

## **FLOOD ZONE ORDINANCE**

### ARTICLE I - ESTABLISHMENT

The Town of Woolwich elects to comply with the requirements of the National Flood Insurance Act of 1968. The National Flood Insurance Program provides that areas of the Town having special flood hazards be identified by the Federal Emergency Management Act (FEMA), and that a floodplain management plan be enacted by the Town for these areas. FEMA has identified Zones A, A1-30, AE, AO and AH as special flood zones in the "Flood Insurance Rate Map", which is hereby adopted by reference and declared to be a part of this Ordinance.

Additionally, this Ordinance establishes a Flood Hazard Development Permit System and Review Procedure for development activities within the designated flood hazard zones of the Town.

### ARTICLE II - PERMIT

Before any construction or other development (defined in Appendix), including the placement of manufactured homes, begins within any flood hazard zone, a Flood Hazard Development Permit shall be obtained from the Building Inspector. This permit is in addition to any other permits required by the Town of Woolwich.

### ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Building Inspector, indicating the following:

- A. Name and address of applicant
- B. Address and map indicating location of the construction site
- C. Site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and/or filled, and lot dimensions
- D. Statement of intended use of the structure
- E. Statement of type of sewage system proposed
- F. Specification of dimensions of the proposed structure
- G. Elevation in relation to Mean Sea Level, or to locally established datum in Zone A only, of the:
  1. base flood at the proposed site of all new or improved structures, which is determined as follows:
    - a. in Zones A1-30, AE, AO and AH from data contained in FEMA's Flood Insurance Study of Woolwich, or

b. in Zone A, 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

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. in the case of non-residential structures, level to which the structure will be flood proofed

H. Description of a base flood elevation reference point established on the site of all new or improved structures

I. Written certification by a registered land surveyor that the elevations shown on the application are correct

J. Certification by a registered professional engineer or architect that flood proofing methods for non-residential structures will meet the criteria of Article III, Paragraph G, item 4 (above) and other standards outlined in Article VI.

K. Description of the extent to which any water course will be altered or relocated by the development

L. Statement of construction plans describing how each standard in Article VI will be met

#### ARTICLE IV - APPLICATION FEE

A non-refundable application fee of \$10.00 shall be paid to the Town Clerk. A copy of the receipt will be attached to the application. If the Building Inspector and/or Board of Appeals needs to engage a professional engineer or other expert, the fees shall be paid in full by the applicant within 10 days. Failure to pay said fees constitutes a violation of the Ordinance and will result in issuance of a stop work order. However, an expert will not be hired by the Town unless the applicant has consented to such hiring, or given an opportunity to be heard on the subject. An applicant who is dissatisfied with the decision of the Building Inspector may make an appeal to the Board of Appeals.

#### ARTICLE V - REVIEW OF PERMIT APPLICATIONS

Upon receipt of a Flood Hazard Development Permit Application, the Building Inspector shall:

1. Review the application to ensure that the proposed building site is safe from flooding, and determine that all requirements of Article VI have been or will be met.

2. Utilize the base flood data from FEMA's "Flood Insurance Study" for the Town of

Woolwich. In special areas where base flood elevation data is not provided, the Building Inspector may obtain, review and utilize base flood elevation data from federal, state and other sources.

3. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps provided by FEMA as described in Article I of this Ordinance.

4. Determine that all necessary permits have been obtained from federal, state and local government agencies when prior approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act.

5. Notify adjacent municipalities, Department of Environmental Protection and Maine State Planning Office prior to any alteration of a water course.

6. Issue a two-part Flood Hazard 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 will provide the Codes Enforcement Officer with an application for Part II of the Permit, and shall include an elevation certificate completed by a registered Maine surveyor. The application will be reviewed within 72 hours of receipt. Upon issuance, Part II shall authorize the applicant to complete the project.

7. Maintain copies of all Flood Hazard Development Permits issued with relevant data, including reports from the Board of Appeals regarding variances granted under Article IX of this Ordinance, as well as copies of Elevation Certificates and Certificates of Compliance required by Article VII. These copies shall become permanent records of the Town.

#### ARTICLE VI - DEVELOPMENT STANDARDS

All development in special flood hazard areas shall meet the following standards:

A. New construction or substantial improvement to any structure shall:

1. Be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement 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;

4. Use electrical, heating, ventilation, plumbing and air conditioning equipment and other facilities that are designed and/or located to prevent water from entering or accumulating in the components during floods.

B. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. 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 shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.

F. 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 base flood elevation.
2. Zone AO and AH shall have adequate drainage paths around structures on slopes, to guide flood waters away from 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 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.

G. New construction or substantial improvement of an 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 flood proofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls impermeable by flood water;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;
- 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 to meet criteria of this section. The certification shall accompany the application for the Flood Hazard Development Permit, and shall include a record of the elevation above mean sea level of the lowest floor (including basement).
2. Zones AO and AH shall have adequate drainage paths around structures on slopes to guide flood waters away.

