

WARRANT ARTICLE: To see if the Town will vote in favor of approving modifications of the Land Use Ordinance Town of Benton Maine, last revised March 2016, with the required modifications labeled “Part 2” designed to 1) incorporate the goals and objectives of the Town of Benton 2018 Comprehensive Plan adopted by the people on March 10, 2018, and 2) to address missing or outdated content in the document.

Part 2 modifications include:

- 1) Modification to Section III: Administrative, Enforcement, Fees

Language additions are reflected with underline text, e.g. TEXT ADDITION

Language removal are reflected with strike-thru text, e.g. ~~TEXT REMOVAL~~

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Land Use Ordinance Town of Benton Maine Modifications – PART 2

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) and shall remain in conformance with the Town of Benton 2018 Comprehensive Plan.

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~~ 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. The applicant shall post the permit at the site in an accessible and visible place. The permit shall remain posted until the work authorized in the permit is completed.

1. Land Use Permit: This permit is required for the erection, alteration, rebuilding, repair, remodel, enlargement, or relocation of any proposed or existing building and shall be obtained from the Code Enforcement Officer (CEO).

2. Development Permit by Rule: For land use activities so designated in the Land Use Table, notification of the Town is required to assure that the standards of this Ordinance will be met. A Development permit by rule is also required for the erection of any new sign.

1.3. Conditional Use Permit: 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~~ planning board. More specifically, a conditional use is one which is listed within the district requirements in Section VII of this Ordinance.

4. Exemptions: Activities which require a permit-by-rule or conditional use permit are listed in the Land Use Table this Ordinance. No permits shall be required for normal maintenance or decorative changes in existing structures or buildings, landscaping, fill, or the ordinary conduct of agricultural and forest operations.

2.5. Rights not Vested: Use rights under this Ordinance do not arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required permits and approvals. Such rights may arise when actual substantial construction has begun, or, in the case of

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pending applications, when the substantive review process on a complete application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both State and local.

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.
 - v. 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 otherwise 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.

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- 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.
6. No construction shall commence until the applicant demonstrates that he has obtained all necessary permits, e.g. plumbing permits, road opening permits.
 7. 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.
 8. 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.
 9. Any permit issued which is not in conformity with the provisions of this Ordinance confers no rights and is void.

E. Code Enforcement Officer (CEO)

1. There is hereby created the ~~officer~~office 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.

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- 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 that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the town.

G. 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.

H. Public Hearing Procedure

The following provides the conditions for determining when a public hearing is required and the procedures for hearing notification. This procedure applies to governing all public hearings governed by this Land Use Ordinance.

- a. The Code Enforcement Officer will provide the Town Clerk with the required list of abutters.

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- a.b.** The ~~Town Clerk~~**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.c.** ~~At the applicants' expense,~~ The ~~Town Clerk~~**Board** shall notify by ~~regular-certified, return receipt,~~ first class mail, the applicant and the owners of all property within 200 feet of the property, or greater figure as designated elsewhere in this document, 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.
- e.d.** 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.e.** 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.f.** Within thirty five (35) days of the close of the hearing, the board shall take final action of the application.
- g.** The public hearing shall be conducted in accordance with established guidelines. All parties shall be granted an opportunity to speak. All comments and evidence shall be directed through the Chair of the Board.
- h.** The Planning Board may, at its discretion, retain expert independent technical assistance to evaluate or supplement the evidence presented by the applicant and in the public hearing. The cost of such expertise shall be borne by the applicant.