

**TOWN OF
DENMARK, MAINE**

“Beautiful by Nature”



**Proposed Amendments To The June 2023
Zoning Ordinance of the Municipality of Denmark, Maine**

SECTION 8. ADMINISTRATION

**PREPARED FOR THE TOWN OF DENMARK SELECT BOARD
MARCH 26, 2024 PUBLIC HEARING**

MARCH 13, 2024

Proposed amendments to Section 8., Administration of the Zoning Ordinance of the Municipality of Denmark, Maine. Synopsis is below:

- The duties of the Code Enforcement Officer are included and clarified, and ordinance enforcement procedures are specified and organized.
- Use permit provisions are added.
- Amendments are made to permit submission and review time periods.
- Amended fee requirements are included.
- Added permit processing measures
- Expanded regulations for inspections, violations, and penalties.
- Amended expiration provisions for Section 8.8. Board of Appeals variance and Section 8.9. Planning Board permits.
- Modified the Substantial Start definition and added a Substantial Completion definition in Section 9.2. Definitions.

CHAPTER 8 – ADMINISTRATION *(Amended 6.3.23)*

8.1. ~~Enforcement~~General.

8.1.1. The Code Enforcement Officer shall be appointed in accordance with the Town Charter. ~~It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance by, and including, inspecting premises, investigating complaints, issuing notices, suspending or revoking Code Enforcement Officer, Planning Board, or Select Board issued permits or approvals (Local Permits), and participating in legal prosecution of violations. If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, the Code Enforcement Officer shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. The Code Enforcement Officer shall order the removal of illegal buildings, structures, additions or work being done, or shall take any other action authorized by this Ordinance to ensure compliance with, or to prevent violation of, its provisions.~~

8.1.2. The Code Enforcement Officer shall maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans.

~~8.1.3. The Code Enforcement Officer shall have the authority to conduct on-site inspections to ensure compliance with all applicable laws and with conditions attached to approval(s). The Code Enforcement Officer may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this Ordinance. If consent is denied the Code Enforcement Officer shall obtain an administrative warrant before entering the property. The Code Enforcement Officer may revoke a Code Enforcement Officer or Planning Board issued permit (Local Permit) after proper notification and a public hearing if the permit was issued in error or if based on erroneous information.~~

8.1.34. The Code Enforcement Officer shall attend the regular meetings of the Planning Board and provide a report of his or her activities since the last meeting.

~~8.1.5. Suspension or Revocation of Permits.~~

~~8.1.5.1. The Code Enforcement Officer may suspend an approval of a Local Permit if it was issued in error or if it was granted based upon incomplete or false information. The Code Enforcement Officer shall provide the applicant with a written notice of suspension stating the reason for the suspension, the corrective measures to be taken, and the period of time given to the applicant to correct the reason for suspension. A suspension shall cease when corrective measures have been completed and the applicant is provided with a written notice from the Code Enforcement Officer indicating that the suspension has been removed. If the reason for suspension has not been corrected or removed within the specified time period, the Code Enforcement Officer shall revoke the approval or Local Permit by furnishing to the applicant a written notice indicating the reason for revocation. Once a Local Permit is revoked, no work shall be conducted until and unless a new approval(s) or permit(s) is obtained by the applicant.~~

~~8.1.5.2. During the period of a suspension or revocation, no work shall continue on a project except in the interest of securing public health, safety, and welfare, and protection of the property, with any such work having the written approval of the Code Enforcement Officer.~~

8.2. Building or Use Permit.

8.2.1. A Building or Use Permit ~~permit~~ shall be obtained prior to the commencement of construction or placement of any new structure and for any exterior alteration or addition exceeding 80 square feet in area and prior to the establishment of a use or change of use of a property or premises. In addition, a Building or Use Permit ~~permit~~ shall be required prior to any use of land indicated as needing one under Sections ~~8.2. 3.2. and this Section 8.~~

8.2.2. The following construction activities shall not require a permit: any new structure and any exterior alteration or addition of 80 square feet or less in area, repairs, replacement, and/or normal maintenance, decorative changes in existing structures or buildings, provided that the activity is in conformance with Federal, State or local laws and does not involve any other physical modifications or changes requiring a permit under this Ordinance. Any structure not requiring a permit must meet all requirements of ~~the zoning this~~ Ordinance.

8.2.3. All applications for Building or Use Permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose and shall include the following information.

