

CHAPTER 1

GENERAL PROVISIONS

**Revised Effective
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Article I. Use of Code. [Adopted eff. 11/12/76 under R.S. 1964, T. 30, Sec. 2154.]

Sec. 1-1-1. How Code Designated and Cited. The ordinances and codes embraced in the following chapters and sections shall constitute and be designated the "**1981 Revised Official Code, Town of Cape Elizabeth, Maine**", and may be so cited. Chapters 2 and 3 hereof shall constitute and be designated the "**Administrative Code, Town of Cape Elizabeth**", and this Chapter 1 and Chapters 4 through 21 hereof shall constitute and be designated the "**Code of Ordinances, Town of Cape Elizabeth**", and each may be so cited. [Revised eff. 6/10/81.]

Sec. 1-1-2. Rules of Construction and Definitions. In the construction of this Revised Official Code (hereinafter "**this Code**"), and of all ordinances and codes set forth herein, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the Town Council. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter of context of such action may be repugnant thereon. [Revised eff. 6/10/81.]

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

Where any provision of the Code imposes greater restrictions upon the subject matter than the general restrictions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Generally, all general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Town Council may be fully carried out.

Computation of Time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is

given, or such act is done, shall not be counted in computing the time, but the day on which such proceeding is to be held shall be counted.

Corporate of Town Limits. The term "corporate limits" or "town limits" shall mean the legal boundaries of the Town of Cape Elizabeth, Maine.

County. The words "the county" or "this county" shall mean the County of Cumberland in the State of Maine.

Delegation of Authority. Whenever a provision appears requiring the head of a department or some other town officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Joint Authority, all words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Nontechnical and Technical Words. Words and phrases and such others as may have acquired a peculiar and appropriate meaning in law, technology or other specialized usage, shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officials, Boards, Commissions. Whenever reference is made to officials, boards, and commissions by title only, i.e., "Town Council", "Town Manager", etc., they shall be deemed to refer to the officials, boards and commissions of the Town of Cape Elizabeth, Maine.

Owner. The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal Property. Includes every species of property except real property as herein described.

Preceding, Following. The words "preceding" and "following" mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Real Property. The word "real property" shall include lands, tenements and hereditaments.

Shall. The word "shall" is mandatory.

Signature or Subscription. The word "signature" or "subscription" shall include a mark when the person cannot write.

State. The words "the state" or "this state" shall be construed to mean the State of Maine.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public or private ways in the town, and shall include all areas thereof embraced between the property lines or dedicated to the public use, or to the private use of two or more land owners.

Tenant or Occupant. The work "tenant" or "occupant", applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The word "town" shall mean the Town of Cape Elizabeth, Cumberland County, Maine.

Town Council, Council. When the term "Council" or "Town Council" is used, it shall be construed to mean the Town Council of the Town of Cape Elizabeth, Maine.

Written or in Writing. shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year, and the term "fiscal year" shall mean budget and accounting year adopted by the Town Council.

Sec. 1-1-3. Catchlines of Sections. The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided, shall they be so deemed when any of such sections including the catchlines, are amended or reenacted.

Sec. 1-1-4. Amendments to Code. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the Town Council.

Sec. 1-1-5. Effect of Repeal of Ordinances. When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive the former ordinance, clause or provision unless it shall be therein so expressly provided. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

Sec. 1-1-6. Severability of Parts of Code. The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-1-7. General Penalty for Violation of Code; Continuing Violations. Whenever in this Code or in any ordinance of the Town any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in such Code or ordinance the doing of any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not more than one hundred dollars (\$100.00), plus costs, to be recovered for the use of the Town. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

Article II. Administrative Ordinances.

Sec. 1-2-1. Town Seal. The Town Seal shall be a circular disc with the words "Town of Cape Elizabeth, Maine" on the periphery, the words "Incorporated Nov. 1, 1765" within the periphery, and the form of Portland Head Light in the center.

Sec. 1-2-2. Treasurer's Warrants. The chairman of the Town Council and the chairman of its finance committee shall be jointly authorized during their terms of office to draw warrants for and in behalf of all of the municipal officers authorizing the disbursement of municipal funds at any time made or to be made by the town treasurer. Execution of warrants by said officers shall be deemed for all purposes to constitute execution by the municipal officers. [Adopted, effective March 29, 1978, under R.S.1964, T. 30, Sec. 5002.]

Sec. 1-2-3 Council Pay. The annual compensation of the town council shall be \$350.00 subject to an appropriation in the annual budget [Adopted, effective September 8, 2003]