

Frequently Asked Questions

1. What is a floodplain management program?

Floods can happen everywhere, but most insurance policies do not cover flood damage. Since 1968, the **National Flood Insurance Program (NFIP)** has made subsidized flood insurance available to property owners, renters, and businesses in flood-prone areas—but only in communities that have adopted land use ordinances and flood maps that identify and regulate development in flood-prone areas. The Town of Kittery floodplain management ordinance and flood map form its **floodplain management program**.

2. What is a flood map?

Flood maps—known as **Flood Insurance Rate Maps (FIRMs)**—show how likely it is that an area will flood. These maps are a tool that communities use to identify which areas have the highest risk of flooding and are an integral part of the Town’s floodplain management program. Flood maps are also used by mortgage lenders to determine flood insurance rates and requirements.

3. Who updates flood maps?

The **Federal Emergency Management Agency (FEMA)** is responsible for maintaining and updating flood maps for the 20,000 communities nationwide that participate in the National Flood Insurance Program. Each year, FEMA conducts studies of flood hazards and selects certain communities for FEMA-initiated mapping updates.

4. How are flood maps updated?

Typically, flood maps are updated through a FEMA-initiated mapping update. After conducting flood hazard studies, FEMA issues proposed new flood maps—known as **Preliminary Maps**. Two key steps must happen for FEMA’s Preliminary Maps to become final:

- **Letter of Final Determination:** After FEMA issues its Preliminary Maps, a 90-day appeal period starts. During this appeal period, a community may file a written objection to FEMA and propose an alternative engineering analysis of flood hazards and alternative flood maps. The community must prove to FEMA that its alternative analysis and maps are scientifically and technically more accurate than the Preliminary Maps. If no appeals are filed, or once all appeals are resolved, FEMA issues a **Letter of Final Determination (LFD)** that establishes an effective date for the updated flood maps. The effective date is typically six months after the LFD date.
- **Community Adoption:** Once FEMA issues the LFD, affected communities have six months to adopt or amend their floodplain management program, including the updated flood maps, through their usual ordinance adoption process. This is known as **community adoption**.

The Preliminary Maps become effective on the date listed in the LFD. After the effective date, the flood maps are referred to as Flood Insurance Rate Maps or FIRMs.

Community Adoption -

The process by which a municipality adopts or amends its floodplain management program.

FEMA - The Federal Emergency Management Agency.

FIRM - The official Flood Insurance Rate Map, or flood map, for a community.

Floodplain Management Program -

A municipality’s floodplain management rules and flood map that allows property owners, renters, and businesses to buy subsidized flood insurance through the NFIP.

LFD - Letter of Final Determination, which is issued by FEMA after all appeals of its Preliminary Maps are resolved.

LOMR - Letter of Map Revision, generally initiated by a landowner by which FEMA can officially revise specific portions of a flood map.

NFIP - The National Flood Insurance Program managed by FEMA and delivered to the public by private insurance companies and the federal government.

Preliminary Map - A flood map proposed by FEMA as part of a FEMA-initiated mapping update.

5. Is FEMA proposing flood map updates for the Town of Kittery?

Yes. The flood maps for the Town have not been updated by FEMA since 1986. FEMA initiated map updates for the communities in York County many times over the past fifteen years, starting in 2009 and continuing through 2023.

6. Why have the Preliminary Maps for York County not been finalized yet?

FEMA's Preliminary Maps for York County exaggerate the flood risks in certain coastal areas and, if adopted without revision, would cause some property owners to need to purchase costly flood insurance even though flood risks on their properties may be low. For this reason, in October 2018, a handful of municipalities, including the Town of Kittery, appealed FEMA's Preliminary Maps. The municipalities hired an environmental engineering firm to develop an alternative hydrogeological model and analysis that identifies, with greater scientific accuracy than FEMA's Preliminary Maps, the likely flood hazard areas along the coast. In August 2019, FEMA determined that the alternative model contained a unit conversion error—specifically, a part of the model was left in meters and not converted to feet. Despite requests to allow the engineering firm to correct this minor error, FEMA denied all of the municipal appeals.

Two municipalities challenged the denial, which delayed FEMA's issuance of the Letter of Final Determination (LFD) for several years. The appeals have now been resolved and FEMA issued its LFD for York County on January 17, 2024. Affected municipalities now have six months from the LFD issue date—until July 17, 2024—to incorporate FEMA's updated flood maps into their floodplain management program.

7. What is a LOMR and how will it affect community adoption of FEMA's Preliminary Maps?

Town officials considered challenging FEMA's denial, but ultimately concluded that a legal challenge would be costly and risky. Instead, the Town pursued a community-initiated flood map revision process—known as the **Letter of Map Revision (LOMR)**—to surgically correct the exaggerated flood risks on FEMA's Preliminary Maps.