8.2.3.1. Structures to be erected, structures to be moved, and exterior additions to existing structures:

8.2.3.1.1. The shape and location and proposed use or uses of the lot for which application is made.

8.2.3.1.2. The shape, size and location on the lot of the proposed structure, and of any proposed additions to existing structures ~~and closest setback dimensions to all property lines.~~

8.2.3.1.3. The shape, size and location of any other existing structures on the lot.

8.2.4. All applications shall also include:

8.2.4.1. The name and address of the property owner.

8.2.4.2. The name, address and telephone number of the person, firm, or firms involved in the construction on the property.

8.2.4.3. The value of any proposed construction.

8.2.4.4. A statement of the proposed use for any new or moved structure or altered portion of an existing structure.

8.2.4.5. For building or use permits in any part of the Shoreland District, a photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shorefront.

8.2.4.6. Any other information the applicant wishes to furnish.

8.2.4.7. Any other information requested by the Code Enforcement Officer to make the application intelligible, and to determine whether the proposed construction and/ or uses will conform to this Ordinance, other local ordinances and state law.

8.2.4.8. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.

8.2.5. All applications shall be signed:

8.2.5.1. By the person or firm to do the work; and

8.2.5.2. By the owner of the property or other person authorizing the work.

8.2.6. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt.

8.2.7. Upon receipt of a permit application the Code Enforcement Officer shall:

8.2.7.1 Determine if the application is complete: Within thirty (30) business days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing that the application has been accepted as a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The thirty (30) business day review period begins again upon submission of any additional material.

8.2.7.2 Take action on the application: The Code Enforcement Officer shall approve, approve with conditions, refer applicant to the Planning Board for Planning Board permit, refer the applicant to the Board of Appeals for variance(s), or deny a permit application within thirty (30) business days of the date of acceptance of the application as a complete application. Failure of the CEO to issue a written notice of their decision, direct to the applicant, within thirty (30) business days from the date when the application is deemed complete, constitutes a denial of the permit. If the Code Enforcement Officer refers the applicant to the Planning Board for a Planning Board permit or to the Board of Appeals for variance(s), the Code Enforcement Officer shall provide a copy of the application with the reason for the referral to either Board.

~~8.2.7.1. Decide whether the information in the application is sufficient to determine whether, under the ordinance this Ordinance, the permit should be issued, or if the application is otherwise inadequate. If the Code Enforcement Officer feels the application is insufficient or inadequate, the Code Enforcement Officer shall at once within 7-14 days notify the applicant in writing, indicating what necessary information is required to correct the application. If the application is not so corrected within 30 days, it shall be denied.~~

~~8.2.7.2. Within seven fourteen days of the filing of an application for a Building or Use Permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for a Shoreland District Foundation Permits or a Conditional Use Permit(s), all such applications. The Code Enforcement Officer's decision shall be in writing on a form designed for the purpose and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Office. In cases where the Code Enforcement Officer deems that a Shoreland District Foundation Permits or a~~

~~Conditional Use Permit Planning Board permit is required, he the Code Enforcement Officer shall also provide a copy of the decision to the Planning Board.~~

8.2.8. No Building Permit for a building or structure on any lot shall be issued except to the owner of record thereof, or ~~his or her~~ the owner's authorized agent, until the proposed construction or addition of a building or structure shall comply in all respects with the provisions of this Ordinance or with a decision rendered by the Town of Denmark Board of Appeals or ~~the~~ Planning Board. ~~Any application for such permit shall be accompanied by a plan showing the actual shape and dimensions of the lot to be built upon.~~

8.2.9. Applications for permits with their accompanying plans and any issued Building Permits shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.

8.2.10. If no Substantial Start, as defined in this Ordinance, is made in construction or in use of the property within one year from the date of issuance of a building permit, or if the construction or use is not Substantially Complete within two years of the date of issuance of a building permit, then that building permit shall expire.

~~8.2.10. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not substantially completed within two years of the date which the permit is granted.~~

8.2.11. Before construction, alteration, relocation, or replacement of any building or part thereof (requiring a Building Permit by any other provision of this Ordinance) shall commence, the owner or lessee, or the architect, contractor or builder employed by such owner or lessee shall obtain from the ~~Building Inspector~~ Code Enforcement Officer a permit covering such proposed work.

8.2.12. 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.

8.2.13 The Code Enforcement Officer shall have discretion to grant an extension of time on an expired Building or Use Permit within a 30-day period prior to the date of expiration or 30 days after the date of expiration. The property owner or representative must request the time extension by submitting a Building or Use Permit Time Extension application to the Code Enforcement Officer, who shall grant an extension of time, or not, depending on the circumstances requiring the time extension. The length of the time extension shall not exceed one year. Only one time extension may be granted. Applications for extension shall be accompanied by payment of fees set forth on Town of Denmark Fee Schedule. Permits expired over 30 days do not qualify for a time extension. In such case, a new Building or Use Permit application shall be required adhering to the requirements of the Ordinance existing at the time of the original permit issuance.

