

SECTION 9

ADMINISTRATION AND ENFORCEMENT

9.1 REVIEW BOARD

- A. The Village of Lake Placid and Town of North Elba Review Board, to be referred to as "The Review Board", and sometimes referred to herein as "the Review Board", shall be appointed by Joint Resolution of the Lake Placid Village Board and the North Elba Town Board to carry out the duties prescribed for the Review Board under this Code.
- B. The Review Board shall consist of seven members, including the Chairperson. The Review Board shall consist of a minimum of two members who reside within the corporate limits of the Village of Lake Placid and a minimum of two members who reside within the Town of North Elba outside the corporate limits of the Village of Lake Placid.
- C. The Review Board members first appointed shall serve staggered terms as follows:
 - 1. One member appointed for one year
 - 2. Two members appointed for two years
 - 3. Two members appointed for three years
 - 4. One member appointed for four years
 - 5. One member appointed for five years

The successors to the original appointees shall be appointed for terms of five years, after the expiration of the respective terms of the members first appointed.

9.2 BOARD OF APPEALS

- A. The Village of Lake Placid and Town of North Elba Board of Appeals, to be referred to as "The Board of Appeals" and sometimes referred to herein as the "Zoning Board of Appeals", shall be appointed by Joint Resolution of the Lake Placid Village Board and the North Elba Town Board to carry out the duties prescribed for the Board of Appeals under this Code.
- B. The Board of Appeals shall consist of five members, including the Chairman. The Board of Appeals shall consist of a minimum of one member who resides within the corporate limits of the Village of Lake Placid, and a minimum of one member who resides within the Town of North Elba outside the corporate limits of the Village of Lake Placid.
- C. The Board of Appeals members first appointed shall serve staggered terms as follows:
 - 1. One member appointed for one year
 - 2. One member appointed for two years
 - 3. One member appointed for three years
 - 4. One member appointed for four years
 - 5. One member appointed for five years

The successors to the original appointees shall be appointed for terms of five years, after the expiration of the respective terms of the members first appointed.

9.3 PROCEDURES

9.3.1 General Board Procedures

The following procedures shall apply to the operations of both the Review Board and the Board of Appeals:

- A. The Village and Town Clerks shall administer the required oaths of office to members of each Board.
- B. Each Board shall elect, from its appointed members, one member to serve as the Chairman and one member to serve as Vice-Chairman. The Chairman and Vice-Chairman shall each serve a two-year term and each may be re-elected to serve as Chairman or Vice-Chairman.
- C. Any Board member may be appointed for one or more successive terms. If a vacancy shall occur otherwise than by expiration of a term, it may be filled by an appointment made by Joint Resolution of the Village and Town Boards for the unexpired portion of the term.
- D. Board members shall serve at the pleasure of the Village and Town Board and may be removed for cause, after a public hearing, by a majority vote of the Village Board and the Town Board, respectively.
- E. Each Board shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under the Code and its conduct shall be in accord therewith. In particular, each Board shall conduct itself according to the following:
 1. All Board meetings shall be held at the call of the Chairman and at such times as a majority of the members of the full Board may determine. All meeting shall be conducted in accord with "Robert's Rules of Order" and with any procedures established by the Chairman or, in his or her absence, the Vice-Chairman, in consideration of the matter at hand. All Board meetings shall be open to the public.
 2. Each Board shall keep minutes and records of all its proceedings, findings and official actions and shall record the vote of each member upon every question put to vote or, if absent or failing to vote, indicating such fact. All Board decisions shall be recorded in the minutes. A Clerk appointed by each Board shall keep the minutes of the Board, which minutes shall be subject to Board approval. An official copy of the approved minutes of each Board meeting shall be filed with the Village and Town Clerks.
 3. The concurring vote of a majority of the full membership of a Board, i.e. four votes for the Review Board and three votes for the Board of Appeals, shall be required to constitute an official action by that Board.

9.3.2 Public Hearings

- A. A public hearing shall be held by the Board of Appeals prior to any action by that Board other than as pertains to internal Board appointments and procedures.
- B. A public hearing shall be held by the Review Board on any preliminary subdivision plat application, and may be held, at the discretion of the Review Board, on any other matter which is subject to its jurisdiction. In cases other than a preliminary subdivision plat, the Review Board may decide, in cases in which no public hearing is held, to require the applicant to provide notice to neighbors on such terms as the Board may stipulate.
- C. The Board will place a notice of any public hearing in a newspaper of general circulation in the Village/Town at least 10 days prior to the date of such hearing, which shall specify the date, time, place and purpose of such hearing, including a summary description of the project to be considered.

- D.* ** The applicant shall send a copy of the public hearing notice, by certified mail return receipt requested, to all owners of land within 200 feet of the perimeter of the overall tract of land on which the applicant's project is proposed, except in cases involving an isolated portion of a large tract of land, in which case the reviewing Board may modify this requirement, and also, except for fractional interest owners (e.g. time share owners) within said 200-foot area provided certified mail notice has been provided to the homeowners association or other association to whom said fractional interest owners belong. The names and addresses used for these mailings shall be those set forth on the latest completed Final Assessment Roll for the Town of North Elba. Said mailings shall be made at least 14 days prior to the date of the public hearing, and proof of said mailings shall be provided to the Clerk of the Review Board or the Clerk of the Board of Appeals, as the case may be, at least seven days prior to the date of the public hearing.
- E. The applicant shall also post a conspicuous water-proof notice of public hearing at the site of the proposed project at least 14 days prior to the date of the hearing.
- F. The public hearing shall be conducted in accord with any procedures established by the appropriate Board or by the presiding officer for consideration of the matter at hand. Any person or party may appear at a public hearing in person or by authorized representative or counsel and shall be given an opportunity to be heard as is relevant to the proceeding.

