

MODEL FLOODPLAIN MANAGEMENT ORDINANCE  
FOR THE TOWN/CITY OF \_\_\_\_\_, MAINE  
With Optional Provisions for Adapting to Sea Level Rise

*Note: Underlines and ~~strikeouts~~ indicate proposed language for communities in tidal coastal areas to utilize to adapt to two feet of sea level rise, and improve resiliency to coastal storms and rising highest annual tides. The symbol \*.\*.\*.\* indicates text that is not shown from the model floodplain management ordinance, that has been left out of this draft for brevity, as it has not been proposed to be changed in any way.*

ARTICLE I—PURPOSE AND ESTABLISHMENT

Certain areas of the (Town/City) of \_\_\_\_\_, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the (Town/City) of \_\_\_\_\_, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the (Town/City) of \_\_\_\_\_, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

Furthermore, it is the intent of the (Town/City) of \_\_\_\_\_, Maine to establish standards to protect against flooding beyond those minimum requirements of the National Flood Insurance Program, to adapt to observed and predicted sea level rise, progressively higher tides and more severe and frequent coastal storm events.

The (Town/City) of \_\_\_\_\_ has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the (Town/City) of \_\_\_\_\_ having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the (Town/City) of \_\_\_\_\_, Maine, as identified on the following maps:-

A. The areas of special flood hazard, A, A1-30, AE, AO, AH, V1-30, and/or VE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - (Town/City) of \_\_\_\_\_, Maine, \_\_\_\_\_ County," dated \_\_\_\_\_ with accompanying "Flood Insurance Rate Map" dated \_\_\_\_\_ and "Flood Boundary and Floodway Map" dated \_\_\_\_\_,

B. Additional areas of special flood hazard to adapt to sea level rise, located beyond those areas defined in section A above, are identified on the (town/city) of \_\_\_\_\_ supplemental map

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entitled "Coastal High Hazard Zone and Tidal A Zone Locally Designated Areas of Special Flood Hazard," and dated \_\_\_\_\_.

which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

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ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the \_\_\_\_\_ and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;  
[Items H-K.3. apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
  1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zones A1-30, AE, AO, and AH, ~~V1-30, and VE,~~ outside of tidal coastal areas, from data contained in the "Flood Insurance Study - (Town/City) of \_\_\_\_\_, Maine," as described in Article I; or,
    - b. in Zone A, outside of tidal coastal areas:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and IX.D.;
      - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

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- ~~(4) in coastal zones use the U.S. Army Corps of Engineers' Tidal Flood Profiles New England Coastline,, September 1988 to select the 100-year Frequency Tidal Flood appropriate for the development site's location on the profile.~~
- c. In the Coastal High Hazard Zone as shown on the map designated in Article I.B:
- (1) from the elevation at the line 200 feet landward of the Coastal A-Zone, AO-Zone, and all V-Zones, or from the elevation of the actual landward limit of moderate wave action, as set forth in section (2).iii below.
  - (2) For the purposes of this ordinance the Coastal A-Zone, AO-Zone, and all V-zones will together constitute the Coastal High Hazard Zone and shall be treated concurrently. Additionally, due to wave action and storm surge, coastal erosion, increasing flood elevations due to relative sea level rise, and flood elevation and inundation modeling uncertainty, the Coastal High Hazard Zone shall, absent a site specific analysis, also include a buffer landward of the V-zone delineated as:
    - i) All land 200 feet landward from the landward boundary of FEMA designated V-zone, which is intended to capture the Coastal A-zone; unless,
    - ii) An area landward of 200 feet landward of the V-zone can be delineated where buildings have been documented to have been structurally damaged by prior storm waves; unless,
    - iii) as an alternative to the 200-foot landward V-zone buffer an applicant can conduct a site-specific analysis to determine the actual landward limit of the 1.5-foot breaking wave, known as the Limit of Moderate Wave Action (LiMWA). If such analysis is conducted, that calculated landward limit of the 1.5-foot wave shall be the landward limit of the Coastal High Hazard Zone, as defined in this ordinance.
- d. In the Tidal A Zone as shown on the map designated in Article I.B:
- (1) from the elevation at the line 100 feet landward of the Tidal A-Zone.
  - (2) For purposes of this bylaw and its regulation, Tidal A-Zone shall include all areas subject to inundation by the 100-year flood as designated on a community FIRM as A, AE, A1-30, AH, or AR, and is subject to some degree of tidal influence but is not within the Coastal High Hazard Zone as delineated above in section c. Additionally, the Tidal A-Zone shall, absent a site specific analysis, also include a 100-foot landward buffer delineated from the landward boundary of FEMA designated A-zone.
  - (3) as an alternative to the 100-foot landward tidal A-zone buffer an applicant can conduct a site-specific analysis to determine the actual landward limit of the 1.5-foot breaking wave, known as the Limit of Moderate Wave Action (LiMWA). If such analysis is conducted, that calculated landward limit of the 1.5-foot wave shall be the landward limit of the Tidal A Zone, as defined in this ordinance.
2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

