

LAND USE ORDINANCE

TOWN OF BENTON

1996

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**TOWN OF BENTON
LAND USE ORDINANCE**

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THE ENACTMENT OF THIS ORDINANCE DOES HEREBY REPEAL AND REPLACE THE FOLLOWING TOWN OF BENTON ORDINANCES:

- ! Minimum Setback Ordinance
- ! Land Use Permit Ordinance
- ! Signs Ordinance
- ! Board of Appeals
- ! Office of Code Enforcement

TOWN OF BENTON LAND USE ORDINANCE

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Town of Benton

Section I: Preamble

A. Authority

This Ordinance has been prepared in accordance with the provisions of Title 30-A, MRSA, as amended.

B. Title

This Ordinance and the accompanying Official Map shall be known and cited as the “Land Use Ordinance, Town of Benton, Maine.”

C. Purpose

The purpose of this Ordinance is to protect the health, safety, and general welfare of the residents of the Town of Benton through the reasonable exercise of regulatory authority, and to implement goals and objectives of the Benton Comprehensive Plan as adopted by the people on March 9, 1991, including:

1. To maintain Benton’s rural character by directing the majority of new housing growth to existing village centers;
2. To develop ordinance standards for village development which preserves the small town character of these areas;
3. To permit commercial and industrial development that fits Benton’s rural, small town character;
4. To discourage strip development and control curb cuts onto major roads;
5. To provide or ensure the availability of required municipal services in an efficient and cost-effective manner;
6. To provide in-depth, coordinated review of all development proposals to ensure that developments are planned and constructed in an environmentally sound manner; and
7. To encourage a pattern of community growth which ensures that new development is compatible with existing land uses.

D. Applicability

This Ordinance shall not limit or control the pursuit of any land use activity legally existing at the time of its enactment, *except* the expressed limitations specifically provided for in sections VIII, B.2 and IX, C.5.

It is the intent of this Ordinance to regulate only new land development activity and such expansions of existing activity as could pose a threat to the future welfare of the citizens of the Town of Benton.

E. Jurisdiction

The provisions of this Ordinance shall govern land development activities within the boundaries of the Town of Benton.

F. Rules of Construction

Captions and headings within this Ordinance are intended to form a part of the Ordinance and to be utilized in determination the meaning and applicability of the sections they identify.

G. Conflict with other Ordinance

This Ordinance is intended to be used in combination with the other ordinances adopted by the Town of Benton. In circumstances where the provisions of two or more ordinance are similar or conflicting, the town shall enforce the provisions which are more restrictive.

H. Severability

In the event of an authoritative finding that a provision of this Ordinance is invalid, the validity of the remaining provisions shall not be affected.

Section II: Definitions

A. Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word “person” includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The words “shall” and “will” are mandatory, the word “may” is permissive.

The words “used” or “occupied”, as applied to any land or building, shall be construed to include the meaning of intended, arranged, or designed to be used or occupied.

The words “town” or “municipality” means the Town of Benton, Maine.

B. Definitions

In this Ordinance the following terms shall have the following meanings:

Accessory Use or Structure: A use or structure which is customarily and in fact both incidental and subordinate to the principal use of the structure. The term “incidental” in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

Agriculture: The production, keeping, or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Alteration: Any change, addition, or modification to the structural members of buildings such as bearing walls, columns, beams or girders, at a cost exceeding \$500. Cosmetic or decorative improvements are not alterations.

Alternative Tower Structure: Means clock towers, bell steeples, light poles and water towers and similar alternative-design mounting structures.

Amusement Facility: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Antenna: Means the system of any poles, panels, rods, reflecting disc or similar devices used for the transmission or reception of electromagnetic frequency signals.

Antenna Height: Means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said height is the antenna. Measurement of tower height shall include antenna, base pad and appurtenances and shall be measured from the finish grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Area of Special Flood Hazard: The land in the floodplain having a one percent or greater change of flooding in any given year.

Arterial: The following roads are arterials: Route 139, Route 100/11, Route 139/100/11 and Route 100A.

Authorized Agent: Anyone having written authorization to act in behalf of a property owner, signed by the property owner.

Automobile Graveyard: A yard, field, or other area used as a place of storage, other than temporary storage by a business engaged primarily in doing repair work to render a motor vehicle serviceable, for three or more unserviceable, discarded, worn out or junked motor vehicles, bodies, or engines thereof are gathered together including, but not limited to, automobiles, trucks, and/or tractors.

Automobile Repair: A place where any of the following services may be rendered on a commercial basis: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; over-all painting and under-coating of automobiles.

Basement: The enclosed area underneath a structure, typically having a masonry floor and walls which comprise the structure's foundation. The clear height up to the joists supporting the floor directly above is three feet or greater.

Bed and Breakfast: A home occupation which involves the provision for compensation of lodging facilities consisting of no more than five (5) rooms and the service of a morning meal.

Boarding/lodging: Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two (2) weeks, and where a family residing in the building acts as proprietor or owner. There is no provision for cooking in any individual room.

Body of Water: Shall include the following:

Pond or Lake: Any inland impoundment, natural or manmade, which collects and stores surface water.

Stream or River: A free flowing drainage outlet, with a defined channel and flowing water for more than three (3) months during the year.

Buffer Area: A vegetated yard area consisting of arboreal, shrub, and/or grassy vegetation intended for the purpose of reducing impacts of incompatible, neighboring uses.

Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or personal property.

Building Height: The vertical distance measured between the average finished grade of the ground at the front of a building and the highest point of the roof, not including chimneys, spires towers, or similar accessory structures.

Business Sign: An attached or freestanding structure which directs attention to a business or profession conducted on that premises.

Campground: Any area or tract of land to accommodate temporary living quarters, including, but not limited to tents, recreational vehicles, or other shelters for which a fee is charged.

Change of Use: A change from one category in the land use table to another or the addition of a new category of use to an existing use.

Club: Any association of person organized for social, religious, benevolent, or academic purposes; whose facilities are open to members and guests including fraternities, sororities, and social organizations.

Code Enforcement Officer (CEO): A person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer is intended to include references to Building or Plumbing Inspectors.

Co-Location: Means the use of wireless telecommunications facility by more than one wireless telecommunications provider.

Commercial Mobile Services: Any mobile service that is provided for the profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by FCC regulations.

Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: racquet clubs, health facility and amusement parks, but not including amusement centers.

Commercial Use: The utilization of property or facilities for the purpose of receiving compensation for goods or services rendered.

Conditional Use: A development activity which, if conducted without restriction, would have the capacity to adversely affect neighboring property and the public at large, and which therefore must be allowed only with review and approval of the planning board. More specifically, a conditional use is one which is listed within the district requirements in Section VII of this Ordinance.

Conditional Use Permit: A permit authorized by the Planning Board for a Conditional Use. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this Ordinance.

Congregate Housing: A multi-family development with central dining facilities serving functionally impaired persons.

Constructed: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered as part of construction.

Contiguous: Lots which share a common lot line or any portion thereof, including a single point.

Cosmetic or Decorative Improvements: Repainting or re-siding; removing or replacing trim, railings, or other non-structural architectural details; or the addition, removal or change of location of windows and doors.

Creative Development: A development pattern authorized by Section IX, B. of this ordinance, which is designed to promote the creation of open space by a reduction in dimensional and area requirements.

Day Care Center: An establishment, including a private residence, where three or more children under the age of six (6) are cared for in return for compensation.

Deck: An uncovered structure with a floor, elevated above ground level.

Development: Engineering or construction activity (excluding design) which is intended to render the land more valuable or more suited to a proposed use.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setbacks, lot area, frontage, and height.

District: A specified portion of the municipality, delineated on the Official Land Use Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving two (2) lots or less, or serving a commercial enterprise.

Dwelling: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes, but not recreational vehicles or travel trailers.

Single-Family Dwelling: A building containing only one (1) dwelling unit for occupation by not more than one (1) family.

Two-Family Dwelling: A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

Multi-Family Dwelling: A building containing three (3) or more dwelling units, such building being designed for residential use and occupancy by three (3) or more families living independently of one another; with the number of families not exceeding the number of dwelling units.

Dwelling Units: A room or suite of rooms located within a dwelling and designed and equipped exclusively for use by one family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing, but not recreational vehicles or hotel/motel units.

Expansion: In relation to a building, expansion shall mean: enlargement of floor area, or enlargement of building enclosure. In relation to use: the addition of weeks or months to a business operation season; the addition of hours to a business day; the use of more floor area or ground area; or the provision of additional seating capacity. In relations to wireless telecommunication facilities: expansion shall mean the addition of antennas, towers or other devices to an existing structure.

FAA: Means the Federal Aviation Administration, or its lawful successor.

FCC: Means the Federal Communication Commission, or its lawful successor.

Family: One or more persons occupying a premises and living as a single housekeeping unit.

Floodplain: The lands adjacent to a body of water which have been or may be covered by the base flood.

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

Front Lot Line: The boundary line of the property which abuts a public right-of-way or qualifying private access. In the event that two (2) lot lines abut a public right-of-way, the longer line shall be considered the front lot line.

Frontage: The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the front lot line.

Gasoline Service Station: A place where gasoline, or any other automobile engine fuel, kerosene, or motor oil and lubricants or grease are retailed directly to the public on the premises.

Height, Wireless Telecommunication Facility: The distance measured from the ground to the highest point on the tower or other structure even if the highest point is an antenna.

Home Occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential use; and 2) which employs no more than two (2) persons other than family members residing in the home.

Hospital: An institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central services facilities, and staff offices.

Hotel/motel: A building in which lodging or meals and lodging are offered to the general public for compensation on a short-term basis. The use may include such accessory services and facilities as newsstands, personal grooming facilities and restaurants.

Interconnected Services: Means the service that is interconnected with the public switched network (as such terms are defined by regulation by the FCC) or service for which a request for interconnections is pending.

Junkyard: A yard, field, or other area used as place of storage for: 1) Discarded, worn-out, junked plumbing, heating supplies, household appliances, and furniture; 2) Discarded, scrap, and junked lumber; 3) Old or scrap cooper, brass, rope, rags, batteries, paper trash, rubber debris, plastic debris, waste, and all scrap iron, steel, and other scrap ferrous or non-ferrous materials, or 4) Garbage dumps, waste dumps, and sanitary landfills.

kennel: Any place, building, tract of land, abode, enclosure, or vehicle where three (3) or more dogs or three (3) or more cats, owned singly or jointly are kept for any purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where one (1) or more dogs or other pets are kept for their owners in return for a fee. This inclusion shall not apply to dogs or cats under the age of six (6) months.

Lot: A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Ordinance, and having frontage upon a public street, right-of-way or private way.

Lot Area: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath public or private right-of-way.

Lot Coverage: The percentage of the lot covered by all buildings.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map in the Kennebec County Registry of Deeds.

Lot Width: The closest distance between the side lot lines of a lot.

Manufacturing Housing: Structures, transportable in one or two sections, which constructed

in a manufacturing facility and transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

Manufacturing: The making of goods and articles by hand or machinery, which shall include assembling, fabricating, finishing, packaging or processing operations.

