

ARTICLE 2-- ADMINISTRATION AND LEGAL ACTIONS**2.1. ADMINISTRATION AND ENFORCEMENT BODIES AND AGENTS****2.1.1. Code Enforcement Officer**

Unless otherwise provided for in this Ordinance, the Code Enforcement Officer (CEO), as duly appointed by the Select Board by July 1 of each year, shall administer and enforce this Ordinance. No building or use permit or certificate of occupancy, use, or compliance shall be issued by the Code Enforcement Officer except in compliance with the provisions of this Ordinance. The Code Enforcement Officer shall have the following duties, among others, in administering and enforcing this Ordinance:

2.1.1.1. Preliminary Plans. Examine preliminary plans.

2.1.1.2. Applications, Forms and Fees. Act upon all applications and collect any fees due; refer and / or process all applications on standard forms as required.

2.1.1.3. CEO Applications. Act upon building, construction and use applications which are under the jurisdiction of the CEO as set forth in this Ordinance.

2.1.1.4. Planning Board Applications. Review site plan review and subdivision review applications for completeness of submissions and refer such applications to the Planning Board. Following approval by the Planning Board, the applicant shall return to the Code Enforcement Officer for building and other permits.

2.1.1.5. Board of Appeals Applications. Refer requests for variances and administrative appeals to the Board of Appeals.

2.1.1.6. On-Site Inspections. Inspect sites where building permits have been issued to ensure compliance with all local, state and federal laws, codes and/or ordinances and with any and all conditions attached to permit approvals and keep written records of such inspections.

2.1.1.7. Complaints and Violations. Investigate complaints and reported violations.

2.1.1.8. Reports and Records. Keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, violations investigated, violations found, and fees collected.

2.1.1.9. Violation Notices. Issue violation notices.

2.1.1.10. Appeals. Participate in appeals procedures.

2.1.1.11. Consent Agreements. Process or act on consent agreements involving violations of this Ordinance or appear in court when necessary.

2.1.1.12. Agenda Materials. Have agenda materials at the Town Office at least nine days before each Planning Board or Board of Appeals meeting, and attend meetings of the Planning Board and Board of Appeals.

2.1.1.13. Permit Revocation. Revoke a permit after notice if it was issued in error or if it was based on erroneous information.

2.1.1.14. Interpretation Referral. When there is a question concerning the interpretation of this Ordinance, the Code Enforcement Officer may refer the matter to the Planning Board for interpretation.

2.1.1.15. Biennial Report To The State. Submit on a biennial basis, a summary report to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection regarding activities within the Shoreland Management Area for the two-year period.

2.1.1.16. Operational Permitting. Perform annual inspections of projects required to have an operational permit and act on renewals. Refer operator to the Planning Board if needed for action to correct violations.

2.1.2 Planning Board

2.1.2.1 Creation. A Planning Board has been created by town ordinance and in accordance with State law. The Board was created in 1975 by ordinance and by new ordinance in 2007.

2.1.2.2. Powers and Duties.

2.1.2.2.1. The Planning Board shall be responsible for reviewing and acting upon applications for site plan and subdivision review as set forth in this Ordinance. The Planning Board shall also be responsible for reviewing and acting upon applications for operational permits.

2.1.2.2.2. The Planning Board shall be responsible for reviewing this ordinance from time to time and to make constructive recommendations for changes to the ordinance using the processes outlined herein.

2.1.2.2.3. The Planning Board shall be the local authority for the interpretation of this ordinance including the final determination regarding the completeness of submissions and adequacy of the material presented by applicants, consultants, or any other third party.

2.1.2.2.4. The Planning Board shall have the authority to review and on an interim basis correct minor administrative errors such as references to the wrong state statute, incorrect internal references, spelling, capitalization, grammar, numerical sequencing and similar throughout the life of the ordinance. These corrections are non-substantive and do not require formal approval of the town by voting processes for interim implementation. If such corrections are necessary, the Board shall vote on the changes and maintain a record with the Town Clerk. Such changes will receive a formal notice and vote on even years of the Annual Town Meeting.

2.1.2.2.5. The Planning Board shall be responsible for assisting the Select Board for developing, implementing, and scheduling revisions to the Comprehensive Plan. The Planning Board shall request a joint meeting with the Select Board as necessary to discuss and benchmark the status of the Comprehensive Plan.