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I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate

K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
2. a V-Zone Certificate to verify that the construction in coastal high hazard zones and areas, Zones V1-30 and VE, Tidal A-zone areas, as defined in Article III.H. will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
4. a certified statement that bridges will meet the standards of Article VI.M.;
5. a certified statement that containment walls will meet the standards of Article VI.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

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ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The \_\_\_\_\_ shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. the base flood and floodway data contained in the "Flood Insurance Study - (Town/City) of \_\_\_\_\_, Maine," as described in Article I.;
  2. in special flood hazard areas where base flood elevation and floodway data are not provided, the \_\_\_\_\_ shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,

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3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
  1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers. For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this

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Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. All Development - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.
- B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On Site Waste Disposal Systems – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. Residential - New construction or substantial improvement of any residential structure located within:
1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
  3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
    - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
    - b. at least three feet if no depth number is specified.
  4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
  5. Coastal High Hazard and Tidal A -Zones V1-30 and VE shall meet the requirements of Article VI.P.

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- G. Non Residential - New construction or substantial improvement of any non-residential structure located within:
1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
    - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
  2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
  3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
    - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
    - b. at least three feet if no depth number is specified; or,
    - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI.G.1.
  4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
    - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
  5. Coastal High Hazard and Tidal A -Zones ~~V1-30 and VE~~ shall meet the requirements of Article VI.P.
- H. Manufactured Homes - New or substantially improved manufactured homes located within:
1. Zones A1-30, AE, and AH shall:
    - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
    - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

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- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:
  - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
  - b. at least three feet if no depth number is specified; and,
  - c. meet the anchoring requirements of Article VI.H.1.c.
4. Zone A shall:
  - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
  - b. meet the anchoring requirements of Article VI.H.1.c.
5. Coastal High Hazard and Tidal A -Zones V1-30 and VE shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A, A1-30, AE, and AH shall either:
  - a. be on the site for fewer than 180 consecutive days,
  - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
  - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.
2. Coastal High Hazard and Tidal A -Zones V1-30 and VE shall meet the requirements of either Article VI.I.1.a. or b., or Article VI.P.

J. Accessory Structures - Accessory Structures, as defined in Article XIV, located within Zones A1-30, AE, AO, AH, and A, shall be exempt from the elevation criteria required in Article

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VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zones A1-30 and AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map" or "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1-30, AE, and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
  - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/January 1995, as amended).
3. In Zones A1-30, AE, and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

- L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones A1-30, AE, AO, AH, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

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1. Enclosed areas are not "basements" as defined in Article XIV;
  2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
    - a. be engineered and certified by a registered professional engineer or architect; or,
    - b. meet or exceed the following minimum criteria:
      - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
      - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
      - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
  3. The enclosed area shall not be used for human habitation; and,
  4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. Bridges - New construction or substantial improvement of any bridge in Zones A1-30, AE, AO, AH, A, ~~V1-30 and VE~~ Coastal High Hazard and Tidal A-Zones shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least ~~one foot~~ three feet above the base flood elevation; and
  2. a registered professional engineer shall certify that:
    - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
    - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. Containment Walls - New construction or substantial improvement of any containment wall located within:
1. Zones A1-30, AE, AH, A, Coastal High Hazard and Tidal A-Zones ~~V1-30 and VE~~ shall:
    - a. have the containment wall elevated to at least ~~one foot~~ three feet above the base flood elevation;
    - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
    - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
  2. Zones AO and AH shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.

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3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
  - a. at least ~~one foot~~ three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
  - b. at least ~~three~~ four feet if no depth number is specified; and,
  - c. shall meet the requirements of Article VI.N.1.b. & c.
  
- O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, AE, AO, AH, A, Coastal High Hazard and Tidal-A ~~V1-30, and VE~~, in and over water and seaward of the mean high tide if the following requirements are met:
  1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.
  
- P. Coastal Floodplains -
  1. All new construction located within Coastal High Hazard and Tidal A-Zones A1-30, AE, A, V1-30 and VE shall be located landward of the reach of ~~mean high~~ the highest annual tide except as provided in Article VI.P.6.
  2. New construction or substantial improvement of any structure located within Zones V1-30 or VE shall:
    - a. be elevated on posts or columns such that:
      - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to ~~one foot~~ three feet above the base flood elevation;
      - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
      - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
    - b. have the space below the lowest floor:
      - (1) free of obstructions; or,
      - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
      - (3) constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
    - c. require a registered professional engineer or architect to:

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- (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55/June, 2000); and,
- (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Coastal High Hazard and Tidal A-Zones V1-30 and VE is prohibited.
4. Human alteration of sand dunes within Coastal High Hazard and Tidal A-Zones V1-30 and VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage, and can comply with Department of Environmental Protection Sand Dune Regulations.
5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of ~~mean high~~ the highest annual tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
  - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
  - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
  - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
  - d. The structure shall have unfinished interiors and shall not be used for human habitation.
  - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
  - f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

