

**ARTICLE 1 -- ORDINANCE ESTABLISHMENT****1.1. TITLE**

This Ordinance shall be known as and may be cited as "The Land Use Ordinance of the Town of Clifton, Maine," and will be referred to herein as the "Ordinance".

**1.2. AUTHORITY**

This Ordinance is adopted pursuant to Home Rule Powers as provided for in **Article VIII-A** of the Maine Constitution and **Title 30-A, MRSA §4352 (Zoning Ordinances) , §2691 (Board of Appeals), §3001-3007 (Ordinance Enactment, Powers, Revision, Publication, Availability); §3701 – 3702 (Regulation, Licenses and Permits); §4401-4407 (Subdivisions); §4312, et. Seq.(Land Use Planning and Regulation); and §4452 (Enforcement of Land Use Laws and Ordinances); Title 38, MRSA §435 et. seq. (Mandatory Shoreland Zoning); and §440 (Federal Flood Insurance), of the Maine Revised Statutes Annotated (MRSA).**

**1.3. PURPOSE**

The purposes of this Ordinance are as follows:

**1.3.1. Establishment Of Fair And Uniform Procedures And Standards**

To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which Town residents may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance;

**1.3.2. Reduction Of Negative Fiscal Impact**

To provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide, maintain and improve necessary public facilities and services;

**1.3.3. Balancing Of Property Rights**

To protect property rights and values by balancing the rights of landowners to use their land respecting the corresponding rights of abutting and neighboring landowners.

**1.3.4. Preservation Of The Town Character**

To preserve and protect the character of Clifton by establishing Growth Management Areas that reflect the current and historic patterns of land use and development; that respect the presence of natural constraints on uses and development; and that recognize existing opportunities for future land use and development;

**1.3.5. United Nations Conference On Environment And Development (UNCED) Agenda 21**

The Town of Clifton does not subscribe to Agenda 21 nor does it support the initiative.

**1.3.6. Protection Of The Environment**

To protect and enhance the natural, cultural, and historic resources of the Town and to integrate new development harmoniously into the Town's natural environment;

**1.3.7. Promotion Of Community Development**

To promote the development of an economically sound and sustainable community;

**1.3.8. Promotion Of The General Welfare**

To promote the comfort, convenience, safety, health, and welfare of the present and future inhabitants of the Town of Clifton; and

**1.3.9. Comprehensive Plan Implementation**

To promote the growth management policies and recommendations of the Clifton Comprehensive Plan.

**1.3.10. Establishing And Maintaining Local Control**

To establish and maintain local control of land use planning and regulation in Clifton, to the greatest extent possible within the Town's Home Rule Powers.

**1.4. APPLICABILITY**

This Ordinance shall apply to all land and water areas within the Town of Clifton. All buildings or structures thereafter constructed, reconstructed, altered, enlarged, or moved, and the uses or occupation of buildings and land, including the division of land shall be in conformity with the provisions of this Ordinance. No existing or future building, structure, land or water area shall be used for any purpose or in any manner except in conformity with this Ordinance, unless a variance is granted.

**1.5. CONFLICT WITH OTHER ORDINANCES**

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, deed restriction, covenant or statute that is administered by the Town, that imposing the most restrictive or higher standard shall govern.

**1.6. SEVERABILITY**

In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other Section, Sub-Section, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

**1.7. AMENDMENTS TO ORDINANCE AND MAPS**

**1.7.1. Initiation.** Amendments to this Ordinance or to the Ordinance maps may be initiated by the Municipal Officers, the Planning Board or by written petition of the registered voters in the Town of Clifton.

**1.7.1.1. 30-A MRSA §2522 Petition for Article in Warrant.** On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10. The municipal officers shall either insert the proposed amendment article into the next warrant issued or shall within 60 days call a special town meeting for its consideration. All proposed amendments shall be referred to the Planning Board for their recommendation. The Planning Board may request a written review and recommendations on the proposed amendment and /or proposed amended map from appropriate state agencies.