A LOMR does not replace a flood map or the process by which FEMA updates its flood maps. Rather, the LOMR process allows a community to petition FEMA to revise flood hazard information on a specific part of a flood map, known as a panel. A revised panel, once approved by FEMA, is automatically incorporated into the flood map. No community adoption process is required.

Using the LOMR process, the Town is working with FEMA to ensure that appropriate adjustments to the exaggerated flood risks on FEMA's Preliminary Maps are incorporated into the updated flood maps on or shortly after July 17, 2024—the FIRM effective date.

8. What happens if the Town does not timely update floodplain management program?

A community that fails to adopt the updated flood maps within the six-month community adoption period will be suspended from the National Flood Insurance Program (NFIP). Suspension from the NFIP will have immediate adverse effects: flood insurance policies cannot be renewed and new policies cannot be written. In addition, mortgage loans and disaster assistance are severely limited in communities that are suspended from the NFIP.

9. How do I determine how the updated floodplain management program will affect my property and development plans?

FEMA's Preliminary Maps, as well as the Town-initiated LOMRs, can be reviewed at the Kittery Town Hall at 200 Rogers Road, Kittery, Maine 03904. If you have any questions about the floodplain management program update or its effect on your property, please contact Kathy Connor, Project planner, at (207) 475-1325 or KConnor@kitteryme.org.



TOWN OF KITTERY
Planning and Development
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1307

TO: Planning Board
FROM: Kathy Connor, Project Planner
SUBJECT: Floodplain FEMA Maps and Floodplain Management Amendments
DATE: April 18, 2024
CC: Jason Garnham, Directory of Planning & Development

Kittery's new flood maps (FIRMs for Flood Insurance Rate Maps) have arrived. There has not been an updated adopted map since 1986. Kittery received preliminary maps from FEMA in 2013 which were appealed. If you are curious about the process details and why it took time, you will find an attached FAQ prepared by the attorney who worked on behalf of Kittery with FEMA. The short version is that FEMA issued maps in 2013 which were appealed by Ransom Engineering on behalf of Kittery and other York County coastal communities which resulted, finally, in the new maps that Kittery is preparing to adopt.

There are 17 separate maps, which collectively are called Flood Insurance Rate Maps (FIRMs), each representing a specific portion of Kittery. Each map is referred to as a panel. Four of the panels show Revised Areas identifying the areas where FEMA approved Kittery's requested changes through a process called a Letter of Map Revision (LOMR). These areas range from Whipple Road into Kittery Point including Chauncey Creek and Gerrish Island and along Route 103 to the York line.

To support the new maps, the floodplain management ordinance in §16.5.11 needed quite a few updates. Kittery's updates were completed by staff and reviewed by the State Floodplain Management Program. The State office produces a FEMA-approved model ordinance so that communities can use it as a guide to make necessary updates.

The Town has paper maps and most of the 2024 Preliminary Map GIS data has been sent to CAI, our GIS consultant, to be put on the Town's on-line GIS system for use by the public. We are working on obtaining the rest of the data. The Town has had the 2013 Preliminary Map data available on the Town website for years now as an informational tool. As with all ordinance adoptions, the floodplain management changes must first go to you, the Planning Board, for discussion, public hearing and votes and then to Town Council for the same. The timeline for the Planning Board is workshop and setting the public hearing date on April 25th, followed by the public hearing itself and a vote on May 23. **The maps must be adopted by July 17th in order for the Town to remain in the National Flood Insurance Program (NFIP).**

Outreach to property owners and the public will be done in the following ways:

1. The Town of Kittery placed a public notice announcing the Letter of Map Revision changes to Kittery's floodplain maps on March 1, 2024 in the Weekly Sentinel.
2. FEMA placed public notices announcing all the new floodplain maps in the Portsmouth Herald on March 14th and March 21st of this year.
3. Those property owners affected and notified in 2013 of being in the special flood hazard zones will be notified again of the Town's intention to adopt these FIRMs by mail.
4. The Town's website will be updated with information on the new maps and ordinance changes.

Features of the new FIRMs include:

- The area of revision (essentially the area that was under appeal and was changed via the LOMR) is delineated.
- There is a new area depicted called the Limit of Moderate Wave Action (LiMWA) which is the area where waves can reach between 1.5- and 3-feet during storm events. While not specifically regulated, it is there for cautionary reasons.
- There are several special hazard flood areas, Zones, A, AE and VE.
- There are many more base flood elevations shown.

Changes to the Floodplain Management Ordinance include:

- More clarity on permitting and submission requirements.
- More performance standards for each type of structure.
- More structures are regulated (for example RVs, bridges, containment walls).
- More stringent requirements for structures in the special flood hazard areas.