Minimum Lot Area (lot size): The land area required for any lot created within the jurisdiction of this ordinance, excepting boundary adjustments. Lot area calculated for the minimum shall include the deductions cited in the definition of Lot Area, above.

Mobile Home Park: A plot of land designed and/or used to accommodate *three* (3) or more manufactured housing units, which is under the ownership of a single person.

Mobile Service: Radio communication service conducted between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way radio communication services; a mobile service which provides a regular interacting group of base, mobile, portable and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile communications by eligible users over designated areas of operation; and any service for which a license is required in a personal; communications service.

Neighborhood Convenience Store: A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items.

Non-Conforming Use: Use of buildings, structures, premises, land or parts thereof which is not permitted in the District in which it is situated or which does not meet the performance standards prescribed for it by this Ordinance, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Structure: A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Lot of Record: A lot shown on a plan or deed recorded prior to the effective date of this Ordinance or amendment which, does not meet the area, frontage, width or depth requirements of the District in which it is located.

Nursing Home: Any facility which provides meals, lodging and nursing care for compensation.

Official Business Directional Sign (OBDS): A sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 MRSA Section 1901, et seq. Which points the way to public accommodations and facilities or other commercial facilities.

Official Land Use Map: Also referred to as “Official Map.” A map adopted as part of this ordinance which shows the location of district boundaries. The Official Map shall have the same force and effect as this ordinance, except that in case of conflict or uncertainty, the boundary description in the text shall rule.

Open Space: Land left substantially in its natural state.

Open Space Use: A use not involving a structure, earth-moving activity, or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat.

Parabolic Antenna: An antenna which is bowl shaped, designed for the reception and/or transmission of an electromagnetic radiation signals in a specific directional pattern. It is also commonly referred to as a satellite dish.

Parking Space: An area, exclusive or drives or aisles, used for the parking of vehicles.

Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including campgrounds, commercial recreation and amusement centers as designed elsewhere in the Ordinance.

Passive Recreation: Outdoor recreational activities which involve no structural or mechanical components or facilities, such as hiking, fishing, hunting, etc.

Personal Wireless Service Facilities: Facilities for the provision of personal wireless services.

Personal Wireless Services: Commercial mobile services, for the provision of personal wireless services.

Principal Structure: The building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use: The primary use other than one which is wholly incidental or accessory to another use on the same premises. A lot may have more than one principal use.

Private Road: A private way meeting the Town’s road construction requirements for preparation, sub-base, and base as specified herein.

Professional Offices: The place of business for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors, but not including financial institutions or personal services.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational Vehicle: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home.

Residential Use: Any land use which includes a dwelling unit.

Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.

Standard Restaurants: A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving of the meal.

Fast Food Restaurant: A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposable containers.

Drive-In Restaurant: A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving.

Retail Business: A commercial use in which the principal source of income is the sale of goods to the general public.

River: The Kennebec and Sebasticook Rivers and related impoundments and wetlands.

Schools: Public and Private - including Parochial School: An institution for education or instruction where any branch or branches of knowledge is imparted and which satisfied either of the following requirements:

- a) The school is not operated for a profit or a gainful business; or
- b) The school teaches courses of study which are sufficient to qualify attendance thereby in compliance with State compulsory education requirements.

Commercial School: An institution which is commercial or profit-oriented. Examples thereof are dancing, music, riding, correspondence, aquatic schools, driving or business.

Service Business: A commercial use in which the principal source of income is the provision of labor for compensation. The term shall include professional as well as contracted services and shall refer to the location of the principal office of the service provider, in the case of services performed off the premises.

Setback: The horizontal distance from a lot line to the nearest part of a structure, road, parking space, or other regulated object or area.

Setback Road: The horizontal distance from the road right of way to the nearest part of a structure.

Shopping Center: A grouping of three (3) or more retail or service businesses on a single lot or within a single building. For the purpose of this definition, a business is considered a separate business if it has an entrance door distinct from the other businesses.

Signs: A display surface, fabric or device containing organized and related elements (letter, pictures, products, or sculptures) composed to form a single unit, designed to convey information visually and which is exposed to the public view. In cases where matter is displayed in a random or unconnected manner without an organized relationship, each such component shall constitute a sign.

Sign Area: The area enclosed by the smallest geometric figure which encompasses the organized and related elements of a sign. A sign which has elements on both sides shall be considered to have two (2) sign areas.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another waterbody or wetland within a shoreland zone.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes, but not including signs, sidewalks, fences, patios, driveways, and parking lots.

Substantial Expansion: Floorspace increase of 25% or new materials or processes not normally associated with the existing use.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored before the damage occurred. For purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historical Places or a State Inventory of Historical Places.

Subdivision: The division of a tract or parcel of land as defined in Title 30-A, MRSA, Section 4401, and in the Benton Subdivision Ordinance.

Subsurface Wastewater Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s), alternative toilet(s), or other devices, and associated piping designed to function as a unit for the purpose of disposing of wastewater in the soil. The term shall not include any wastewater discharge system licensed under Title 38 MRSA Section 414, any surface wastewater disposal system licensed under Title 38 MRSA Section 412 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in Title 38 MRSA Chapter 13, subchapter 1.

Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Tower: Any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

Trailers: A vehicle without motive power, designed to be towed by a motor vehicle, but not designed for human occupancy, and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

25-year Storm: A storm in which the 24-hour accumulation of rainfall is the greatest which can be expected in a single event within a 25 year period. The chances of a 25-year storm occurring in any given year are 1 in 25 (4 percent).

Undue Hardship: A condition necessary for the granting of a variance by the Board of Appeals. A finding of “undue hardship” must be based on an affirmative finding on all of the criteria listed at Title 30-A, MRSA section 4353.4.

Unlicensed Services: The offering of telecommunication services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

Variance: A variance is a relaxation of the terms of this Ordinance. Variances permissible under this Ordinance are limited to dimensional and area requirements. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities in the immediate or adjacent areas.

Vehicle Sales: Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.

Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

Wireless Telecommunication Facility: Any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR) common carrier wireless exchange phone service, specialized mobile radio communications (SMR) common carrier wireless exchange access services, and personal communications service (PCS) or pager services. Wireless telecommunications facility shall not include any of the following:

- a) Amateur ham radio stations licensed by the FCC.
- b) Parabolic antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- c) Temporary wireless telecommunication facility, in operation for a maximum period of 180 days.
- d) An antenna that is an accessory to a residential dwelling unit and is less than 20 feet above the roof peak or less than 45 feet above grade.

Yard: The area between a structure and the property boundary.

Section III: Administration, Enforcement and Fees

A. Administrative Body

The provisions of this ordinance shall be administered by the Benton Planning Board, as established by Ordinance 10-1 (1985 Revision).

B. Land Use Requirements

Except as hereinafter specified, no land shall hereafter be developed, and no building or structure or part thereof shall hereafter be erected, constructed, moved, or altered in use or design, and no new lot shall be created, unless in conformity with all of the applicable regulations herein.

C. Permit Requirements

A Land Use Permit shall be obtained prior to the commencement of construction or placement of any structure within the Town of Benton, *except for* repairs and/or normal maintenance not requiring structural elements, decorative changes in existing structures or buildings, or structures/additions that exceed the dollar value as stated in the fee schedule, and which would otherwise conform to the provisions of this Ordinance.

D. Permit Application

1. Every applicant for a permit shall submit a written application. The application will include the following information, except when the Code Enforcement Officer determines that it is not necessary:
 - a. The name and address of the property owner.
 - b. The name, address, and telephone number of the person, firm, or firms involved in the construction on the property.
 - c. The value of the proposed construction.
 - d. A statement of the proposed use for any new or moved structure or altered portion of an existing structure.
 - e. Any other information deemed necessary by the Code Enforcement Officer to determine whether the proposed construction will conform to this Ordinance, other local ordinances and state law.
 - f. If the property is not served by a public sewer a valid plumbing permit, including the site evaluation approved by the plumbing inspector, shall be submitted.
 - g. For structures to be erected, structures to be moved, and exterior additions to existing structures:

- i. The shape, size, and location of the lot for which application is made.
 - ii. The shape, size, and location on the lot of the proposed structure or additions, precisely located and noted as to distances and dimensions.
 - iii. The shape, size, and location of any other existing structures on the lot.
 - iv. The approximate location of adjacent structures on adjacent lots, with reference to the distance from the lot line.
 - h. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.
2. Applications must include a non-refundable fee paid in accordance with a fee schedule established by this ordinance, and may not be altered or waived except by vote of a town meeting.
3. All applications shall be signed by the property owner or the owner's authorized agent.
4. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date received at his/her office.
5. Upon receipt of a permit application the Code Enforcement Officer (CEO) shall:
 - a. Decide whether the information in the application is sufficient to determine whether, under this Ordinance, the permit should be issued, or if the application is other wise inadequate. If the application is insufficient or inadequate, the CEO shall at once notify the applicant in written, including what necessary information is required to correct the application. If the application is not so corrected, it shall be denied.
 - b. Determine whether an application is satisfactory. An application is satisfactory if it is a permitted use within the district in which it is located, if it conforms to the provisions of this Ordinance and other codes and ordinances of the town, and if it is accompanied by the required fee. If the application is satisfactory, the CEO shall within ten (10) days of its receipt issue the permit, notify the Tax Assessor, and file a copy of the application/permit in a permanent file in the town office.
 - c. If the application is unsatisfactory, within ten (10) days deny the permit in writing, stating therein the reasons for such denial.
 - d. If the application requires a review by other authorities or boards, refer the application to the appropriate authority or board for review, approval, or denial. Upon the receipt of the decision of the reviewing authority or board, in writing, and if such decision is an approval, the Code Enforcement Officer shall issue the permit with any conditions prescribed by the reviewing authority or board.
 - e. No construction shall commence until the applicant demonstrates that he has obtained all necessary permits, e.g. plumbing permits, road opening permits.

6. The Code Enforcement Officer shall deny any Land Use Permit if he has knowledge that a particular structure would be located in an unapproved subdivision, and/or if the structure would be in apparent violation of a particular State law for which the municipality has enforcement responsibilities, or local ordinance.
7. Following the issuance of a permit, if no substantial start is made on the construction within two (2) years of the date of the permit, it shall lapse and become void. Thereafter no further work on such construction can be made until a new application has been made and approved as aforesaid. A complete submission may be waived for renewing lapsed permits.
8. Any permit issued which is not in conformity with the provisions of this Ordinance confers no rights and is void.

