

ARTICLE 5 – PERMITTING PROCEDURE**5.1. PERMITTING REQUIRED**

After the effective date of this Ordinance, no person shall engage in any activity or use of land or structure where a permit for such activity or use is required by this Ordinance; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use, without first obtaining all the required permits.

5.2. PERMITTING AND REVIEW

Some applications require Planning Board Review and Approval before the Code Enforcement Officer acts on the application. Some applications may only require action by the Code Enforcement Officer. For specific permitting and approval requirements for specific uses, the applicant should refer to the Tables of Permitting and Approval found in **Article 8** (Residential - inland), **Article 9** (Residential and Non-Residential Shoreland), or **Article 13** (Non-Residential - commercial, industrial, institutional, transportation, utility, or resource-based). Procedures and requirements for applications requiring site plan review are found in **Article 6**.

In addition to the land uses and activities set forth in the Tables of Permitting and Approval, the following uses shall require permitting:

5.2.1. Roads, Driveways, And Culverts. Any activity where the standards of this Ordinance require a permit be obtained.

5.2.2. Moving Or Demolition Activities. Any activity where a building or structure is moved onto, removed from or moved around on a lot, or is demolished.

5.2.3. Change Of Use. The change of any premises from one category of land use to any other category of land use; conversion of a non-occupied structure to an occupied structure; or a change from single family residential to two-family or multi-family use.

5.2.4. Uses Involving Non-Conforming Lots, Uses Or Structures. Following site plan review and approval by the Planning Board, the Code Enforcement Officer acts on applications for development for structures, uses or lots which are legally non-conforming.

5.3. PERMITTING EXEMPTIONS

Notwithstanding the above, except in the Shoreland Management Area and except for legally existing non-conforming structures, the following land use activities shall not require a permit:

5.3.1 New construction of a non-occupied building or structure with 200 square feet or less floor area;

5.3.2 Reconstruction of a disaster-destroyed building or structure with damage of \$15,000 or less;

5.3.3 Expansion or enlargement of an existing building or structure by 400 square feet or less over a three year period and where the expansion will not alter the use of the building or require review of the plumbing permit (which may require changes to the subsurface waste disposal system);

5.3.4 Moving or demolition of an unoccupied building or structure of 400 square feet or less in size.

5.3.5 Moving or demolishing **occupied** structures **require a permit**.

5.4. LAND USE ACTIVITIES REQUIRING A CERTIFICATE FROM THE CEO

A Certificate of Occupancy and/or Certificate of Use and/or Certificate of Compliance shall be obtained from the Code Enforcement Officer according to the following:

5.4.1. After a building, structure, or part thereof has been erected, altered, enlarged or moved pursuant to a permit, site plan approval or subdivision approval, for the proposed use before the building or structure or part thereof may be used or occupied;

5.4.2. After a building has been modified to accommodate additional residence units before such units may be used or occupied;

5.4.3. After a building has been modified to accommodate additional commercial, institutional, or industrial uses before such spaces may be used or occupied;

5.4.4. After a building or structure has been modified to accommodate a home business or home occupation before said home or structure may be used or occupied for a home business or home occupation;

5.4.5. Before a change in use of a non-conforming structure or lot;

5.4.6. Before the occupancy and use, or change in use, of vacant land, except for the raising of crops;

5.4.7. After the change of any premises from one category of land use to any other category of land use, or from single family residential to two family or multi-family use; and

5.4.8. Before the occupancy or use of land or structures in the Flood Hazard Management Area until the Code Enforcement Officer has certified that all the Floodplain Management provisions of this Ordinance have been satisfied.

5.5. PERMIT APPLICATION

5.5.1. Application Form. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided for the proposed land use activity, to the Code Enforcement Officer. The following items, when appropriate, shall be included on the site plan.

5.5.1.1. The shape, size and location of the lot to be built upon and shape, size and location of structure(s) to be erected, altered or removed.

5.5.1.2. The shape, size and location of any structure(s) already on the lot.

5.5.1.3. The depth of front yards of structure(s) and adjoining lots.

5.5.1.4. A statement of intended use.

5.5.1.5. Any other information needed by the Code Enforcement Officer, Planning Board, or the Board of Appeals to determine whether the provisions of this Ordinance are being

observed.

5.5.2. Authorization. All applications shall be signed by the owner of the property or the owner's legal agent certifying that the information in the application is complete and correct.

5.5.3. Application To Be Dated. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt and at such time and date as the application is acted upon.

5.5.4. Plumbing Permit. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface wastewater disposal system. Any structure built with the intention of occupancy will require a written statement by the CEO/LPI as part of the permit file indicating the wastewater disposal system of record for the site is adequate for the proposed use based upon the design and that a site visit did not indicate any obvious signs of imminent failure for the system of record in cases where a new system designed for the specific use is not part of the application.