Not included in the Floodplain Management Ordinance:

- Stricter standards than FEMA's (including higher freeboard – FEMA and Kittery both require 1 foot) are not proposed at this time.

Yellow highlight means a zone found on Kittery's 2024 FEMA maps

FEMA Flood Zones

Note: A 1% percent-annual-chance-flood event (as in a 1% chance every year) is also known as a 100-year storm.

A: Areas subject to inundation by the 1-percent-annual-chance flood event are generally determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs), or flood depths are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.

AE, A1-A30: Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.

AH: Areas subject to inundation by 1-percent-annual-chance shallow flooding, typically areas of ponding, where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and floodplain management standards apply.

AO: Areas subject to inundation by 1-percent-annual-chance shallow flooding, usually sheet flow on sloping terrain, where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and floodplain management standards apply.

AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements and floodplain management standards apply.

A99: Areas are subject to inundation by the 1-percent-annual-chance flood event, but will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No Base Flood

Elevations (BFEs) or depths are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.

V: Areas along coasts are subject to inundation by the 1-percent-annual-chance flood event with additional hazards associated with storm-induced waves. Because detailed hydraulic analyses have not been performed, no Base Flood Elevations (BFEs) or flood depths are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.

VE, V1-V30: Areas subject to inundation by the 1-percent-annual-chance flood event with additional hazards due to storm-induced velocity wave action. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply.

D: Areas with possible but undetermined flood risk. No analysis of flood hazards has been conducted in these areas.

X (shaded), B: Areas of moderate flood hazard between limits of the 1-percent-annual-chance floodplain and the 0.2-percent-annual-chance floodplain. Note: zone B is being replaced with shaded zone X on new FIRMs.

X (unshaded), C: Areas of minimal flood hazards outside 0.2-percent-annual-chance floodplain. Note: zone C is being replaced with unshaded zone X on new FIRMs.

Chapter 16.5.11, Floodplain Management Amendments – DRAFT – April 17, 2024

Key: *Brown-orange underline and strikethrough indicates State/FEMA-required amendments*

Blue highlight indicates major subsections for easier reference.

1 **16.5.11 Floodplain Management**

2 **A. Statement of purpose and intent.**

3 (1) Certain areas of the Town are subject to periodic flooding, causing serious damages to
4 properties within these areas. Relief is available in the form of federally subsidized flood
5 insurance as authorized by the National Flood Insurance Act of 1968.

6 (2) Therefore, the Town has chosen to become a participating community in the National Flood
7 Insurance Program and agrees to comply with the requirements of the National Flood
8 Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this **article Floodplain**
9 **Management Ordinance.**

10 (3) It is the intent of the Town to require the recognition and evaluation of flood hazards in all
11 official actions relating to land use in the floodplain areas having special flood hazards. This
12 body has the legal authority to adopt land use and control measures to reduce future flood
13 losses pursuant to 30-A M.R.S §§3001-3007, 4352 and 4401-4407 . **and Title 38 MRSA**
14 **Section 440.**

15 (4) **The Town of Kittery has the legal authority to adopt land use and control measures to**
16 **reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352,**
17 **4401-4407, and Title 38 MRSA, Section 440.**

18 **B. Definitions.**

19 Unless specifically defined in §16.3, words and phrases used in this **article ordinance** have
20 the same meanings as they have in common law to give this **article ordinance** its most
21 reasonable application. **The word "may" is permissive; "must" and "will" are**
22 **mandatory and not discretionary.**

23 **C. Establishment of flood areas.**

24 (1) ~~The Town elects to comply with the requirements of the National Flood Insurance Act~~
25 ~~of 1968 (P.L. 90-488, as amended).~~ The National Flood Insurance Program, established in
26 the ~~aforsaid previously cited~~ Act, provides that **those** areas of the Town having a special
27 flood hazard be identified by the Federal Emergency Management Agency and that
28 floodplain management measures be applied in such flood hazard areas. This **article**
29 **ordinance** establishes a flood hazard development permit system and review procedure for
30 development activities in the designated flood hazard areas of the Town.

31 (2) The areas of special flood hazard, Zones A, ~~A1-30~~, AE, ~~AO, AH, V1-30~~ and/or VE **for the**
32 **Town of Kittery, York County Maine,** identified by the Federal Emergency Management
33 Agency in a report entitled "Flood Insurance Study — ~~Town of Kittery, York County,~~
34 Maine, ~~York County,~~" dated ~~January 5, 1984~~ **July 17, 2024** , with accompanying Flood
35 Insurance Rate Map dated ~~July 3, 1986~~ **July 17, 2024,** **and any subsequent amendments**
36 **thereto (including, without limitation, a Letter of Map Revision No. X, dated X,** are

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37 adopted by reference and declared to be a part of this ~~article~~ ordinance.