E. Code Enforcement Officer

1. There is hereby created the officer of Code Enforcement Officer, who shall be appointed by the Municipal Officers for a definite term.
2. No Municipal Officer, Planning Board member, or member of the Board of Appeals may serve as Code Enforcement Officer, except on an interim basis.
3. It shall be the duty of the Code Enforcement Officer to:
 - a. Enforce all provisions of this Ordinance, Shoreland Zoning Ordinance and Floodplain Management Ordinance.
 - b. Assist in the enforcement of all State statutes and regulations relating to the erection, placement or alteration of structures, and the alteration of land or water bodies, including without limitation: 12 M.R.S.A. 4807, Minimum Lot Size, 30-A M.R.S.A., Junk Yards, 38 M.R.S.A., 481 et seq., Site Location Law, 38 M.R.S.A., Chapter 13, Solid Waste Management Act.
 - c. Enforce or assist in the enforcement of other ordinances of the Town of Benton.
 - d. Conduct inspections as frequently as may be necessary to insure compliance with Town Ordinances and State laws.
 - e. Advise applicants as to whether additional approval is required by other municipal officials or by State agencies and the procedures necessary to obtain such approval.
 - f. Keep a complete record of transactions relating to his/her office.
4. The Code Enforcement Officer shall transfer all fees collected by him/her to the Town Treasurer within fifteen (15) days of receipt.
5. The compensation of the Code Enforcement Officer shall be as determined by the Annual Town Meeting.

6. The Code Enforcement Officer shall obtain and maintain the necessary state certifications, and shall act as Plumbing Inspector, with all the powers and duties connected with that office.
7. The Code Enforcement Officer shall have the power to order all work stopped on construction or alteration or repair of buildings in the Town when such work is being done in violation of any Ordinance relating thereto.
8. Any final decision of the Code Enforcement Officer in the enforcement of this ordinance may be appealed to the Board of Appeals. The appeal must be filed within thirty (30) days of the date of the action.

F. Legal Action and Violations

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

H. Fines

Any person, firm or corporation being the owner, contractor or having control or use of any structure or premises who violates any of the provisions of this Ordinance shall upon conviction be fined in accordance with provisions of 30-A, MRSA, 4452. Each day such violation is permitted to exist after notification shall constitute a separate offense. Fines shall be payable to the town General Fund.

Section IV: Non-conformance (Grandfathering)

A. Defined

1. **Non-Conformance** is the status or condition of land or structures which exists and is legal prior to the enactment of this Ordinance, but which would not be legal if commenced after the effective date of this Ordinance.
2. **Non-Conforming Use:** Use of buildings, structures, premises, land or parts thereof which is not permitted in the District in which it is situated or which does not meet the performance standards prescribed for it by this Ordinance, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.
3. **Non-Conforming Structure:** A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.
4. **Non-Conforming Lot of Record:** A lot shown on a plan or deed recorded prior to the effective date of this Ordinance or amendment which, does not meet the area, frontage, width or depth requirements of the District in which it is located.

B. General

1. Continuation:

Any non-conforming use or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified in this section.
2. Transfer of Ownership:

Non-conforming structures, non-conforming lots of records, and non-conforming uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this section.
3. Routine Maintenance:

This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repair, renovation. Or modernization which does not involve expansion of the non-conforming use or structure and which cost less than 25 percent of the market value of the structure before such work is started; and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require.

4. Restoration:

Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful or reckless act of the owner or their agent, may be restored or reconstructed within two (2) years of the date of said damage or destruction, provided that:

- a) The non-conforming dimensions of any restored or reconstructed structure shall not exceed the non-conforming dimensions of the structure it replaces;
- b) Any non-conforming structure shall not be enlarged except in conformity with this Ordinance and the Maine State Subsurface Wastewater Disposal Rules: and
- c) Any non-conforming use shall not be expanded in area.

Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

5. Expansion of Non-conforming Commercial or Industrial Uses or Structures:

- a) A non-conforming, existing commercial or industrial use or structure may be expanded if it does not produce an unreasonable adverse impact on surrounding properties.
- b) An application for expansion shall be considered using the same criteria and procedures as a conditional use permit, Section V.

C. Non-Conforming Use

1. Resumption Prohibited:

A lot, building, or structure in or on which non-conforming use is discontinued for a period exceeding two (2) years or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use.

2. A Structure Non-Conforming As To Use:

Except single-family dwellings, a structure which is devoted to a non-conforming use shall not be enlarged unless the non-conforming use is terminated.

- a) Single family dwellings in the Industrial District may be enlarged as long as the dimensional requirements of the district are met.
- b) A non-conforming use or part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use non-conforming.

- c) Lack of Required Parking or Loading Space: A building or structure which is non-conforming as to the requirements for off-street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring it into conformance with these requirements, for both the addition or alteration and for the original building or structure.

3. Change of Use:

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use.

- a) The board of appeals is responsible for approving changes under this section. The case shall be heard as an administrative appeal.
- b) The determination of less impact shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use.
- c) The performance standards of this Ordinance shall apply to such requests to establish new non-conforming uses.

4. Land Use Activity:

A non-conforming use of land may not be extended into any part of the remainder of a lot of land. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the set-back lines of the parcel upon which such operations were in progress, as required by the performance standards established in section IX, C.4. Contiguous parcels that were under the same ownership prior to the enactment of this Ordinance may be utilized under the same restriction.

The provision of required off-street parking for an existing non-conforming use shall not be considered expansion of the use.

D. Non-Conforming Structures

1. Expansions Limited:

A non-conforming structure shall not be added to or enlarged unless: such addition or enlargement conforms to all the regulations of the district in which it is located; the addition does not increase the non-conformity of the structure; or a variance is obtained.

2. Special Cases:

- a) The addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure.
- b) The addition of steps or the enclosure of an existing deck shall not constitute the expansion of a non-conforming structure.
- c) The addition of a deck shall constitute the expansion of a non-conforming structure and shall meet all the dimensional requirements of this Ordinance.
- d) The placing of a foundation below a non-conforming structure shall not constitute the expansion of the structure as long as the first floor space of the structure is not increased.
- e) Notwithstanding (d), above, construction or expansion of a foundation under an existing dwelling which expands habitable space shall be considered an expansion subject to the State plumbing statutes and code requiring documentation of wastewater disposal capabilities.

E. Non-Conforming Lots of Record

1. Development:

- a) A vacant non-conforming lot may have built upon provided that such lot is not contiguous with another vacant non-conforming lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variance of setback or other requirements not involving area or frontage shall be obtained only by action of the Board of Appeals.
- b) A non-conforming lot built upon prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions:
 - i The structure(s) may be repaired, maintained, or improved.
 - ii The structure(s) may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area or frontage.
 - iii Enlargement of structure(s) which cannot meet the requirements of this Ordinance shall be permitted only through a variance granted by the Board of Appeals.

2. Transfer:

- a) Contiguous Built Lots: If two or more contiguous and non-conforming lots or parcels have the same ownership of record on the effective date of this Ordinance, and if a principal structure exists on each lot, the lots may be conveyed separately or together, providing the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.
- b) Multiple Use: If two or more principal structures existed on a single lot of record on the effective date of this Ordinance, rights to each structure may be conveyed separately.
- c) Contiguous Lots - Vacant or Partially Built: If two or more contiguous and non-conforming lots or parcels have the same ownership of record on the effective date of this Ordinance, and if the lots are vacant or contain only an accessory structure, the lots shall be combined to the extent necessary to meet the dimensional standards, except where rights have vested, or the lots have frontage on parallel streets.

F. Vested Rights

Grandfathered rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Substantial construction of structures or improvements must have begun prior to the effective date of this Ordinance, or in the case of pending applications, when the review process on an application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of an in compliance with all validly issued permits, both state and local.

Section V: Conditional Use Permits

A. Requirement

1. A conditional Use is defined as a development activity which, if conducted without restriction, would have the capacity to adversely affect neighboring property and the public at large, and which therefore must be allowed only with review and approval of the planning board. More specifically, a conditional use is one which is listed within the district requirements in Section VII of this Ordinance.
2. No person shall commence any development activity, or construct structures pertinent to a development activity, which is listed in Section VII, *Establishment of Districts* as a Conditional Use without first obtaining a Conditional Use Permit from the Benton Planning Board.
3. In the event of a question as to whether a particular activity constitutes a Conditional Use, the Code Enforcement Officer is authorized to make a formal determination.

B. Authorization

The Planning Board shall approve with modifications or conditions, or disapprove an application for a Conditional Use Permit.

C. Existing Conditional Use or Structure

1. A Conditional Use which existed prior to the effective date of this Ordinance may not be changed to another Conditional Use nor substantially expanded or altered except in conformity with all requirements of this Ordinance pertaining to the use. Substantial expansion is considered to be a floorspace increase of at least twenty-five (25) percent or the utilization of materials or processes not previously associated with the existing use.
2. No significant changes shall be made in any approved Conditional Use without approval of the change by the Planning Board.

D. Application

1. A person who requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose, together with a non-refundable application fee as specified in the Appendix. In addition to the application fee, the applicant shall be responsible for the following costs, to be paid prior to issuance of the Permit:
 - a) All costs associated with a public hearing, should the Board decide that one is warranted, and
 - b) Reasonable costs incurred by the town in employing mutually agreed-upon professional expertise to review and verify details of the application.

2. All applications for Conditional Use Permits shall contain the following information:
 - a) A plan showing development of the parcel, including the location of all structures and improvements, and any changes in finished grade. The plan shall be drawn to a scale of not smaller than one inch equals fifty (50) feet.
 - b) The name and address of the applicant (or authorized agent) plus the name of the proposed development, and a proof of the applicant's legal interest in the property, the assessor's map and lot number.
 - c) Interior plans showing total floor area and amount of area devoted to individual uses for each building, structure, or addition.
 - d) Perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of parcel, date of survey, and total acreage.
 - e) Any other information necessary for the applicant to demonstrate how he/she intends to meet the performance standards of this Ordinance.
3. The Planning Board may, in writing, waive the requirements for submission of any information which it determines is not needed for consideration of the permit.

E. Review Procedure

1. The Board shall determine whether the application is complete enough to begin consideration for approval. Upon making a determination of completeness, the Board shall have thirty-five (35) days to either take final action (approve, deny, or approve with conditions) or hold a public hearing.
2. The Board may decide to hold a public hearing. If a public hearing is held, the following procedure shall apply:
 - a) The Board shall notify the Code Enforcement Officer and Municipal Officers, and shall publish notice of the time, place, and subject matter or hearing at least ten (10) days in advance in a newspaper of general circulation in the area.
 - b) The Board shall notify by regular first class mail, the applicant and the owners of all property within 200 feet of the property involved at least ten (10) days in advance of the hearing, the nature of the application, and the time and place of the public hearing.
 - i. The owners of property shall be considered to be those against whom taxes are assessed.
 - ii. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

- c) The Code Enforcement Officer will attend hearings as required and may present to the Planning Board all plans, photographs, or other material he/she deems appropriate for an understanding of the application.
 - d) The applicant's case shall be heard first. To maintain orderly procedure, all persons shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.
 - e) Within thirty-five (35) days of the close of the hearing, the board shall take final action of the application.
3. When an applicant would need a variance from an Ordinance requirement before the Planning Board could approve the Permit, the Board of Appeals shall approve the variance prior to final action by the Planning Board. The Planning Board shall table final action on the application pending the Board of Appeal's decision and shall notify the Board of Appeals of that action.
4. The Planning Board shall provide the Code Enforcement Officer and Municipal Officers of its decision and shall prepare a finding of facts and conclusions. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Board, or deny the Permit.