2.1.3. Board of Appeals

2.1.3.1. Creation. A Board of Appeals is created by this Ordinance.

2.1.3.2. Powers and Duties. The Board of Appeals shall hear appeals to the administration of this Ordinance according to the provisions of the Board of Appeals article.

2.2. Establishment of Parties

NOTE: Articles 2.2.1 through 2.2.4 are informational guidance for the Planning Board. Determination of parties will default to Maine law if questions or disputes arise.

2.2.1. The Board may have to determine who may be an interested party throughout the project submission and review process. A party must be able to show they may suffer a particularized injury. Considerations based on court outcomes include:

2.2.1.1. proximate location of the adjoiner's (abutter's) property, together with

2.2.1.2. an adverse consequence (even if relatively minor) if the Board grants the action.

2.2.2. Persons who own property in the same neighborhood, even if not actual abutters, have at times been found to have particularized injury.

2.2.3. The party must show actual participation in the record in order to file an appeal to the decision made by the Board. This participation must be in-person at the hearings or through a clearly defined agent.

2.2.4. A citizen's group or other organization may become an intervener (or party) during project submission and review or for an appeal meeting the following criteria:

2.2.4.1. any one of the members would have standing in his/her own right, and;

2.2.4.2. the interests at stake are germane to the organization's purpose.

2.2.5. Where a organization type party has been granted intervention, the Board may restrict such party's participation to only those issues in which the party has demonstrated an interest (following the case law concept in accordance with Article 2.2.4.2), may require such party to join with other parties with respect to appearance by counsel, presentation of evidence or other matters, or may otherwise limit such party's participation, all as the interests of justice and economy of review and rendering decision require. An intervener may be subject to cross-examination by the Board.

2.2.6. A request for intervener status must be made in accordance with the rules in **Article 6.4.6.3.4.**

2.3. ENFORCEMENT, VIOLATIONS, PENALTIES AND OTHER LEGAL ACTIONS

2.3.1. Nuisances.

2.3.1.1. Any violation of this Ordinance shall be deemed to be a nuisance.

2.3.1.2. Violations of this ordinance may be enforced against the landowner, the violator, or both at the Town's discretion.

2.3.2. Enforcement Procedure

2.3.2.1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance.

2.3.2.2. If the Code Enforcement Officer finds that any provision is being violated, the CEO shall notify in writing the person responsible for such violation, including but not limited to the land owner, the violator (if different from the landowner), or both indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and to the Planning Board and be maintained as a permanent record. Any such notice is not a prerequisite to bringing any legal action noted in **Article 2.3.4** below, and the failure to give notice shall not in any way affect such legal action.

2.3.3. Enforcement in the Flood Hazard Area

2.3.3.1. It shall be the duty of the Code Enforcement Officer to enforce the Flood Plain Management provisions of this Ordinance, pursuant to **Title 30-A MRSA §4452**.

2.3.3.2 The penalties contained in **Title 30-A MRSA §4452** shall apply to any violation of the Floodplain Management provisions of this Ordinance.

2.3.3.3 In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

2.3.3.3.1 the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2.3.3.3.2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

2.2.3.3.3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

2.3.3.3.4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

2.3.3.3.5. a clear statement that the declaration is being submitted pursuant to **Section 1316 of the National Flood Insurance Act of 1968**, as amended.

2.3.4. Legal Action. The Municipal Officers, upon notice from the Code Enforcement Officer, are hereby 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 this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into consent agreements for the purpose of eliminating violations of this Ordinance and recording fines

without Court action. Such agreements should not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

2.3.5. Fines. Every person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with **30-A, MRSA., §4452.**

2.3.6. Appeals of Planning Board Decisions. An appeal of denial, revocation, or suspension of a permit (for Operational Permitting see **Article 5**) authorized by the Planning Board of Clifton shall be made to Superior Court within thirty (30) days of the *date of the vote* rendering a decision by the Planning Board for Major Subdivisions or Tier 3 High Impact projects. Other Planning Board decisions must be appealed to the Clifton Board of Appeals in accord with the requirements of **Article 17** of this ordinance.