) Hearings shall be conducted in accordance with 30-A M.R.S.A. §2691(3).
- (2) The appellant's case shall be presented first. Parties opposing the appeal shall then present their cases in the order determined by the chairperson of the Board of Appeals.
- (3) If needed to control the hearing, the Board may require questions to be asked through the chairperson.
- (4) Any party may be represented by an agent and/or an attorney.
- (5) Hearings may not be continued except for good cause shown.
- (6) The record may be kept open at the conclusion of the hearing to receive additional documentary evidence until a date established by the Board.

h. Decision by the Board of Appeals

(1) A majority of the Board shall constitute a quorum to conduct a hearing of an appeal.

(2) Only those issues on which an appeal has been taken shall be heard, and the appellant shall have the burden of proof on said issues.

(3) All decisions become a part of the record and must include (1) a statement of findings and conclusions upon all the material issues of fact, law or discretion presented by the appeal, (2) the reasons or basis for the findings and conclusions, and (3) the appropriate order, relief or denial of relief.

(4) Notice of any decision must be mailed or hand delivered to the appellant, his representative or agent, the Planning Board, Code Enforcement Officer, Plumbing Inspector, or other Town office, as appropriate, and the municipal officers, within seven (7) days of the Board's decision.

i. Reconsideration

In accordance with 30-A M.R.S.A. §2691(3)(F), the Board may reconsider any decision reached within forty-five (45) days of the decision. A demonstration must be made by the applicant that substantial new evidence has been brought before the Board or an error or mistake of law or misunderstanding of fact has been made. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is to be reconsidered. A vote to reconsider, and the action taken on that reconsideration, must occur and be completed within forty-five (45) days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony. All parties notified of the original appeal must be notified of the request for reconsideration.

j. Review of Board of Appeals Decision

Any party to the proceedings before the Board of Appeals may take an appeal to the Superior Court within forty-five (45) days of the date of the vote on the original decision, in accordance with 30-A M.R.S.A. §2691(3)(G); except that, as provided in 30-A M.R.S.A. §2691(3)(F), appeal of a reconsidered decision must be made within fifteen (15) days after the vote on the decision on reconsideration.