F. Expiration

A Conditional Use 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 two (2) years of the date on which the Conditional Use is authorized.

G. Appeal

An appeal may be taken within thirty (30) days after a decision is rendered to the Board of Appeals as an administrative Appeal. Any party to the Planning Board proceedings is authorized to file an appeal.

H. Standards for Conditional Uses

1. The applicant shall demonstrate that the proposed use meets all applicable criteria listed below. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met:
 - a) The use will not have an adverse impact on spawning ground, fish, aquatic life, bird or other wildlife habitat.
 - b) The use is consistent with the Benton Comprehensive Plan.

- c) Traffic access to the site meets the standards contained in this ordinance; and traffic congestion has been addressed in accordance with performance standards in this ordinance.
- d) The site design is in conformance with all municipal flood hazard protection regulations.
- e) Adequate provision for the disposal of all wastewater and solid waste has been made.
- f) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.
- g) A storm water drainage system capable of handling 25-year storm without adverse impact on adjacent properties has been designed.
- h) Adequate control of soil erosion and sedimentation has been shown.
- i) There is adequate water supply and quality to meet the demands of the proposed use.
- j) Buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, dust, odor and the like.
- k) All performance standards in this ordinance, applicable to the proposed use will be met.

I. Application of Standards

- 1. If, in its findings, the Planning Board determines that the application may not meet the above standards and that additional actions by the applicant will be sufficient to meet them, it may require such actions, as conditions of approval. The conditions may set requirements in addition to those set forth in this ordinance only when the board finds it necessary to further the purposes of this ordinance.
- 2. Conditions may include, but not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; drainage, landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions or restrictive covenants; location of parking and signs; type of construction.
- 3. Violation of any of these conditions shall be a violation of this ordinance.

J. Performance Guarantees,

- 1. At the time of approval of the application for Conditional Use, the Planning Board may require the applicant to tender either a certified check payable to the Town, an irrevocable letter of credit from a lending institution, or a performance bond payable to the town issued by a surety company in an amount adequate to cover not less than twenty (20) percent nor more than one hundred (100) percent of the costs of all improvements required by the town. The cost estimate shall take into account the time-span of the development and the effects of inflation. The conditions and amount of the guarantee shall be determined by the Board.

2. Prior to the release of any part of or the entire performance guarantee, the Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
 - a) The Board shall request of the Code Enforcement Officer and whatever agencies and departments may be involved, a report on the status of the improvements. If the Code Enforcement Officer is unable or unqualified to inspect the required improvements, the town shall retain the services of an appropriately qualified individual or firm to inspect and report on the facility in question. The costs of such inspection shall be borne by the developer.
 - b) If the Code Enforcement Officer or inspector finds, upon inspection of the improvements performed before release of the guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Board and Planning Board. The Board shall then notify the applicant, and, if necessary, the bonding company or lending institution, and take all necessary steps to preserve the town's rights under the guarantee.
 - c) Any interest accumulated on an escrow account shall be returned with any money owed by the town to the developer after it has been determined that the proposed improvements meet all design and construction requirements.
3. Performance guarantees, when required, shall be tendered for all improvements required under this ordinance, including but not limited to, sidewalks, drainage facilities, parking areas, lighting, signs, landscaping and buffer areas.

Section VI: Board of Appeals

A. Authorization

There is hereby created the Board of Appeals of the Town of Benton pursuant to Title 30-A, MRSA, Section 2691 et seq. It is intended that the Board of Appeals authorize and existing in the Town of Benton shall continue this authorization.

B. Appointment and Dismissal

1. The municipal officers shall appoint five (5) regular members and two (2) associate members to serve staggered three (3) year terms.
2. Neither a municipal officer nor their spouse may be a member or associate member of the Board.
3. A member of the Board may be dismissed for cause by the municipal officers before the expiration of his/her term.

C. Organization and Rules

1. The Chairman shall call meetings of the Board as requested. The Chairman shall also call meetings of the Board when requested to do so by a majority of the members or by the municipal officers. A quorum of the Board necessary to conduct an official Board Meeting shall consist of at least four (4) regular and associate members. The Chairman shall preside at all meetings of the Board and be the official spokesman of the Board. If the elected Chairman cannot attend a meeting, the members attending shall appoint an acting Chairman from among the regular members for the duration of the meeting.
2. The Secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The Secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board. All records to be maintained or prepared by the Secretary are deemed public, shall be filed in the municipal clerk's office, and may be inspected at reasonable times.
3. The Board may provide by rule, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearings, provided that any rule may be waived by the Chairman upon good cause shown.
4. The Board shall elect annually a Chairman from its membership.
5. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the remainder of the members.

6. The municipal officers shall set compensation on a per-meeting basis.
7. The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his/her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
8. Board decisions related to substantive issues shall be by vote of a simple majority of those present and voting. When making final disposition of an appeal, all members voting shall have been present at the public hearing for said appeal.
9. The transcripts of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law or description presented and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board, agency or officer, and the municipal officers within seven (7) days of their decision.
10. In the event of the absence of a regular member, an associate member shall be appointed by the Chairman to vote in his place, *provided that* a majority of those present and voting shall be regular members.
11. Fees for an appeal filed under this ordinance shall be as specified in the Appendix.

D. Jurisdiction

1. The Board of Appeals shall have the power to hear appeals of decisions by the Code Enforcement Officer and Planning Board in the administration of this Ordinance. These appeals shall take either of two forms:
 - a) Administrative Appeal. An Administrative Appeal may be taken when it is alleged that there has been an error in the decision of the Code Enforcement Officer or Planning Board in the administration or application of this Ordinance. The Board of Appeals shall rule in favor of the party appealing when it finds that there is substantial evidence to conclude that the ordinance has been applied in error.
 - b) Variance. A Variance may be requested by a party seeking relief from a dimensional requirement or performance standard contained in this ordinance. A variance shall be granted only under the conditions of hardship, as stated in Title 30-A, MRSA, section 4353.

2. Additional authority may be given to the Board of Appeals specific terms of a municipal Ordinance including, but not limited to, municipal Shoreland Zoning.

E. Appeals

An appeal may be taken, within thirty (30) days after the decision is rendered, by any party to District Court and/or Superior Court from any order, relief or denial in accordance with Rule 80B. The hearing before the Superior Court shall be a trial de nova without a jury.

Section VII: Establishment of Districts

A. Land Use Districts

The following districts are hereby established and defined for the purpose of applying the standards in this ordinance:

1. **Benton Station Village District**

Purposes: To provide for a variety of high density land uses in a village setting, where residential, public, service, commercial and retail activities are commonly mixed, and where pedestrian ways and open space contribute to an inviting residential and shopping environment.

To preserve the existing village character of Benton Station and to ensure that future development is compatible both in character and use.

2. **Benton Proper Growth District**

Purposes: To provide a variety of land uses in a village setting where residential, public, service, commercial and retail activities are commonly mixed; where pedestrian ways and open space are encouraged and an inviting residential and shopping environment is created.

To allow a higher density of land uses, supportable by on-site waste disposal.

To maintain and enhance the Town Office and adjacent park as the center for this District.

3. **Benton Falls Growth District**

Purposes: To provide for variety of uses in keeping with a Village - residential setting; where commercial, educational, institutional, public uses and outdoor resource based uses complement the existing residential character.

To allow a higher density of land uses, supportable by on-site waste disposal and posing no threat to ground water supplies or quality.

4. **Rural District**

Purposes: To maintain the rural character of those areas of Benton not designated for high density growth; to provide for low density residential development, agricultural and forestry uses and limited commercial uses; to ensure that the type and intensity of development in this District is compatible with the goals of protecting wildlife habitat and significant natural resources; and to ensure that development is supportable by on-site waste disposal and maintains a high quality ground water supply to serve the needs of rural residents and businesses.

At the same time, the purpose of this District is to discourage higher density development in those areas of the Town that are not well suited for such development and where the provision of essential services and utilities would be inefficient and costly; and to preserve the capacity of major through roads in the rural areas to serve as efficient links to regional arterial roads and other communities by discouraging strip development.

The Rural District consists of all lands within the Town of Benton not encompassed within the bounds of the Benton Station District, Benton Proper District, Benton Falls District, or Industrial District.

5. **Industrial Growth District**

Purpose: To provide for a mixture of commercial and industrial uses in a location adjacent to suitable infrastructure and facilities. This district also allows a wide mixture of uses.

6. **Overlay District for Mobile Home Parks**

- a) Designation: Mobile home parks are hereby identified as a special land use activity within the Town of Benton. The town hereby designates five (5) geographic areas within the town suitable for the location of mobile home parks.
- b) Application: Within the mobile home park Overlay District, mobile home parks shall be a permitted use in addition to all other permitted uses within the underlying district. Outside the Overlay Districts, mobile home parks shall be prohibited, notwithstanding other allowed, permitted, or conditional uses listed for the underlying district.

B. Rules Governing District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Map, the following rules shall apply:

- 1. Boundaries indicated as approximately following the center lines of street, highways, Power Transmission Corridors, railroad right-of-ways, rivers, or streams shall be construed to follow such center lines, Boundaries described as parallel to streets or right-of-ways shall be measured from the centerline of the right-of-way, unless otherwise indicated.
- 2. Map and Lot numbers indicated on the Official Map and within the descriptions contained in subsection A, above, shall be in reference to the official Tax Maps of the Town of Benton, revision 1991. Boundaries described as following platted lot lines shall be construed as following such lot lines.

3. Boundaries indicated as following or controlled by shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.
4. Sources for the exact delineation of Flood Hazard areas shall be the Flood Insurance Rate Map published by FEMA for the Town of Benton (Community Panel #230233) except where qualified testimony provides greater accuracy.
5. Boundaries indicated as parallel to or extensions of features indicated above shall be so construed. Distances not specifically indicated on the Official Map shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Map, or other circumstances not covered by subsections 1 through 5 above, the Board of Appeals shall interpret the district boundaries.
7. When a lot is divided by a use district boundary, the following rules shall apply:
 - a) Where a lot extends for less than fifty (50) feet into an adjoining district, the lot shall be used as if the entire lot were in the district which comprises the larger portion.
 - b) Where a lot extends for more than fifty (50) feet into two adjoining districts, the regulations of each district shall apply to the respective land areas, except that the provisions of one district may be applied to a land use activity within the bounds of the lot and extending no more than fifty (50) feet into the adjoining district.

C. Dimensional Requirements

The following are minimum requirements for new development, additions, and expansions within the Town of Benton. All distances shall be horizontal measure. The building height limits specified for each district shall not apply to wireless telecommunication facilities.

The requirements of this section may be waived only by the Board of Appeals through the application of a variance under section V of this ordinance.

Village and Growth Districts

<u>Minimum Lot Size:</u>	<u>Sewered</u>	<u>Unsewered</u>
Single family detached	10,000	20,000 sq. ft.
Duplex residential, per building	10,000	25,000 sq. ft.
Multi-family, per building	18,000	28,000 sq. ft.
Minimum lot area per dwelling unit	2,000	3,000 sq. ft.
Commercial/Industrial	10,000	20,000 sq. ft.
Institutional/Public	10,000	20,000 sq. ft.
All other	10,000	20,000 sq. ft.

