

**TOWN OF
DENMARK, MAINE**
“Beautiful by Nature”



**Proposed Amendments To The June 2024
Zoning Ordinance of the Municipality of Denmark, Maine**

CHAPTER 8. ADMINISTRATION

SECTION 8.5 Procedures, Inspections, Violations, Penalties

**INCORPORATING LD 2101 PROVISIONS
APPROVED BY MAINE STATE LEGISLATURE IN 2024**

PREPARED FOR TOWN OF DENMARK SELECT BOARD CONSIDERATION

**APPROVED BY THE TOWN OF DENMARK PLANNING BOARD
AT PUBLIC HEARING, AUGUST 29, 2024**

SEPTEMBER 04, 2024

Amendments Shown in Red-Line

CHAPTER 8 – ADMINISTRATION *(Amended 6.1.24)*

8.1. General.

8.2. Building or Use Permit.

8.3. Plumbing Permit Required.

8.4. Fees.

8.5. Procedures, Inspections, Violations, Penalties *(6.1.24)*

8.5.1. As used under this ~~Chapter~~**Section** 8., any violation of this Ordinance is deemed to be a Nuisance.

8.5.2. The Code Enforcement Officer is responsible for enforcing the provisions of this Ordinance and the terms and conditions of any permit or approval issued under this Ordinance. The Code Enforcement Officer is appointed or reappointed annually and, if certified in accordance with 30-A M.R.S.A. § 4451, has all of the powers and authorities described in 30-A M.R.S.A. § 4452.

8.5.3. The Code Enforcement Officer may conduct site inspections to ensure compliance with all applicable laws and all terms and conditions attached to permits and approvals under this Ordinance. The Code Enforcement Officer may also investigate all complaints of alleged violations of this Ordinance.

8.5.4. The Code Enforcement Officer has a right to enter any property or enter any building pursuant to 30-A M.R.S.A. § 4452(1).

8.5.5. If, after investigation, the Code Enforcement Officer finds that any provision of this Ordinance or any terms or condition of a permit or approval issued under this Ordinance has been violated, the Code Enforcement Officer must give written notice of the violation, in person or by certified mail return receipt requested, to the owner or occupant of the premises and to any other person responsible for the violation, indicating the nature of the violation and ordering any action necessary to correct it (including discontinuance of illegal use of structures or lots; discontinuance of work being done; removal or relocation of illegal structures; and abatement of Nuisance conditions) within a designated reasonable time. A copy of each such notice of violation must be submitted to the Municipal Officers.

8.5.6. Suspension and Revocation of Permits and Approvals

8.5.6.1. A permit or approval may be suspended or revoked by the Code Enforcement Officer if the Code Enforcement Officer determines that:

8.5.6.1.1. The permit or approval was issued on materially incomplete or false information;

8.5.6.1.2. Continuation of the work authorized under the permit or approval would result in a violation of federal or state law, this Ordinance, or any other Town ordinances, regulations, or rules;

8.5.6.1.3. Continuation of the work authorized under the permit or approval is endangering or may endanger the public health, safety, or welfare;

8.5.6.1.4. The permit holder exceeded the scope of the work authorized under the permit or approval;

8.5.6.1.5. A term or condition of the permit or approval issued under this Ordinance has been violated; or

8.5.6.1.6. The Code Enforcement Officer is unable to determine the continued validity of a permit or approval. The Code Enforcement Officer must give written notice of suspension or revocation to the permit holder stating the reason for the suspension or revocation and, in the case of suspension, the measures that must be taken by a date certain to correct the violation.

8.5.6.2. A suspension remains in force until the Code Enforcement Officer determines that:

8.5.6.2.1. the permit holder can and will pursue the work authorized under the permit or approval without continuing, extending, or creating a violation;

8.5.6.2.2. the violation has been abated or otherwise discontinued; or

8.5.6.2.3. a new permit or approval has been issued.

8.5.6.3. When cause for a suspension has been removed or corrected, the Code Enforcement Officer must so certify in writing. If, within the time specified for correction, cause for the suspension has not been removed or suspended, the Code Enforcement Officer may continue the suspension or revoke the permit or approval.

8.5.6.4. No work authorized under a suspended or revoked permit or approval may continue except work that is necessary to protect the public health, safety, and welfare, as authorized in writing by the Code Enforcement Officer. The Code Enforcement Officer shall not direct, nor be responsible for the means and methods of construction or remedial steps taken to effect the protection.