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 Flood Insurance Rate Map, or;
- b. at least three feet if no depth number is indicated;

or:

c. together with attendant utility and sanitary facilities, be floodproofed to meet the elevation requirements of this section and Article VI, Paragraph G.

4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information from Article III, Article V or Article VIII.

H. New or substantially improved manufactured homes located within:

1. Zones A1-30, AE, or AH shall be:

- a. elevated on a permanent foundation, with the lowest floor at least one foot above base flood elevation, and;
- b. securely fastened to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include:

(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 (homes less than 50 feet long require one additional tie per side); or (2) by frame ties at each corner of the home, plus five additional ties along each side at intermediate points (homes less than 50 feet long require four additional ties per side). (3) All components of the anchoring system 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 them.

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 indicated, and;

c. meet the requirements of Article VI.

4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above base flood elevation, using information obtained through Article III, Article V, or Article VIII.

## I. Floodways

1. In Zones A1-30 and AE encroachments, including fill, new construction, substantial improvement and other development shall not be permitted in riverine areas for which a regulatory floodway is designated on the community's 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 base flood discharge.

2. In A1-30 and AE riverine areas, for which no regulatory floodway is designated, encroachments including fill, new construction, substantial improvement and other development shall not be permitted 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 will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

3. In Zone A riverine areas, where 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, encroachments, including fill, new construction, substantial improvement and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided.

J. 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 and is elevated on posts, columns, piers, piles, stilts or crawl spaces less than three feet in height may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:

1. Walls, with the exception of crawl spaces less than three feet in height shall not be part of the structural support of the building; and,

2. Enclosed areas are not basements as defined in Appendix; and,

3. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be:

a. 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 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 they permit the entry and exit of flood waters automatically, without external influence or control, including human intervention, and the use of electrical

and other non-automatic means.

4. The enclosed area shall not be used for human habitation; and,

5. The enclosed area may be used for building maintenance, access, parking vehicles and/or storing articles and equipment used for maintenance of the building.

#### ARTICLE VII - CERTIFICATION 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 Codes Enforcement Officer, subject to the following provisions:

A. The applicant shall submit an Elevation Certificate completed by a registered Maine surveyor for compliance with Article VI, and a registered professional engineer or architect in the case of floodproofed non-residential structures, for compliance with Article VI; and

B. The application for a Certificate of Compliance shall be submitted by the applicant in writing along with a completed Elevation Certificate to the Codes Enforcement Officer.

C. The Codes Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Ordinance.

#### ARTICLE VIII - 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 or local ordinances or regulations, and all projects on five or more 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 so as to reduce exposure to flood hazards.

D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.

E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with Article VI, and that such requirement will be included in any deed, lease 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 construction requirement shall also be stated on any map or plan to be signed by the Planning Board or local reviewing

authority, as part of the approval process.

#### ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Woolwich may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Building Inspector in the administration of the provisions of this Ordinance. The Board of Appeals may grant a variance from the requirements of this Ordinance, consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. A showing of good and sufficient cause; and,
2. A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with local laws and ordinances; and,

3. A showing consistent that the existence of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. A determination that failure to grant the variance would result in "undue hardship", which in this subsection means:

- a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

- b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood; and,

- c. that the granting of a variance will not alter the essential character of the locality; and,

- d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances may be issued by a community for new construction, substantial improvements or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Article IX and Article VI are met; and,
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued by a community for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in Article IX.

F. Any applicant who meets the criteria of Article IX, paragraphs A through E shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of flood insurance coverage;
2. Such construction below the base flood level increases risks to life and property; and,
3. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the town against any claims filed against it that are related to the applicant's decision to use land located in the floodplain. The applicant further agrees that the applicant releases the town of any claims the applicant may have against the town that are related to the use of land located in the floodplain.

G. The Board of Appeals shall submit to the Building Inspector a report of all variance actions, including justification for the granting of a variance and an authorization for the Building Inspector to issue a Flood Hazard Development Permit, which includes any conditions to be attached to the permit.

#### ARTICLE X - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Codes Enforcement Officer to enforce the provisions of this Ordinance, pursuant to 30A MRSA/4452.

B. The penalties contained in 30A MRSA/4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Codes Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property;
2. a clear and unequivocal declaration that the property is in violation of a cited state or local law or ordinance;
3. a statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted in accordance with Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### ARTICLE XI - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other portion of this Ordinance.

#### ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit or provision. Where this Ordinance imposes a greater restriction of land use, buildings or structures, this Ordinance shall control.

#### ARTICLE XIII - ABROGATION

This Ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968.

Adopted by Town Meeting vote on: August 15, 1995