Minimum Street Frontage:

Single family detached	125 ft.
Duplex residential	125 ft.
Multi-family	125 ft.
Commercial/Industrial	125 ft.
Institutional/Public	125 ft.
Other	125 ft.

Minimum Front Setback:

All uses	15 ft.
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Minimum Side Setback:

Residential	10 ft.
Commercial, Industrial, Other	20 ft.

Minimum Rear Setback:

Residential	10 ft.
Commercial, Industrial, Other	20 ft.

Maximum Lot Coverage:

Commercial/Industrial	50 percent
All other	30 percent

<u>Building Height Limits:</u>	40 ft.
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Rural District

Minimum Lot Size:

Single family detached	30,000 sq. ft.
Duplex and multi-family residential, per building	35,000 sq. ft.
Minimum lot area per dwelling unit	5,000 sq. ft.
Commercial/Industrial	35,000 sq. ft.
Institutional/Public	35,000 sq. ft.
All other	35,000 sq. ft.

Minimum Street Frontage:

Single family detached	150 ft.
Duplex residential	150 ft.
Commercial/Industrial	150 ft.
Institutional/Public	150 ft.
Other	150 ft.

Minimum Front Setback:

All uses	25 ft.
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Minimum Side and Rear Setback:

Residential	10 ft.
Commercial, Industrial, Other	20 ft.

Maximum Lot Coverage:

Commercial/ Industrial	50 percent
All other	30 percent

Building Height Limits:

40 ft.

Industrial District

Minimum Lot Size:

	<u>Sewered</u>	<u>Unsewered</u>
Single family detached	10,000	20,000 sq. ft.
Duplex residential, per building	10,000	25,000 sq. ft.
Multi-family, per building	18,000	28,000 sq. ft.
Minimum lot area per dwelling unit	2,000	3,000 sq. ft.
Commercial/Industrial	10,000	20,000 sq. ft.
Institutional/Public	10,000	20,000 sq. ft.
All other	10,000	20,000 sq. ft.

Minimum Street Frontage:

Single family detached	150 ft.
Duplex residential	150 ft.
Commercial/Industrial	150 ft.
Institutional/Public	150 ft.
Other	150 ft.

Minimum Front Setback:

All uses	25 ft.
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Minimum Side Setback:

Residential	10 ft.
Commercial, Industrial, Other	20 ft.

Minimum Rear Setback:

Residential	10 ft.
Commercial, Industrial, Other	20 ft.

Maximum Lot Coverage:

Commercial/ Industrial	60 percent
All other	40 percent

Building Height Limits:

40 ft.

E. Table Of Land Uses

KEY: A - Allowed if in compliance with applicable performance standards.
P - Permitted; land use permit required.
N - Not permitted.
C - Conditional; conditional use permit required in accordance with Section IV.
* - Activity is subject to applicable standards in Section IX of this ordinance.

Use/Structure	Benton Station Village District	Growth Districts		Rural District	Industrial District
		Benton Falls	Benton Proper		
<u>RESIDENTIAL</u>	P	P	P	P	P
Accessory Use	P	P	P	P	P
Congregate Housing	C	C	C	C	N
Home Occupation*	P	P	P	P	P
Manufactured Housing	P	P	P	P	P
Mobile Home Park*	Overlay	Overlay		Overlay	N
Multi-family Dwelling	P	P	P	P*	P
Two-family Dwelling	P	P	P	P	P
Single-family Dwelling	P	P	P	P	P
<u>COMMERCIAL</u>	P	P	P	P	P
Accessory Use	P	P	P	P	P
Amusement Facility, Commercial Recreation (indoor)	P	P	P	C	P
Amusement Facility, Commercial Recreation (outdoor)	C	C	C	C	P
Automobile Graveyard, Junkyard*	N	N	N	C	N
Automobile Repair, Sales, Service	C	C	C	C	C
Bed and Breakfast	P	P	P	P	P
Boarding, Lodging	P	P	P	P	P
Building Materials, Retail Sales	C	C	C	C	C
Commercial School	C	C	C	C	C
Gasoline Service Station	C	C	C	C	C
Hotel/Motel	P	C*	C	C	P

Use/Structure	Benton Station Village District	Growth Districts		Rural District	Industrial District
		Benton Falls	Benton Proper		
Indoor Theater	P	P	P	C	P
Kennel, Stable, etc.	C	C	C	P	P
Veterinary Hospital	P	P	P	P	P
Neighborhood Convenience Store	P	C	C	C	P
Offices; Business, Professional, Medical	C	C	C	C	P
Publishing, Printing	P	C	C	C	P
Wireless Telecommunications Facility	N	N	N	C	C
Restaurant	P	C*	C	C	P
Retail Business	C	C	C	C	P
Service Business	C	C	C	C	P
Shopping Center	C	C	C	C	C
Wholesale Business	C	C	C	C	C
<u>INDUSTRIAL</u> Accessory Use	C	C	C	C	P
Airport, Air Transport Department Use	N	N	N	C	C
Bulk Oil, Gas Terminal	N	N	N	N	N
Demolition, Waste Disposal	N	N	N	N	N
Manufacturing	C	C	C	C	C
Recycling Operations	C	C	C	C	C
Sawmill	N	N	N	P	C
Trucking, Distribution Terminal	N	N	N	C	C
Warehousing and Storage	C	C	C	C	C
Church, Synagogue, Parish House	P	P	P	P	P
Community Centers, Clubs	P	P	P	P	P
Day Care	P	P	P	P	P
Essential Services	A	A	A	A	A
Fire, Police Station	P	P	P	P	P
Government Office	P	P	P	P	P

Use/Structure	Benton Station Village District	Growth Districts		Rural District	Industrial District
		Benton Falls	Benton Proper		
Group Homes, Hospice, Nursing Home	C	C	C	C	C
Museum, Library	P	P	P	P	P
Public, Private School	P	P	P	P	P
Public Utility Facility	C	C	C	C	C
<u>OUTDOOR, RESOURCE BASED USE</u> Accessory Structure	P	P	P	P	P
Agriculture	A	A	A	A	A
Agriculture Products Processing	C	C	C	C	C
Campground	C	C	C	C	N
Cemetery	P	P	P	P	N
Extractive Industry*	N	N	N	C	C
Farm Stands	A	A	A	A	A
Forestry	A	A	A	A	A
Golf Course Excluding Miniature Golf	C	N	C	C	N
Parks and Recreation	A	A	A	A	C
Primitive Commercial Outdoor Recreation	P	P	P	P	P

Section VIII: General Performance Standards

The purpose of this section shall be to establish a set of development practices which shall be applied to development activity within the Town of Benton and which shall protect neighboring properties, the citizens of the Town of Benton and the general public from undue adverse effects of development. Standard agricultural practices (non-structural) are not considered to be either development or land use activity subject to this section.

A. Access to Property

1. All lots created under the jurisdiction of this ordinance shall provide for suitable vehicular access. No land use permit shall be issued to erect any structure on a lot without required frontage on a public way, except as provided for in subsection 1.a.
 - a) An access road meeting the criteria described below may be provided in place of frontage on a public road. All access roads shall be constructed within right-of-way deeded in favor of the lot(s) to be developed.
 - i. If two (2) or fewer dwelling units are to be constructed on the parcel, the right-of-way shall be a minimum of 20 feet in width. The access road shall be constructed and maintained in such a way as to not cause soil erosion or drainage problems or hazard to the traveling public.
 - ii. If no fewer than three (3) nor more than seven (7) dwelling units are to be constructed, right-of-way shall be a minimum of 50 feet. The access road shall be constructed on a suitable base with a surface no less than 15 feet in width. No road built to this standard shall be dedicated for public use.
 - iii. If eight (8) or more dwelling units are to be constructed, or if the access road is to be dedicated to public use, the road and right-of-way shall meet the standards of the Town of Benton New Streets Ordinance.
 - b) An existing lot with less than the minimum road frontage required in the district may be built on, but may not be divided unless the provisions of this section are met for both resulting lots.

B. Buffer Areas

1. All commercial and industrial land uses and activities shall be buffered from potentially conflicting uses, as provided below.
 - a) Within all districts identified as “Growth” or “Village” under this ordinance, all commercial and industrial activities shall provide a buffer area along all property lines adjoining existing residential uses.
 - b) Within the Rural District, all commercial and industrial activities shall provide a buffer area along all property lines which do not front a public road.

2. Buffer areas shall generally consist of strips of natural or landscaped vegetation shown to be sufficient to minimize the effects of the activity.
 - a) Vegetation shall be of adequate density and height to provide an effective barrier within three (3) years of development. Vegetation shall be a minimum height of four (4) feet at the time of planting.
 - b) Where vegetation cannot be maintained due to site conditions, the buffer area may consist of fences, walls, berms, or other special measures.
 - c) The buffer areas shall be maintained and vegetation replaced to ensure continuous and year-round screening.
3. Where, in the permitting process the planning board identifies a potential safety hazard to children to be on the site, it shall require the area of hazard to be enclosed in a physical barrier capable of preventing casual entry.

C. External Lighting

1. All outdoor lighting shall be of an intensity and location that will not produce adverse effects upon neighboring properties nor cause glare or distraction to vehicle operators on public roads.
 - a) Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view of motorists or adjacent dwellings.
 - b) Direct or indirect illumination shall not exceed 1.0 footcandles at the property line of abutting residential properties.
 - c) The provisions of this subsection shall not apply to properly installed street lights or to yard lighting used for residential or agricultural purposes.

D. Groundwater Protection

The following provisions shall apply to all development located over aquifers as identified on Map A. (Refer to Map Index.) And to all commercial and industrial uses that require a Conditional Use Permit.

1. No new or expanded development shall create groundwater pollution on property adjoining the development.
 - a) Contaminant concentrations at the property line shall not exceed one-half of the difference between the pre-existing concentrations and the level established by the Primary Drinking Water Standards of the State of Maine.

- b) If existing groundwater quality already does not meet the level set by the Standards, and if the development is to be served by on-site groundwater supply, the developer will demonstrate how drinking water quality will be treated or improved.
2. During the conditional use permitting process, the planning board shall require a hydrogeologic assessment for commercial and industrial developments using a waste disposal system other than the public sewer. For residential subdivisions using subsurface waste disposal systems, the planning board may require a hydrogeologic assessment in instances where preliminary information on pre-existing uses, density of development or other factors indicates a potential problem.
- a) The hydrogeologic assessment shall be performed by a qualified hydrogeologist or firm using currently accepted methodology and reporting format.
 - b) The developer shall certify that the actual placement of facilities shall be as depicted in the hydrogeologist’s report.