8.5.6.5. Any person or entity aggrieved by the suspension or revocation of a permit or approval by the Code Enforcement Officer under this Section 8. may appeal the suspension or revocation to the Board of Appeals.

8.5.7. If, after notice and demand, a violation has not been abated within the time specified in the notice of violation, the Code Enforcement Officer must refer the matter to the Municipal Officers, who may institute in the name of the Town any and all actions and proceedings, in law or in equity, including seeking injunctions of violations and the imposition of fines, that the Municipal Officers determine are appropriate or necessary to prevent, correct, restrain, or abate any violation of this Ordinance or any other Town ordinance, regulation, or rules, and of any federal or state law.

8.5.8. The Municipal Officers are authorized to enter into administrative consent agreements for the purpose of resolving violations of this Ordinance and recovering fines without legal prosecution.

8.5.8.1. With regard to Shoreland District violations , an administrative consent agreement must 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 Town official

and there is no evidence that the owner or occupant acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health, safety, and welfare or will result in substantial environmental damage.

8.5.8.2. In determining what, if any, monetary penalty to impose as part of an administrative consent agreement, the Municipal Officers may consider (i) how long the violation has existed; (ii) the nature and circumstances of the violation and the violator; (iii) whether a permit or approval was issued for the work; (iv) whether the violation was the result of survey work that caused a shift of boundary lines; (v) the statutory minimum and maximum penalties for land use violations set forth in 30-A M.R.S.A. § 4452; and (vi) such other facts and considerations as the Municipal Officers deem relevant.

8.5.9. Any person who violates any term or condition of a permit or approval or who violates or continues to violate any provision of this Ordinance after receiving notice of such violation is subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S.A. § 4452. A fine or penalty may be imposed for each violation.

8.5.9.1 Each day that a violation continues constitutes a separate offence.

8.5.10. When an owner or occupant of land in the Shoreland District violates this Ordinance as determined by the Code Enforcement Officer and/or the Municipal Officials, the Code Enforcement Officer may send written notice to the last known address of the owner and occupant by certified mail, return receipt requested, demanding the owner or occupant remove, abate or otherwise correct the violation within 10 days and noting that if the violation is not removed, abated or otherwise corrected in that time period either or both may:

8.5.10.1.A Deny the issuance of a permit to, or suspend or revoke a permit of, the owner or occupant for further development of the land on which the violation occurred until the violation is removed, abated or otherwise corrected and any penalties and court awarded costs are paid, and/or:

8.5.10.1.B File a civil action against the owner or occupant to recover unpaid penalties, the cost to remove, abate or otherwise correct the violation, court costs and reasonable attorney's fees.

8.5.10.2. If the of Town of Denmark is the prevailing party in a civil action filed pursuant to this subsection, the Town of Denmark may claim a lien against the land on which the violation occurred for all costs awarded by the court. The Municipal Officers or their designee shall file a notice of the lien with the Oxford County register of deeds. For the purposes of this subsection, "occupant" means a person occupying land with the owner's permission. This subsection does not limit the powers of the Town of Denmark, the Municipal Officers, nor the Code Enforcement Officer provided in any other provision of law or this Ordinance. A suspension or revocation of a permit pursuant to this Section 8.5. remains in effect during any appeal of the notice, suspension, or revocation.

8.6. Certificate Of Approved Use Required. (6.1.24)

8.7. Reserved

8.8. Board of Appeals.

8.9. Planning Board

Municipal Officers Certification and Town Clerk Attest

To the Town Clerk of the Town of Denmark:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an amendment to Chapter 8. Administration of the Land Use Ordinance for the Municipality of Denmark, Maine which is to be presented to the voters for their consideration on, December 7, 2024.

Pursuant to 30-A M.R.S. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: October 29, 2024

Town of Denmark Select Board

/s/ Andrew Kruczek

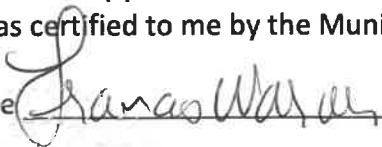
/s/ Kirk McDermith

/s/ Michael Stacy

Municipal Clerk Attest

Attest: A true copy of an ordinance entitled " Water Extraction Ordinance of the Municipality of Denmark, Maine" as certified to me by the Municipal Officers of Denmark, Maine on the 30th day of October, 2024.

Signature



Town Clerk, Frances Warner