5.5.5. Application Fee. All applications shall be submitted together with all required fees. Applications for any of the permits, approvals, or certificates required by this Ordinance which are not accompanied by a check in the amount of the required fee shall be considered incomplete. No action will be taken on said application until a payment for the required amount has been accepted by local officials.

5.6. PROCEDURE FOR ADMINISTERING PERMITS.

5.6.1. Determination Of Complete Application For Action Of The Code Enforcement Officer. Within fifteen (15) days of the date of receipt of an application for a permit, the Code Enforcement Officer shall examine such application and determine if the application contains all requested information. The Code Enforcement Officer shall notify the applicant in writing either 1) that the application has been accepted as a complete application, 2) that the application is incomplete and that specified additional material is needed to make the application complete, or 3) that the application has been referred to the Planning Board for review and approval.

5.6.2. On-Site Inspection. For all applications, the Code Enforcement Officer shall physically examine the premises to determine whether or not the proposed building, structure or use would be in compliance with this Ordinance before issuing a permit or referring the application to the Planning Board or to the Board of Appeals.

5.6.3. Code Enforcement Officer Permits. Where an application does not require approval of the Planning Board or action by the Board of Appeals, the Code Enforcement Officer shall within a period of fifteen (15) days after determination of a complete application, approve or deny such applications for a permit in accordance with whether or not such proposed building, structure or use complies with this Ordinance.

5.6.4. Referrals. All applications which require approval of the Planning Board or action by the Board of Appeals shall within a period of thirty-five (35) days be referred to the applicable board for action and public notice shall be given. After approval, with or without conditions, by such Board, the Code Enforcement Officer shall issue a building or use permit within fifteen (15) days after being notified of such approval.

5.6.5. Written Notification. If a permit is either denied or approved with conditions, the reasons

as well as conditions shall be stated in writing and provided to the applicant within fifteen (15) days. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or Statute administered by the Town.

5.6.6. Records. Two (2) copies of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant, and two (2) copies, with a copy of the permit or written decision shall be retained by the Code Enforcement Officer as a permanent public record.

5.6.7. Burden Of Proof. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

5.6.8. Compliance With Land Use Standards. All activities undertaken pursuant to a permit issued shall comply with all applicable standards and requirements as set forth in this Ordinance.

5.6.9. On-Site Copy. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on-site while the work authorized by the permit is performed.

5.6.10. Expiration Of Permit.

5.6.10.1. Inland Residential Single-family Residence Unit Permits. If no substantial start of construction has been made within one (1) year from the date the permit is issued, the permit becomes invalid unless the applicant applies for a renewal. The Code Enforcement Officer shall renew the permit within 30 days after the expiration of the permit upon payment of a nominal renewal fee as specified in the Select Board Schedule of Fees. Otherwise the permit becomes invalid and application must begin anew. If substantial start of construction has been made within one (1) year from the date the permit is issued, the applicant has one additional year to complete the work. The applicant may renew the original permit an unlimited number of times.

5.6.10.2. All Shoreland Permits, Two-Family and Multi-family Residence, and Non-Residential Permits. If substantial start of construction has not been made within 1 year from the date the permit was issued, the permit becomes invalid. The Code Enforcement Officer shall renew the permit within 30 days after the expiration of permit upon payment of a renewal fee as specified in the Select Board Schedule of Fees. Otherwise, the permit becomes invalid and application must begin anew. If substantial start of construction has been made within 1 year from the date the permit is issued, the applicant has one additional year to complete the work. The applicant may renew the permit only one time without beginning the application process anew.

5.7. SUBSTANTIALLY SIMILAR USES

5.7.1. Uses substantially similar to those allowed without a permit, but which are not listed in the allowed uses tables, may be permitted upon a ruling by the Code Enforcement Officer that such use is substantially similar to such uses.

5.7.2. Uses substantially similar to those requiring the review and approval of the Code Enforcement Officer under this Ordinance, but which are not listed in the allowed uses tables, may be permitted by the Code Enforcement Officer.

5.7.3. Uses substantially similar to those requiring site plan review and approval of the Planning Board under this Ordinance, but which are not listed in the allowed uses tables, may be

permitted by the Planning Board.

5.7.4. Uses substantially similar to any use listed as a prohibited use in the allowed uses tables, as determined by the Code Enforcement Officer, shall be prohibited.

5.8. SCHEDULE OF FEES

5.8.1. Select Board To Set Schedule Of Fees. The Select Board shall establish a Schedule of Fees after public hearing. The Schedule of Fees shall be posted and may from time to time be adjusted to reflect the costs of administering this Ordinance.

5.8.2. Permit Fees. Application and review fees for permits or renewals shall be required as set forth in the Schedule of Fees.