E. Noise

1. No land use activity shall produce noise at an uncomfortable level, as measured at the property line of the neighboring property. The following levels are not to be exceeded on a continuous, regular, or frequent basis:

	Sound Pressure Level Limits (measured on dB(a) scale)	
	<u>7 Am to 8 PM</u>	<u>8 PM to 7 AM</u>
Industrial District	70	60
Other Districts	55	45

Sound pressure levels shall be measured at four (4) feet above ground at the property line, using the A-weighted, slow response scale on a meter which meets the “American Standard Specification for General Purpose Sound Level Meter” (ANSIS1.4-1961).

2. No person shall engage in construction activities which exceed the noise limits indicated in Section H.1 on a site abutting a residential use after 8 PM or before 7 AM. Otherwise, the following activities are exempted from the limits:
- a) Construction activities conducted between 7 Am and 8 PM,
 - b) Sounds emanating from emergency or warning devices.

F. Off-Street Parking and Loading – General Requirements

1. A use in any district shall not be extended, and no structure shall be constructed or enlarged, unless off-street automobile parking space is provided in accordance with the requirements of this ordinance.
2. Parking areas with more than two (2) parking spaces shall be arranged so that it is not necessary for vehicle to back into the street.
3. Required off-street parking for all land uses shall be located on the same lot as the principal use, or on accessible lots owned or controlled by the developer.
4. The joint use of a parking area by two (2) or more uses may be approved where it is clearly demonstrated that no conflict in demand would occur by reason of variation in the probable time of maximum use by patrons or employees involved.
5. All parking spaces necessary shall be made available for use prior to the occupancy or use of the property.

G. Off-Street Parking and Loading – Design Requirements

1. The provisions of this subsection shall apply only to commercial and industrial uses, and residential buildings of more than two (2) dwelling units.
2. Access points onto a public road shall be so located as to minimize traffic congestion and to avoid generating traffic on local access streets of a primarily residential character.
3. All driveway access points shall be kept free from visual obstructions higher than three (3) feet above street level within a 40 foot radius of the intersection in order to provide visibility for entering and leaving vehicles.
4. All parking lots located within 25 feet of a public road right-of-way shall be landscaped with vegetation along the boundary between the parking area and the road. Landscaping shall be designed not to interfere with sight distance at access points.
5. Loading and delivery facilities shall be provided on commercial and industrial uses.
 - a) Facilities, including the truck standing area, shall not occupy travel ways, parking stalls or other areas designated for other uses, and shall not interfere with normal traffic flow.
 - b) Loading facilities shall be located entirely on the same lot as the building or use to be served. Trucks, trailers, and containers for loading or storage shall not stand or park upon any town way.
 - c) In permit approval processes, the developer shall demonstrate that he/she has provided sufficient loading facilities to accommodate normal peak usage.

6. Parking Lots shall be designed and installed according to the following criteria.
 - a) Entrances and exits shall be clearly identified by the use of signs, curb cuts, or landscaping and shall be designed to allow adequate stacking of vehicles without blocking interior vehicle circulation lanes.
 - b) Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.
 - c) Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.
 - d) All parking stalls shall be directly accessible to a travel lane without requiring the moving of any other motor vehicles.
 - e) Parking aisles should be oriented perpendicular to stores or businesses for safety and visibility of pedestrian access.
 - f) All parking spaces shall be a minimum of ten (10) feet from any side or rear lot line.
 - g) Parking stall and aisle dimensions shall be as illustrated below.
 - h) In paved parking areas, painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of 4" in width. Where double lines are used, they should be separated a minimum of 1'0" on center.
 - i) In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate traffic flow.
 - j) Bumpers and/or wheel stops shall be provided where parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.
7. The developer shall provide sufficient off-street parking spaces to accommodate expected patron/employee usage. In the absence of evidence to the contrary, the following schedule shall be the standard for quantity of parking spaces:

<u>Use</u>	<u>Minimum Required Spaces</u>
Apartments	2 spaces per dwelling unit
Elderly Housing	1 ½ spaces per dwelling unit
Overnight lodging facilities	1 space per room/unit rental and for each employee on the largest shift
Church	1 space for every 5 persons, max. seating capacity in sanctuary
Schools	Parking in accordance with State guidelines
Child Care Facility	1 space for every 4 children facility is licensed to care for
Private Clubs or Lodges	1 space per every seventy-five sq. ft. of floor area
Theater, Auditorium, public Assembly Areas	1 space for every 3 persons, max. seating capacity
Funeral Homes	1 space for every 100 sq. ft. floor area
Medical Care Facilities	1 space for every 3 beds and every 2 employees on the maximum working shift
Medical Offices (MD's, OD's, DDS)	1 space per employee plus 5 spaces for each practitioner
Office space, Banks	1 space for every 150 sq. ft. floor area
Veterinarian clinic	5 spaces/veterinarian
Barber/Beauty Shop	2 spaces/Chair
Permanent flea market	3 spaces/Chair
Automobile Repair/Body Shop	5 spaces for each bay or area used for work
Retail and Service Business not listed	1 space for every 250 sq. ft. of floor area
Restaurant, Drive-in	1 space for every table, with a minimum of 5 spaces
Industrial, Manufacturing	1 space/employee on the primary shift, based on maximum production
Warehouse	1 ½ spaces per employee on primary shift
Wholesale	2 spaces per employee on primary shift
Library, Museum, Art Gallery	1 space for each 150 sq. ft. of floor area
Commercial Recreation Facility	1 space for each 100 sq. ft. of floor area
Outdoor-display Vehicle Sales	1 customer space per thirty vehicles displayed on the lot

Notes to schedule:

1. Where the calculations of the aforementioned parking spaces results in a fractional parking space, a complete space shall be provided in place of the fraction.
2. The above are minimum standards. The planning board may require additional parking spaces if evidence indicates the requirement to be inadequate.
3. Where the requirement is based on floor area, gross floor area shall be used unless otherwise noted.
4. Activities which constitute a mixture of principal uses on a lot shall be required to provide the calculated number of spaces for each use without duplication, except as noted in section I.4. Space devoted to warehouse or office, where incidental to a principal operation, shall not be calculated separately.

H. Solid Waste

1. All commercial land use activities shall dispose of solid and liquid wastes on a timely basis and in an environmentally safe manner. This provision shall not apply to animal-generated wastes associated with agricultural operations.
2. In issuance of land use or subdivision permits, Planning Board shall review the impact of industrial or chemical wastes or by-products upon the town's facilities (in terms of volume, flammability, or toxicity) and shall require the applicant to dispose of such wastes in conformance with all applicable State and Federal regulations.

The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

I. Signs

1. Signs must relate to goods and services produced or sold on the premises. Signs are limited in dimension and quantity, as provided herein:
 - a) One free-standing (ground-mounted) sign shall be allowed. The sign shall not exceed sixty (60) square feet on each face.
 - b) Building-mounted signs are allowed without restriction as to quantity. The sum of the areas of building-mounted signs shall not exceed sixty (60) square feet in area. Directional and exempt signs are not counted.
2. Signs relating to goods and services not rendered on the premises are allowed only under the state law relating to "Official Business Directional Signs" (OBDS) and as permitted by the Department of Transportation. Such signs shall not exceed three (3) square feet in area.
3. Residential property may display a single sign not over eight (8) square feet in area relating to the sale, rental, or lease of the premises.
4. The following types of signs are exempt from the above provisions:
 - a) Signs relating to trespassing and hunting shall be permitted without restrictions as to number, provided that no such sign shall exceed three (3) square feet.
 - b) Signs provided for the purpose of directing traffic or people, which do not contain advertising matter or logos.
 - c) Signs mounted on the interior of windows.
 - d) Political, religious, governmental or fraternal signs, insignias, or flags.
 - e) Signs which are brought inside after business hours.
 - f) Signs mounted or painted on registered and inspected motor vehicles.
5. No sign shall extend higher than twenty (20) feet above ground level. This applies to both free-standing and building-mounted signs.

6. Signs may be illuminated only by shielded, non-flashing lights.
7. Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices.
8. No sign shall be placed closer than thirty-three (33) feet from the center of the road unless authorized by the state MDOT. No sign shall be placed so as to obstruct or interfere with traffic visibility or visibility from access points.
9. No sign shall be placed so as to impair ingress to or egress from any door, window, or fire escape.

Changeable Signs

- a.) Where not otherwise controlled by the Maine Department of Transportation, the messages displayed on on-premises changeable signs in commercial and industrial zones may change as frequently as every five (5) seconds and no faster.
- b.) Signs may not flash but may display continuous streaming of information or video animation. Changes may occur in any manner (fade, scroll, sweep, or dissolve to name a few) as long as they do not flash in or out (blink on and off).
- c.) The display may comprise no more than 50% of the surface area of a changeable sign.
- d.) No more than one changeable sign with 2 sides is allowed per lot of record.
- e.) Changeable signs may not be located such that the message is readable from a controlled access highway or ramp.
- f.) The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the centerline of the nearest public way or actual ground level adjacent to the sign, whichever is lower.
- g.) Electronic changeable signs are not allowed in residential zones unless approved by the Planning Board.

J. Soil Erosion Control

1. Erosion of soil and sedimentation of water sources and water bodies shall be minimized through the use of the following erosion control management practices.
 - a) Striping of vegetation, removal of soil, regrading, or other such activities shall be scheduled to limit the duration of exposure and area of the site to be disturbed. Dust control methods shall be employed during dry conditions.
 - b) Temporary vegetation, mulching, and/or siltation fabrics shall be used to protect critical areas during development. Sediment from run-off waters shall be trapped by debris basins, silt traps, sediment basins, or other methods determined acceptable by the town.
 - c) Permanent vegetation and/or other erosion control measures should be installed prior to completion of the construction, and in no case later than six (6) months after completion of the construction.
 - d) The top of cut or toe of fill shall not be located within ten (10) feet to a property line except upon approval by both the Benton Planning Board and the affected landowner. In no instance shall said cut or fill exceed a 3:1 slope.

K. Storm Water Management

1. All new construction and development, whether or not served by a storm water collection and transportation system, shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity, and location of runoff. If runoff after development would exceed by more than ten (10) percent pre-development runoff conditions, a developer shall prepare an evaluation of the off-site impacts regarding potential soil erosion and sedimentation, drainage capacity, and land use/land cover characteristics, and shall demonstrate the use of appropriate methods of mitigating off-site impacts. Storm water management evaluations and designs shall be based on a 24-hour, 25 year storm.

The requirements of this subsection shall only be applicable for single-family site development where the Code Enforcement Officer determines that post-development runoff may be a threat to neighboring properties.

2. When methods of reducing storm water impact are necessary or desirable, storm water runoff control plans shall include:
 - a) Indication of maintenance requirements and responsibilities for maintenance of the storm water control system.
 - b) Control methods effective both during and after construction;
 - c) Control methods compatible with upstream and downstream characteristics;

- d) Documentation by the designer that the volume and rate of runoff from the proposed development will not cause deterioration of conditions downstream or upstream;
- e) Provision for on-site storage and gradual discharge of excessive flows, or contribution toward increasing downstream capacity (e.g. by enlarging existing culverts), when the channel downstream is not able to accommodate the increased volume or rate of runoff created by the proposed development;
- f) Consideration of the following factors:
 - i) impact: on-site. Downstream, upstream, and basin-wide;
 - ii) costs: initial, amortized, operation, and maintenance;
 - iii) intensity and timing of rainfall: (e.g., falling of snow or during the spring snowmelt);
 - iv) hydrologic soil groups throughout the basin (i.e., the soil's rate of water infiltration and transmission);
 - v) hydrologic conditions throughout the basin (soil's moisture content, humus/organic content, temperature, and whether or not it is frozen);
 - vi) vegetation cover throughout the basin;
 - vii) area of land covered by impervious surfaces throughout the basin (roads, sidewalks, roofs, driveways, patios, etc.)
 - viii) topography throughout the basin;
 - ix) size and shape of watershed (peak discharge rates are slower in long, narrow watersheds).