~~8.2.12. An expired Building or Use Permit may be extended by the Code Enforcement Officer if a Building or Use Permit Time Extension application, executed by the land owner, is submitted to the Code Enforcement Officer less than 31 within 7 days of such expiration on an application form provided by the Code Enforcement Officer. The Code Enforcement Officer shall have discretion to,~~

~~within fourteen days of application submission, grant an extension of time, or not, depending on the circumstances requiring the time extension and shall determine the length of the time of extension. Applications for extension shall be accompanied by payment of fees set forth on Town of Denmark Fee Schedule.~~

~~8.2.13. An extension for Building or Use Permits expired for over 30 7 days shall not be issued. A new Building or Use Permit application shall be required adhering to the requirements of the Ordinance existing at the time of the original permit issuance.~~

8.2.14. Within 20 days of the completion of any construction within any part of a Shoreland District, the applicant shall submit to the Code Enforcement Officer post construction photographs that document conditions after construction. The photographs shall also include the entire Shoreland vegetation.

8.3. Plumbing Permit Required.

8.3.1. Internal Plumbing Permit

8.3.1.1. No Building ~~p~~Permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless the applicant or his or her authorized agent ~~has~~ obtained an HHE 211 Internal Plumbing Permit, approved by the Licensed Plumbing Inspector ~~has~~ and that is in conformance with the sanitary provisions of this Ordinance.

8.3.2. Subsurface Wastewater Permit.

8.3.2.1. No Building Permit shall be issued for any structure or use, which is deemed to generate an increase in subsurface wastewater discharge according to the ~~Maine State Subsurface Wastewater Disposal Code~~ latest version of the State of Maine Subsurface Wastewater Disposal Rules, unless the applicant or his or her authorized agent has obtained an HHE 200 Subsurface Wastewater Permit, approved by the Licensed Plumbing Inspector, in conformance with the sanitary provisions of this Ordinance.

8.4. Fees.

8.4.1. No ~~b~~Building ~~p~~Permit shall be issued by the Code Enforcement Officer without payment to the Town of Denmark, of ~~a~~ fees in accordance with the Town of Denmark Fee Schedule.

8.4.1.1. There shall be no Building Permit fee for the replacement of structures destroyed by fire or act of nature provided the replacement structure is in the same location and is no larger in any dimension than the original structure and ~~if reconstruction started~~ starts within one year of destruction.

8.4.2. When work has begun prior to issuance of a permit, the fee for the permit shall double and the Town reserves the right to pursue any other remedies available to it under applicable laws.

8.4.3. Where any Building or Use Permit application fee(s) is required under this Ordinance, payment of the fee(s) must be received by the Town of Denmark prior to application processing by the Code Enforcement Officer.

8.5. Procedures, Inspections, Violations, Penalties

8.5.1. As used under this 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.

8.65. Certificate Of Approved Use Required.

The Code Enforcement Officer shall issue a Certificate of Approved Use unless there is evidence that the use does not comply with ~~the Denmark Zoning~~this Ordinance.

~~8.76. Legal Action And Violations.~~

~~When any violation of any provision of this Ordinance shall be found to exist, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.~~

~~8.87. Fines.~~

~~Any person, firm, or corporation being the owner or having control or use of any building or premises who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor and on conviction shall be fined in accordance with the Maine Revised Statutes Annotated. Each day such violation is permitted to exist after notification shall constitute a separate offense.~~

8.8. Board of Appeals.

8.8.5.12. A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if no Substantial Start, as defined in this Ordinance, is made in construction or in use of the property within one year from the date of issuance of the variance, or if the construction or use is not Substantially Complete within two years of the date of issuance of the variance.

~~8.8.5.12. A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years.~~

8.9. Planning Board

8.9.1.1. A Planning Board Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if no Substantial Start, as defined in this Ordinance, is made in construction or in use of the property within one year from the date of issuance of the permit, or if the construction or use is not Substantially Complete within two years of the date of issuance of the permit.

~~8.9.1.1. A Planning Board Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one year of the date on which the application is approved, and if the work or change is not substantially completed within two years or if the use is not implemented within two years.~~

9.2. Definitions.

~~***Substantial Start General:*** Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.~~

Substantial Start: In terms of building or construction, substantial start means the first placement of permanent construction of a structure on a site such as the pouring of the slab or footings. In terms of replacement or use, substantial start means completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Substantial Completion: is the point in time when the work of a building or use permit can be occupied or used for its intended purpose. Though some minor modification, adjustments, or work still need to be completed, in the opinion of the Code Enforcement Officer the work has progressed to the point that the building or use is considered usable or operational for its intended purpose.