9.3.3 Referral to County Planning Board

Any matter under this Code which is required to be referred to the Essex County Planning Board pursuant to Section 239 of the General Municipal Law shall be so referred, and no action shall be taken by any Board except in compliance with the terms of that section.

9.4 POWERS OF LEGISLATIVE BODIES

A. Amendment

This Code may be amended by the Village Board of the Village of Lake Placid and the Town Board of the Town of North Elba, following a public hearing, according to the procedures set forth in Section 7-708 of the Village Law and Section 265 of the Town Law. ***No amendment to the provisions of this Code which apply jointly to both the Village of Lake Placid and the Town of North Elba shall be effective until it has been enacted by both the Village Board and the Town Board. Amendments to provisions of this Code which apply solely to the Village of Lake Placid may be made independently by the Village Board and those provisions which apply solely to the Town of North Elba may be made independently by the Town Board.

B. Establishing Fees and Costs

The Village Board and Town Board may adopt by Joint Resolution from time to time a schedule of application fees and other fees for applicants under this Code. In addition, the Review Board and Board of Appeals may require any applicant to directly pay, or reimburse the Board for, the cost of services by any independent Board-appointed consultant deemed necessary by the Board to review and evaluate the work of the applicant's consultants or otherwise assist the Board in making its decision under the terms of the Code.

* Town of North Elba Local Law 1 of the year 2011 ***Town of North Elba Local Law #1 of 2020
 ** Village of Lake Placid Local Law 1 of the year 2011 Village of Lake Placid Local Law #1 of 2020

9.5 ENFORCEMENT

9.5.1 Duties of the Enforcement Office

- A. This Code and decisions of the Review Board and Board of Appeals shall be enforced by an "Enforcement Officer" designated by the Village and Town Board.
- B. Any resident or property owner or other person of legitimate interest may file with the Enforcement Officer a written, signed complaint against any alleged violation of this Code or a Board decision made under this Code. It shall be the duty of the Enforcement Officer to promptly investigate such alleged violation and to report thereon to the Village and Town Boards and, if the Enforcement Officer believes that a violation has occurred, he shall proceed according to the procedures of this section.

9.5.2 Procedures for Enforcement

A. Investigation / Notification

Any building and/or use which does not comply with this Code or a Board decision shall be investigated by the Enforcement Officer who shall file a report of his investigation with the Village and Town Boards. The Enforcement Officer shall also give written notice of any violation to the owner of the land on which the violation is occurring, as identified by the latest completed Final Assessment Roll of the Town of North Elba, or as otherwise known as the enforcement officer, as well as to any tenant, operator or contractor who is responsible for or involved in the apparent violation. The owner and such other responsible person(s) shall correct such noncompliance immediately or within such period of time as the Enforcement Officer may provide in the Notice of Violation. * **

B. Enforcement Actions

1. Administrative Stop Orders

In cases where construction or other activity in violation of the Code or any Board decision is ongoing, the Enforcement Officer may issue an Administrative Stop Order to the owner of land involved and other persons responsible for the violation, and in such case the persons upon whom such order is served shall immediately stop work on the project until there is an agreed process for correcting or resolving the violation and the Enforcement Officer has lifted the order.

2. Injunctive Action.

If a violation cannot be corrected or resolved under the foregoing procedures, the Town Board or Village Board, as the case may be depending upon the location of the violation, may institute legal action to prevent, restrain, correct or abate the violation by injunctive action and/or the seeking of penalties as provided in subparagraph c, below, and the Enforcement Officer is also authorized to seek monetary penalties under said subparagraph without Town Board or Village Board action by means of the issuance of Appearance Tickets pursuant to Article 150 of the Criminal Procedure Law of the State of New York and proceedings supplementary thereto.

* Town of North Elba Local Law 1 of the year 2013

**Village of Lake Placid Local Law 1 of the year 2013

C. Penalties

1. Criminal Penalties

A violation of this Code is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Code shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

2. Revocation of Permits

- a. Any permit or approval granted under this Code which is based upon or is granted in reliance upon any material representation, or failure to make material fact or circumstance known, by or on behalf of an applicant shall be void. This provision shall not be construed to affect the remedies otherwise available under this section or other applicable law.
- b. The Enforcement Officer may revoke a Building Permit in the following instances:
 - i. Where there has been a false statement or misrepresentation as to a material fact in the application, plans or specifications on which the Building Permit was based
 - ii. Where the Building Permit was issued in error and should not have been issued in accordance with the applicable law
 - iii. Where the work performed under the permit is not being performed in accordance with the provisions of the application, plans, specifications or approval
 - iv. Where the party to whom a Building Permit has been issued fails or refuses to comply with an Administrative Stop Order issued by the Enforcement Officer

D. Joint and Several Liability of Owner, Lessee and Contractor* **

In all of the foregoing provisions of this Section, the Owner, Lessee and Contractor of and for a property shall be jointly and severally liable for violations of this Code, including compliance with orders and imposition of penalties.

* Village of Lake Placid Local Law 1 of 2017

** Town of North Elba Local Law 1 of 2017