3. The following design techniques shall be utilized as appropriate:

- a) Storm water runoff systems should be designed to facilitate aquifer recharge when it is advantageous to compensate for groundwater withdrawals or reductions in infiltration. Conversely, designs should avoid recharge where groundwater effects might be harmful.
- b) Design of permanent storage facilities should consider safety, appearance, recreational use, and cost and effectiveness of maintenance operations, in addition to the primary storage function.
- c) Natural overland flows, and open drainage channel and swale locations should be the preferred alignments for major components of a residential drainage system. The use of enclosed components (such as underground piping) should be minimized where the existing natural systems are able to accommodate storm runoff. Energy dissipaters (to reduce high flow velocities) and other forms of outfall protection shall be employed where enclosed drains discharge onto erodible soils.

L. Traffic Impacts and Street Access Control

1. Provisions shall be made for vehicular access to the development and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and within the development, to avoid traffic congestion on any street and to provide safe and convenient circulation on public streets and within the development. More specifically, access and circulation shall also conform to the following standards and design criteria:
 - a) Vehicular access to the development shall be arranged to minimize commercial use of local residential streets.
 - b) Where a lot has frontage on two (2) or more streets, access to the lot shall be provided onto the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
 - c) All streets which will be noticeable affected by development traffic shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed use.
 - d) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid congestion, provision shall be made for suitable traffic management features, including improvements to public streets.
 - e) Access ways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.
 - f) Where topographic and other conditions allow, provision shall be made for driveway connections to adjoining lots of similar existing or potential use when such driveway connection will facilitate fire protection services or when such driveway will enable the public to travel between adjoining businesses, without need to exit and enter the street.
2. Access points (Driveways) shall be designed in profile and grading and located to provide the required sight distance in each direction. Sight distances are the line-of-sight from a vehicle standing in the driveway towards oncoming vehicles in either direction. It is determined with the front of the vehicle a minimum of ten (10) feet behind the curblineline or edge of shoulder, with the height of the driver's eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. The required sight distance is ten (10) feet for each mile per hour of posted speed limit.
3. Driveway design standards shall be based on the estimated traffic volume from the development. A development generating fewer than twenty-five (25) vehicle trips per day shall meet the design standards of a low volume driveway. All other developments shall meet the design standards of medium volume driveways.

4. Low Volume Driveways

- a) Skew Angle. Low Volume driveways shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
- b) Curb Radius. The curb radius shall be between 5 feet and 15 feet, with a preferred radius of 10 feet.
- d) Driveway Width. The width of the driveway shall be a minimum of 12 feet and no wider than 30 feet.
- d) Curb-Cut Width. Curb-cut width shall be a minimum of 22 feet and no wider than 46 feet.
- e) Vertical Grade: Driveways shall slope upward or downward from the street line on a straight slope of 2 percent or less for at least 25 feet followed by a slope of no greater than 10 percent for the next 50 feet. The maximum grade over the entire length shall not exceed 15 percent.

5. Medium Volume Driveways

- a) Skew Angle. Medium Volume driveways shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
- b) Curb Radius. Medium volume driveways may be one-way or two-way operation. On a two-way driveway the curb radius shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one-way driveways, the curb radius shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.
- c) Width. On a two-way driveway the width shall be a minimum of 24 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be up to 36 feet. On a one-way driveway the width shall be a minimum of 16 feet, a preferred width of 18 feet, and a maximum of 20 feet.
- d) Curb-cut Width. On a two-way driveway the curb-cut width shall be between 74 feet and 100 feet. On a one-way driveway the curb-cut width shall be between 46 feet and 70 feet.
- e) Vertical Grade. Medium volume driveways should slope upward or downward from the street line on a straight slope of 2 percent or less for at least 25 feet. Following this approach area, the steepest grade on the driveway shall not exceed 8 percent.
- f) Signage. Appropriate traffic control devices shall be placed at points on the driveway and the public street.

- g) Median. On divided driveways, the channelization island (median) shall be raised and curbed. Corner radius shall be 2 feet.
- 6. Corner clearance is defined as the distance from the edge of the development driveway to the edge of another driveway or street intersection. In order to minimize the hazard of vehicle turning, the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearance in all cases shall be no less than 50 feet.
- 7. No medium volume traffic generator shall have more than three (3) driveways in total onto a single roadway.
- 8. Construction Materials/Paving
 - a) All driveways entering a curbed street should be curbed with materials matching the street curbing. Curbing is required around all raised channelization islands or medians.
 - b) These requirements apply to uses classified as commercial and industrial as listed in the Table of Land Uses and shall further apply to activities classified as residential and outdoor resource based whenever those activities would generate more than 100 vehicle trips per day.

The following land use activities are exempt from these requirements:

- single and two family dwellings
- agriculture
- home occupations with less than 100 vehicle trips per day

Driveways shall be paved with concrete or bituminous concrete pavement for a distance extending from the edge of the road pavement to the right-of-way and the property front boundary line.

The Planning Board may further require the driveway to be paved for a distance not to exceed 70 feet as measured from the edge of the road pavement if it finds that the proposed activity would generate a high volume of traffic or serve truck traffic and if it will further improve safe access of vehicles entering and exiting the driveway.

M. Water Quality

- 1. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quality, toxicity, or temperature that run off, seep, percolate, or wash into surface or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

Section IX: Performance Standards for Specified Uses

The purpose of this section is to provide development guidelines for certain activities whose special circumstances merit separate standards. These standards are to be applied only to the specific activity referenced in the subsection heading.

A. Rural Subdivision and Multi-Unit Development Design

1. The purpose of this section is to promote new concepts of housing development which will contribute to the rural character of the neighborhoods within the Town of Benton, provide more convenient and affordable housing, and reduce the demand for services and facilities provided by the Town of Benton. The Planning Board, in reviewing proposals under this section, may modify provisions related to dimensional requirements to permit innovative approaches to housing and facility design in accordance with the standards herein.
2. **Applicability:** This section shall apply to all residential subdivisions, including apartments and multi-family buildings, of five (5) or more lots or units within the Rural District of the Town of Benton. This section shall not apply to Mobile Home Parks, as defined herein, but shall apply to mobile home subdivisions.
3. **Application Procedure:** The Planning Board may allow subdivided development on reduced lot sizes in return for open space and efficiencies of scale. For each proposed development in the Rural District, the developer shall provide two (2) sketch plans in accordance with Section 4.A of the Subdivision Ordinance of the Town of Benton, Maine. The two (2) sketch plans shall be identified and designed as follows:
 - a) **PLAN A: Standard Design:** Each lot in the standard subdivision shall meet the minimum lot size and lot width requirements of the Rural District, and have an area suitable for subsurface wastewater disposal according to the Maine Subsurface Wastewater Disposal Rules.
 - b) **PLAN B: Creative Design:** The creative design plan shall show lots (units) in the following manner:
 - i. Lots shall be no smaller than 20,000 square feet in area, and no less than 100 feet of road frontage.
 - ii. There shall be no more than 20 percent more lots shown than in Plan A. (Example: Plan A shows 10 lots, Plan B shows no more than 12 lots.)
 - iii. There shall be an area of no less than one-quarter (25 percent) of the total parcel which shall be identified as not-for-development.

4. Planning Board Review:

- a) Upon submission to two (2) sketch plans by the developer, the planning board shall review and authorize the development of either Plan A or Plan B, according to the following criteria:
 - i. Which plan shows a more efficient use of public facilities, including roads?
 - ii. Which plan provides more protection of land, water, and wildlife resources?
 - iii. Which plan provides a better chance of attractive and affordable housing, in keeping with the nature of the neighborhood?
 - iv. Would the open space identified in Plan B further the goals identified in Benton's Comprehensive Plan?
- b) Within thirty-five (35) days of receiving the sketch plans, the Board shall determine which design shall be accepted. The Board shall inform the developer in writing, and may also include further suggestions on design or development.
- c) Subsequent to the Board's determination, only the design authorized to be accepted (or a variant thereof) shall be submitted for Board consideration.

5. Creative Design Requirements. Developments authorized for creative design shall meet all requirements of the subdivision and other applicable town ordinances, and in addition conform to the following standards:

- a) Each building shall be an element of an overall plan for site development. The plan shall indicate either the general layout of structures on each lot or an envelope within the lot upon which the structures would be sited. The location shall be environmentally suitable. Buildings shall be oriented to minimize interference with scenic vista, natural landscape features, topography, solar energy access, and natural drainage areas. All wells and septic systems shall be designed to eliminate mutual contamination.
- b) The overall density of development on the parcel, including the area designated as not-for-development, shall not exceed 30,000 square feet per dwelling unit.
- c) Access points onto an existing public road shall be limited to no more than one-quarter the number of proposed lots.

- d) The design shall demonstrate the availability of water adequate for domestic purposes as well as for fire safety. The Planning Board, upon recommendation of the Fire Department, may require the construction of storage ponds and dry hydrants. The location of all wells shall be shown on the plan.
- e) Open space shall be dedicated upon approval of the project. There shall be no further subdivision of this land, which shall be used only for non-commercial recreation, agriculture, forestry, or conservation. However, easements for public utilities, or structures accessory to non-commercial recreation, agriculture, or conservation, may be permitted. The open space(s) shall be identified on the development plan as “Not-for-development”.
- f) If any or all of the open space is to be reserved for use by the residents, a homeowner’s association shall be formed, in accordance with the terms of subsection (g) below. All or a portion of the open space may be proposed for dedication to the town, but shall not be accepted except by vote of the Benton Town Meeting.
- g) The by-laws of the proposed homeowner’s association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to approval of the subdivision.
 - i. This homeowner’s association shall have the responsibility to maintain the open space(s), any private roads, and other common facilities until accepted by the town.
 - ii. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities and town assessments.
 - iii. The developer shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Planning Board upon request of the homeowner’s association or the developer.
 - iv. Covenants for mandatory membership in the association, setting forth the owner’s rights and interest and privileges in the association and the common land, and requiring that unpaid assessments become a lien on the lot, shall be included in the deed for each lot.