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ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the \_\_\_\_\_ subject to the following provisions:

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- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the \_\_\_\_\_:
1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
  2. for structures in Coastal High Hazard and Tidal A-Zones V1-30 and VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the \_\_\_\_\_ that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the \_\_\_\_\_ shall:
1. review the required certificate(s) and the applicant's written notification; and,
  3. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area as defined in Article I, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

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ARTICLE X - APPEALS AND VARIANCES

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ARTICLE XI - ENFORCEMENT AND PENALTIES

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ARTICLE XII - VALIDITY AND SEVERABILITY

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ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

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ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**A-Zone:** A-, AE-, A1-30 and A-99 zones are those portions of Land Subject to Coastal Storm Flowage (LSCSF) which are subject to inundation by types of 100-year flooding where waves <3 feet can occur but stillwater flooding predominates; **AO-Zone** is the area subject to inundation by moving water (usually sheet flow on sloping terrain) where average depths are between one and three feet.

Accessory Structure - a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Shallow Flooding - a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

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Base Flood – a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see Structure.

Certificate of Compliance - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer – a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Coastal A-Zone - Flood hazard areas inland of and contiguous to flood hazard areas subject to high velocity wave action. Areas subject to this classification are those where the still water depth is greater than or equal to 2 feet, and the breaking wave heights are greater than or equal to 1.5 feet. ASFPM (2007): areas where the resulting wave run-up elevations above storm surge are between 1.5 and 3 feet.

Coastal Floodplain - Coastal resource managers use certain terms interchangeably to reference the area considered to be the coastal floodplain. The following terms and resource areas are synonymous and equal the coastal floodplain:

(1) Land Subject to Coastal Storm Flowage

(2) The sum of V-Zone, Coastal A-zones, AO-Zones, and tidally influenced A-Zones

Coastal High Hazard Zone - For the purposes of this ordinance the Coastal A-Zone, AO Zone, and all V-zones will together constitute the Coastal High Hazard Zone. Additionally, due to wave action and storm surge, coastal erosion, increasing flood elevations due to relative sea level rise, and potential map errors the Coastal High Hazard Zone shall include all land 200 feet landward from the landward boundary of all FEMA V-zones. As an alternative to the 200-foot landward buffer from the landward edge of all V-zones (considered Coastal A-Zone), an applicant can conduct an analysis to determine the actual landward limit of the 1.5-foot breaking wave (see definition of Coastal A-Zone). If such analysis is conducted, that landward limit of the 1.5-foot wave shall be the landward limit of the Coastal High Hazard Zone for regulatory purposes.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

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Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A1-30, AE, A, AO, or AH, so that the top of the elevated floor, or in the case of a building in Coastal High Hazard or Tidal A-Zones V1-30, ~~or VE~~, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, AE, A, AO, or AH, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Coastal High Hazard or Tidal A-Zones V1-30, ~~or VE~~, Elevated Building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, 03/09, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program and this ordinance; and,
- b. Is required for purchasing flood insurance.

Flood or Flooding

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see Flood Elevation Study.

Floodplain or Floodprone Area - land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see Regulatory Floodway.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Annual Tide – The upper elevation limit subject to tidal action during the maximum spring tide for any year for which an activity is proposed. For the purposes of this ordinance, the elevation of the highest annual tide shall be taken from the most recent table published by the Department of Environmental Protection, for the location closest to the subject site under review.

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Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

Land Subject to Coastal Storm Flowage (LSCSF) - Land subject to inundation caused by coastal storms from the seaward limit at mean low water up to and including that resulting in a 100-year flood, surge of record, or flood of record, whichever is greater. The 100-year flood (or the base flood as it is also referred to) means the flood having a one-percent chance of being equaled or exceeded in any given year. LSCSF is considered significant to storm damage prevention, flood control, the protection of wildlife habitat and the prevention of pollution.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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Mean Sea Level – when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see Base Flood.

Recreational Vehicle - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway –

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and

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the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see Area of Special Flood Hazard.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Tidal A-Zone - Tidal A-Zones are the area of the 100-year coastal floodplain landward of the Coastal A-zone, where tidally-influenced stillwater flooding predominates.

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Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Velocity Zone/V-Zone - Area extending from the mean low water line to the inland limit within the 100-year floodplain supporting waves greater than three feet in height. V-Zones are mapped on a FEMA Flood Insurance Rate Map (FIRM), but also include all land area extending to the landward toe of the frontal dune (which area is often not depicted on the FIRM but defined as V-Zone by FEMA). V-zones are subject to hazardous flooding, wave impact, and in some cases significant rates of erosion as a result of storm wave impact and scour. V-Zone is synonymous with High-hazard Zone, and for purposes of this ordinance constitutes part of the Coastal High Hazard Zone.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).