**1.7.1.2. 30-A MRSA §2528 (5), Petition Amendment at Regularly Scheduled Election.** By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration. A petition or order under this subsection is subject to the filing provisions governing nomination papers under subsection 4. The municipal officers shall hold a public hearing on the subject of the article at least 10 days before the day for voting on the article. At least 7 days before the date set for the hearing, the municipal officers shall give notice of the public hearing by having a copy of the proposed article, together with the time and place of hearing, posted in the same manner required for posting a warrant for a town meeting under **§2523**. The municipal officers shall make a return on the original notice stating the manner of notice and the time it was given.

**1.7.2. Public Hearing.** The Planning Board shall hold a public hearing on any proposed amendment. The Planning Board shall hold a public hearing on any proposed amendment that involves any provisions that fall within State Statute as requiring a public hearing. Notification procedures shall comply with all applicable state statutes, which among others, may include Maine Revised Statutes Annotated (**MRSA**) **Title 30-A, §4352 and 30-A MRSA §2528**.

**1.7.3. Initiation And Amendment Review.** The Municipal Officers may obtain an attorney's opinion of any proposed amendment.

**1.7.4. Town Meeting Vote.** Within thirty (30) days of receiving a proposed amendment, the Planning Board shall make their recommendations on the substance of the amendment and on the amendment procedure known to the Municipal Officers. If the Municipal Officers determine that the recommendations warrant immediate action, the Municipal Officers shall set a date and post notices of a Special Town Meeting. At the Special Town Meeting, the Planning Board shall present its recommendations. Any amendment shall require a majority vote of those present and voting.

**1.7.5. Notification Of State.** The Commissioner of the Department of Environmental Protection shall be notified of the adoption of this Ordinance and/or the adoption of amendments to this Ordinance or to Growth Management Area Boundaries in the Shoreland Management Area (boundaries of the Resource Protection District or the Limited Residential District) as required by the **Mandatory Shoreland Zoning Act, Title 38, MRSA, §438-A, Sub-Section 3**. Amendments to this Ordinance shall not become effective unless approved by the

Commissioner. If the Commissioner fails to act on an amendment within forty-five (45) days, it shall be deemed approve.

### **1.8. ANNUAL ADMINISTRATIVE REVIEW**

The Code Enforcement Officer, the Planning Board, and the Board of Appeals, shall jointly report annually, in the month of January, to the Select Board on their respective experience with the administration of this Land Use Ordinance during the previous year. Their report to the Select Board shall include any recommended amendments they may have that would:

- 1.8.1. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance; and
- 1.8.2. Enhance the implementation of the purposes of this Ordinance contained in **Article 1.3 Purpose** above.

Failure of any person or Board to comply with this provision shall not affect the validity or enforceability of this Ordinance in any way.

### **1.9. EFFECTIVE DATE**

The effective date of this Ordinance or any amendments thereto shall be the day of its/their enactment by the Town if none other is specified. The Shoreland Management Area provisions of this Ordinance, or any subsequent amendments to this Ordinance affecting the Shoreland Management Area, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

Shoreland Standard **SS 22.0** is repealed on the statutory date established under **38 MRSA §438-A (5)**, at which time Shoreland Standard **SS 23.0** shall become effective. Until such time as **Article 9 SS 22.0** is repealed, **Article 9 SS 23.0** having to do with timber harvesting is not in effect.

### **1.10 AVAILABILITY**

A copy of this Ordinance, certified by the Town Clerk shall be on file at the Town Office and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

**1.11 REPEAL OF PRIOR ORDINANCES**

The existing Board of Appeals Ordinance, Building Permit / Site Plan Review Ordinance, Nonresidential Site Plan Review Ordinance, Excavation Ordinance, Manufactured Homes Ordinance, Subdivision Ordinance, Floodplain Management Ordinance and Shoreland Zoning Ordinance of the Town of Clifton, Maine, each as amended, are each repealed as of the effective date of this Land Use Ordinance. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any violation of the Ordinances repealed by this Section, if the violation is also a violation of the provisions of this Ordinance. It is further the intention and direction of this Section that if this Ordinance is, for any reason, held to be invalid or void in its entirety, that the Ordinances repealed by this Section shall be automatically revived.

This revision supersedes and replaces all previous versions and amendments to the Clifton Land Use Ordinance.