5.8.3. Expert's Fee. An additional fee may be charged if the Planning Board and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

5.9. OPERATIONAL PERMITTING

5.9.1. Operational Permit Required. A person or persons wishing to operate any non-residential activity for which the provisions of this Ordinance require that an Operational Permit be obtained prior to commencing initial operation, and prior to expiration of a current operational permit, shall comply with the provisions of this section. An operational permit shall be required for High-Impact Tier 3 uses and for other uses as required by a **Specific Project Standard** in **Article 14**.

5.9.2. Special Exemptions For Legally Existing Non-Conforming Operations. Legally existing non-conforming specific projects, as set out in **Article 14**, will be required to comply with operational permitting by this Ordinance, but shall be accorded special exemption from the site plan review and certain performance standards requirements that would apply to such projects only if they had been approved under this Ordinance. Exemption from certain specific operational permitting requirements is accorded within each of the Specific Project Standards. Failure to comply with the site review and performance standards requirements of this Ordinance shall not be a standard for denial of an operational permit for a legally existing non-conforming specific project that is operating on the effective date of this Ordinance.

5.9.3. Permit Application. An applicant for an initial operational permit shall:

5.9.3.1. Complete and file an application prescribed by the Planning Board;

5.9.3.2. Deposit an application fee in advance with the Code Enforcement Officer in accord with the established Select Board Schedule of Fees;

5.9.3.3. Submit the completed application to the Planning Board through the Code Enforcement Officer, together with such documents as required by this Ordinance or by the Planning Board in order to determine compliance with all applicable provisions of this Ordinance;

5.9.3.4. Submit an attested statement listing the names of all owners, officers, managers, or partners of the applicant; and an attested copy of articles of incorporation or partnership or association and any bylaws of such entity and names of officers or directors.

5.9.3.5. Submit signed releases, for a criminal history record search of the applicant(s) and owner(s); [This is required only for applicants for an adult business application.]

5.9.3.6. Submit evidence of right, title or interest in the premises (or site) in which (or on which) the land use activity will be operated;

5.9.3.7. State the initial date that the land use activity will become operational and describe the nature of all products to be sold, services to be rendered, or operations to be conducted on the premises (or site); [For legally existing operations, indicate the date when the current owner/operator took over.]

5.9.3.8. Submit evidence of compliance with all site plan review requirements and standards of this Ordinance (a copy of Planning Board approval, or approval with conditions). [For legally existing operations, provide dates and copies of any previous permits and approvals.]

5.9.4. Permit Processing. Upon receipt of an application for an initial operational permit or upon notice of a change of the owners, officers, managers or partners or the applicant, the Code Enforcement Officer shall:

5.9.4.1. Determine that the application is complete; and, immediately upon such determination, send a copy of the completed application and relevant accompanying documents to the Chair of the Planning Board;

5.9.4.2. Inspect, with assistance of the Fire Chief, the location or proposed location and as-built construction drawings, to determine whether the applicable laws relating to health and safety have been satisfied and then report findings in writing to the Chair of the Select Board within fifteen days of determination of a complete application;

5.9.4.3. Investigate, with the assistance of the Penobscot County Sheriff, the criminal history record of the applicant and owner, if an application for an adult business permit, and then report findings in writing to the Chair of the Planning Board within fifteen days of determination of a complete application;

5.9.4.4. Verify, with the assistance of such local and state officials as necessary, that the proposed operation will comply with all applicable Town and State laws and ordinances; and then report such findings in writing to the Chair of the Planning Board within 15 days of determination of a complete application. [For legally existing operations, provide copies of any local or state licenses or approvals or findings of compliance that have been granted to the operation.]

5.9.4.5. Schedule the application for Planning Board review and decision for the next Planning Board meeting that is at least 7 days after delivering written findings to the chair of the Planning Board.

5.9.5. Public Hearing Option. At the discretion of the Planning Board, or at the request of the Municipal Officers, the Planning Board may arrange for a public hearing on an initial operational permit application. Ten days prior notice of such hearing shall be given to the applicant, abutters

and the general public. The Planning Board may act on the application following comment and review at the public hearing, but shall act on the application no later than the next regularly scheduled Planning Board meeting.

5.9.6. Issuance Of Initial Operational Permit. The Planning Board shall determine whether the application and documents submitted comply with all of the operational permitting requirements of this Ordinance. The initial operational permit shall be issued by the Planning Board based upon the record, including evidence and testimony at any public hearing, that the applicant has met the operational permitting requirements of this Ordinance. The initial operational permit may be issued with conditions specified by the Planning Board to ensure compliance with all requirements of this Ordinance.

5.9.7. Non-Transferability Of An Operational Permit. The operational permit, whether initial or renewal, may not be transferred or assigned. A change of ownership or operator of the specific land use activity permitted shall be promptly reported to the Code Enforcement Officer and a new operational permit application process shall begin within 30 days of the transfer or assignation of new ownership or operator of the land use activity.