B. Resource Extraction (Extractive Industry)

1. Permit Required. Topsoil, rock, sand, gravel, and similar materials may be extracted or processed where permitted under the terms of this Ordinance, only after a Conditional Use Permit for such operations has been issued by the Planning Board, except the following activities.
 - a) The removal, or transfer, of less than two hundred (200) cubic yards of material from any lot in any twelve (12) month period.
 - b) The removal, or transfer, of material incidental to construction, alteration, or repair of a building or in the grading and landscaping incidental thereto; or
 - c) The removal or transfer of material incidental to construction, alteration, or repair of a public or private way or essential service.
2. Submission Requirements
 - a) Applications to the Planning Board for a Conditional Use Permit, for the excavation, screening, or storage of soil (including topsoil), peat, loam, sand, gravel, rock, or other mineral deposits shall be accompanied by a plan prepared according to the standards of this Ordinance and applicable State Laws, and by copies of all required State Permits or Licenses.
 - b) The applicant shall submit plans of the proposed extraction site showing the property lines and names of abutting owners, indicating not greater than five (5) foot contour intervals, related to US Geodetic Survey data; the location and slope of the grades, existing and as proposed upon completion of the extraction operation; and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits, together with a written statement of the proposed method, regularity, working hours and total proposed rehabilitation and restoration of the site upon completion of the operation.
3. The Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.
4. Performance Standards
 - a) No part of any extraction operation shall be permitted within 10 feet of any property or street line, except where the adjoining parcel contains a similar extraction operation under the control of the applicant. Natural vegetation shall be left and maintained on the undisturbed land.

- b) The owner or operator shall take reasonable precautions to avoid unauthorized access. A fence at least five (5) feet in height and sufficient in length shall be erected to limit access where slopes in excess of three (3) feet horizontal to one (1) foot vertical (3:1) are maintained.
- c) The owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against non-employee liability arising from the proposed extraction site, and such insurance shall be maintained throughout the period of operation.
- d) The hours of operation at any extraction site shall not commence before 7 A.M., nor extend beyond 7 P.M. at any pit where there are residences within 1,000 feet.
- e) The Planning Board may require that roads linking the extraction site to public ways will be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways. The operator shall be responsible for materials and debris left to accumulate on public ways, as well as damage to public ways directly attributable to traffic from the operation.
- f) No equipment debris, junk, or other material shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operation and equipment used in connection therewith shall be removed within 30 days following completion of active operations.
- g) All extraction operations are required to establish a restoration plan prior to commencement of operations. The plan shall provide for restoration to be completed within one (1) year of the cessation of active operations. Active operations are those which extract more than 200 cubic yards over a twelve (12) month period. The restoration plan shall establish ground levels and grades and in addition shall provide the following:
 - i. All debris, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or, in the case of inorganic materials, buried and covered with a minimum of two (2) feet of soil.
 - ii. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 - iii. Any topsoil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stripped and stockpiled for use in restoring the location. At least four (4) inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and properly restored to a condition adequate to meet the provisions of the "Environmental Quality Handbook, Erosion and Sediment Control", as amended or revised, published by the Maine Soil and Water Conservation Commission.

iv. No permanent slope greater than three (3) feet horizontal to one (1) foot vertical (3:1) shall be permitted.

5. Existing Operations

- a) Any operation involving the excavation, processing, or storage of soil, earth, loam, sand, gravel, rock, or other mineral deposits in lawful operation at the time this Section becomes effective, may operate for a period of five (5) years from the date of enactment of this ordinance without Planning Board approval.
- b) Existing operations must abide by the performance standards as set out in Section B.4, above.
- c) An operation which ceases active operation for a twelve (12) month period shall thereafter abide by all provisions of this ordinance.
- d) Within six (6) months of the date of enactment of this ordinance, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of their knowledge, contain existing operations, informing them of the requirements of this section.

C. Home Occupations

A home occupation, as defined by this ordinance, shall be a permitted use in all locations in town, provided it complies with all of the requirements of this section.

1. The use of a swimming unit or property for a home occupation shall be clearly incidental to and compatible with the residential use of the property and surrounding residential uses.
2. A home occupation shall be operated by residents of the associated dwelling and employ no more than two (2) persons not residing in the home.
3. A home occupation may not alter the residential character of the structure or neighborhood, or change the character of the lot from its principal residential use.
4. The home occupation shall be carried on wholly within the principal or accessory structures. The outside storage or display of materials or products shall be screened from view from the abutting properties.
5. The Performance Standards of this ordinance regarding off-street parking shall apply. If additional parking spaces are provided, they shall be located to the rear or side yard of the principal structure, but not within the required setbacks.
6. A home occupation shall not involve the use of heavy commercial vehicles for delivery from or to the premises.

7. A home occupation shall not create greater traffic than normal for the area in which it is located or generate more than 40 vehicle trips/day.

D. Mobile Home Parks

1. Mobile Home Parks shall be reviewed as subdivisions. They shall only be permitted in the areas identified as Mobile Home Parks Overlay Districts.
2. Mobile Home Parks are exempt from the Dimensional Standards of Section VI of this ordinance, but must conform to the following standards:
 - a) For parks served by Municipal sewer systems, minimum lot shall be 6,500 square feet. Minimum frontage shall be 50 feet.
 - b) For parks served by a central subsurface wastewater disposal system approved by the Maine Department of Human Services, minimum lot size shall be 12,000 square feet. Minimum frontage shall be 75 feet. The overall density of housing shall not exceed one (1) unit per 20,000 square feet.
 - c) For parks served by individual subsurface wastewater disposal systems, minimum lot size shall be 20,000 square feet. Minimum frontage shall be 100 feet.
 - d) Any lots located within any district established by the Benton Shoreland Zoning Ordinance shall meet the dimensional requirements for that district.
 - e) All park lots 12,000 square feet or greater shall observe a building setback of at least 25 feet from the edge of the right-of-way, and 15 feet from all other lot lines. All lots of less than 12,000 square feet shall observe a building setback of at least 15 feet from the right-of-way, and 10 feet from all other lot lines.
3. Buffering. In the event that a mobile home park is to be developed on a parcel abutting a previously-developed subdivision with an average lot size at least twice that of the park, the Planning Board may require vegetation buffer area of no more than 25 feet in width along the extent of the adjoining parcels and roadways. The buffer shall contain vegetation or structural components sufficient to provide an effective visual and noise barrier.
4. Open Space. In parks with lots of less than 10,000 square feet per lot, the Planning Board shall require the developer to provide an area equivalent to no more than ten (10) percent of the combined area of such lots for recreation and open space. The reserved area shall be accessible and usable by all park residents.

5. No individual lot within a mobile home park shall access directly onto an existing public street. Streets and roadways within the park shall be designed by a professional engineer registered by the State of Maine, and shall conform to the following standards:
 - a) Streets proposed to be dedicated as public ways shall conform to the Road Standards for the Town of Benton (New Streets Ordinance).
 - b) Streets proposed to remain as private ways within the park shall be laid out with rights-of-way no less than twenty-three (23) feet in width and a graveled or paved travel surface of no less than twenty (20) feet in width.
 - c) Any mobile home park containing thirty (30) or more lots shall have at least two (2) entrances onto public streets.
 - d) All access points from mobile home parks of five (5) or fewer lots shall meet the design standards for Low Volume Driveways of this ordinance. All other access points shall meet the design standards for Medium Volume Driveways.
6. Applicants for mobile home parks may be required to submit a hydrogeological assessment, in accordance with the “General Performance Standards” Section G.2 of this ordinance.
7. No development or subdivision approved under this ordinance as a mobile home park may be converted to another use or ownership pattern without further approval of the Planning Board (if subject to ordinance), and without meeting the dimensional standards of this ordinance.
 - a) The land within the park shall remain in unified ownership, and title to individual lots shall not be served in any way from ownership of the park.
 - b) No dwelling unit other than a manufactured housing unit as defined herein shall be located within the park.

E. Mixed Uses

1. Mixed uses are defined as the establishment of more than one principal use on a lot. Mixed uses shall be permitted in all areas of the Town of Benton. Each individual use shall be a permitted or conditional use in the district, with all necessary permits, and shall meet all applicable performance standards.
2. The dimensional standards for the mixed use shall be those applicable to the individual use with the most stringent requirements.
3. All mixed uses shall be under the same ownership or management as the underlying land.

F. Wireless Telecommunication Facilities

1. Applicability

This section shall apply to all construction and expansion of wireless telecommunication facilities. All new or expanded wireless telecommunication facilities shall obtain a conditional use permit as per the requirements of this Ordinance and shall further meet all the provisions set forth in this section.

2. Application Procedure

The applicant for a wireless telecommunication facility shall, upon submission of a conditional use application to the Planning Board, notify all property abutters within 200 feet of the site that an application has been filed with the Planning Board. The notice shall be by certified return receipt mail and provide a description of the proposed project and the date, time and place of the meeting when the application will be initially presented to the Planning Board. The notice shall be mailed at least 10 days prior to the scheduled Planning Board meeting.

At this meeting the Planning Board shall follow the procedure for a conditional application and shall begin a review of the application for completeness. The Planning Board may decide to hold a public hearing on the application.

3. Application Submission

In addition to the materials required for a conditional use application the following materials shall be provided:

- a. Name of the owner of operator of the wireless telecommunication facility and the owner of the property.
- b. Date the wireless telecommunication facility was initially constructed or is proposed to be constructed.
- c. A description and construction detail of the wireless telecommunication facility including: plot plan identifying location of the tower and other structures on the property, dimensions of the tower and any structural supports if any. The description shall also identify any accessory structures that are essential to operation of the telecommunication facility.
- d. Certification that construction of the structure meets industry standards and complies with all Federal, State and Local building codes and other applicable regulations.
- e. Provide documentation of FCC approval and license.
- f. Written evidence showing a need for a new structure or expansion and show that

co-location on an existing facility was not available.

- g. Any other information as necessary to show that all of the requirements of this section are met.

4. Standards

All wireless telecommunication facilities shall comply with the following standards.

- a. All wireless telecommunications facilities shall be setback from any residential lot, public building or property lines by a distance of not less than 200% of tower height, including any attached transmitting or receiving antennas and devices. Towers, guys and accessory facilities shall meet the minimum setback for the district in which they are located.
- b. To ensure the structural integrity of telecommunication facilities, the owner shall provide evidence that the facility is designed, constructed and maintained in conformance with industry standards and applicable Federal, State and local building, electrical and safety codes. Unless it can be demonstrated that the tower is secure from trespass and is not a safety hazard; a security fence or wall not less than 8 feet in height from the finished grade shall be provided around the tower. Access to the tower shall be through a locked gate.
- c. Towers shall not be artificially lighted unless it is required by the FAA or other Federal or State authority. If lighting is required the Planning Board shall review the available lighting alternatives and approve a design that conform to applicable FAA requirements and cause the least disturbance to the surrounding properties. Write lights shall be given a preference for tower lighting as long as it complies with FAA requirements.
- d. A new wireless telecommunication facility and related equipment must be screened with plants/trees from view by abutting properties to the maximum extent possible. Existing trees, shrubs and natural land forms on the site shall also be preserved to the maximum extent possible.
- e. A new wireless telecommunication facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required by law, muted colors, earth tones, and subdued hues shall be used.
- f. A new wireless telecommunication facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three (3) additional wireless telecommunication facilities or providers.