5.9.8. Standards For Denial. Any one of the following may be cause for denial of an initial or renewal operational permit:

5.9.8.1. The applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;

5.9.8.2. The applicant is an individual who is less than 18 years of age;

5.9.8.3. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required that is reasonably necessary to determine whether the operational permit can be issued;

5.9.8.4. The applicant for an adult business operational permit, either an individual, or any person having an ownership or management interest in the business, has committed any criminal activity as specified in **Article 14.1. Adult Businesses** of this Ordinance;

5.9.8.5. The site on which the land use activity is proposed is a prohibited site under the provisions of this Ordinance;

5.9.8.6. The applicant allows activities on the premises (or site) which are specifically prohibited by this Ordinance; or

5.9.8.7. The application in any other way fails to meet the requirements of this Ordinance.

5.9.9. Display/Availability Of Operational Permit And Names Of Owners Or Officers. The owner/operator shall display the operational permit with a list of all owners, managers, and/or officers in a conspicuous place on the premises if a business open to the public. The owner/operator shall produce the operational permit upon request by the Code Enforcement Officer, a law enforcement officer, the Municipal Officers, or an authorized state official in the case of an industrial operation.

5.9.10. Expiration And Renewal Of An Operational Permit. An initial operational permit issued by the Planning Board shall expire after the time period specified for that specific land use activity and must be renewed as specified by this Ordinance. Non-renewal of an operational

permit by the owner/operator may be a factor in the process of activating the decommissioning plan or other plan for rehabilitation of the site. The following shall govern expiration and renewal of an operational permit:

5.9.10.1. Renewal inspection and application procedure. Within 30 days prior to expiration of an operational permit, the Code Enforcement Officer shall contact the owner/operator and schedule an inspection of the permitted operation and accept renewal applications. Renewal applications shall be on a form prescribed by the Planning Board and accompanied by a fee as set forth in the Select Board Schedule of Fees.

At the time of inspection, the Code Enforcement Officer shall determine whether the owner/operator is in compliance with the provisions of this Ordinance as they apply to that operation. If the Code Enforcement Officer finds any violation(s), a written notice of noncompliance shall be given to the owner/operator as set out in below and the prescribed procedure shall be followed.

5.9.10.2. On-going record of complaints. The Code Enforcement Officer shall accept complaints relative to operational permitted operations in writing. The complaint may be submitted to the Town Clerk or to the Code Enforcement Officer. Copies of all complaint shall be forwarded promptly to the owner/operator. The Code Enforcement Officer shall investigate the complaint and determine if the owner/operator is in violation of this Ordinance. Upon a positive determination, the Code Enforcement Officer shall proceed as outlined below. A violation requiring immediate action shall be put on the agenda for the next Planning Board meeting.

All written complaints submitted shall become part of the operation's record and shall be given due consideration when evaluating the overall performance record of the permitted operation in any decision to renew, renew with conditions or deny renewal.

5.9.10.3. Standards for denial of renewal. The Planning Board shall deny the renewal application if it finds:

5.9.10.3.1. That the applicant/owner/operator has violated any provision of this Ordinance.

5.9.10.3.2. That the applicant/owner/operator has failed to comply with any conditions that were placed on the Site Plan Approval as granted by the Planning Board, or has failed to comply with any conditions that were placed on any permits issued by the Code Enforcement Officer or has failed to comply with any conditions that were placed on the Operational Permit approval as granted by the Planning Board.

5.9.11. Standards For Suspension Or Revocation Of An Operational Permit. An operational permit, whether initial or renewal, may be suspended or revoked by the Planning Board after notice and hearing upon a finding that the owner/operator has violated any provision of this Ordinance. The Code Enforcement Officer shall provide written notice to the owner/operator of any violation(s) found and require that the violation(s) be corrected within 30 days of the date of the notice. If the owner/operator fails to correct the violation within the stated time period, the Code Enforcement Officer shall refer the matter to the Planning Board. The owner/operator shall appear before the Planning Board at the next regularly scheduled meeting which is at least 7 days from the date of the determination of non-compliance with the 30-day grace period. After hearing, the Planning Board may grant the owner/operator up to 30 days to

correct the violation(s). The Planning Board shall make written findings and may suspend or revoke the operational permit.

5.9.12. Minimum Vote Requirement. A Planning Board vote to approve, approve with conditions, deny, suspend or revoke an operational permit, whether initial or renewal, shall require a minimum of three (3) consenting votes.

5.9.13 Appeal. An appeal of denial, revocation, or suspension of an operational permit by the Planning Board of Clifton shall be made to the Superior Court within forty-five (45) days of the decision by the Planning Board.