38 **D. Permit required.**

39 (1) The Code Enforcement Officer will be designated as the local Floodplain
40 Administrator. The Floodplain Administrator will have the authority to implement the
41 commitment made to administer and enforce the requirements for participation in the
42 National Flood Insurance Program.

43 (2) The Planning Board is the permitting authority for all special exception flood hazard
44 applications including those involving subdivisions and will act on such applications as
45 required in §16.5.11.I and K. The Code Enforcement Officer is the permitting
46 authority for other types of allowed development such as, but not limited to, accessory
47 structures and for minor development applications for existing residential and non-
48 residential structures.

49 (3) Before any construction or other development (as defined in §16.3), including the placement
50 of manufactured homes, begins within any areas of special flood hazard established in
51 §16.5.11.C, a Flood Hazard Development Permit ~~is to~~ must be obtained from the Code
52 Enforcement Officer. ~~except~~ When the Planning Board must grant special exception
53 approvals as provided by §16.5.11.I of this ordinance, the Flood Hazard Development
54 Permit must be submitted as part of the application. This permit is in addition to any
55 other permits which may be required pursuant to the ~~title~~ ordinances and codes of the
56 Town of Kittery, Maine.

57 **E. The application for a flood hazard development permit ~~is to~~ must be submitted to the Code**
58 **Enforcement Officer and include:**

- 59 (1) The name, address, and phone number of the applicant, owner and contractor.
- 60 (2) An address and a map indicating the location of the construction site.
- 61 (3) A site plan showing the location of existing and/or proposed structures development
62 including but not limited to structures, sewage disposal facilities, water supply
63 facilities, areas to be cut and filled, and lot dimensions. Such a plan must also show
64 where the proposed development is located in relation to the flood hazard area
65 boundaries.
- 66 (4) A statement of the intended use of the structure and/or development.
- 67 (5) A statement of the cost of the development, including all materials and labor.
- 68 (6) A statement as to the type of sewage system proposed.
- 69 (7) Specification of dimensions of the proposed structure and/or development.

70 [Note: Subsections 8-13 below apply only to new construction or substantial improvements,

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71 as defined by Title 16.]

72 (8) The elevation in relation to the National Geodetic Vertical (NGVD), North American
73 Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:

74 (a). Base flood for structures located in special flood hazard areas, at the proposed
75 site of all new or substantially improved structures, which is determined:

76 [1] In Zones ~~A1—30~~, AE, ~~AO, AH, V1—30~~, and VE, from data contained in
77 the "Flood Insurance Study — ~~Town of Kittery~~York County, Maine," as
78 described in §16.5.~~110~~.C or

79 [2] In Zone A:

80 [a] From any base flood elevation data from federal, state, or other
81 technical sources (such as FEMA’s Quick-2 model, FEMA
82 265), including information obtained pursuant to §16.5.11.H(13) and
83 §16.5.11.K(1)(d) or from of the ground at the intersection of the
84 floodplain boundary and a line perpendicular to the shoreline which
85 passes along the ground through the site of the proposed building.

86 [b] In the absence of all data described in §16.5.11.E(8)(a)2][a],
87 information to demonstrate that the structure shall meet the elevation
88 requirements in §16.5.11.H(8)(b)2], §16.5.11.H(9)(b)2] or
89 §16.5.11.H(10)(b)2].

90 (b). Highest and lowest grades at the site adjacent to the walls of the proposed building.

91 (c). Lowest floor, including basement, and whether or not such structures contain a
92 basement.

93 (d). Lowest machinery and equipment servicing the building; and

94 (e). Level, in the case of nonresidential structures only, to which the structure will be
95 floodproofed.

96 (9) A description of an base flood elevation reference point established on the site of ~~all new~~
97 ~~or substantially improved structures~~ developments for which elevation standards
98 apply as required in Section H of §16.5.11.

99 (10) A written certification by:

100 (a). a professional land surveyor that the grade elevations shown on the application
101 are accurate; and

102 (b). a professional land surveyor, registered professional engineer or architect;
103 verifying that the base flood elevations shown on the application are accurate.

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- 104 (11) **The following** Certifications **as required in §16.5.11.H** by a registered professional
105 engineer or architect: ~~that floodproofing methods for any:~~
- 106 (a). **A Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended**
107 **from time to time) to verify that the floodproofing methods for any**
108 ~~Non~~residential structures will meet the floodproofing criteria of §16.5.11.H.(9)
109 and other applicable standards in §16.5.11.H. and
- 110 (b). **A V-Zone Certificate to verify that** ~~C~~construction in coastal high-hazard areas,
111 Zones ~~V1—30 Coastal AE~~ and VE will meet the **floodproofing** criteria of
112 ~~Subsection 11 of~~ §16.5.11.H. **(18)** and other applicable standards in §16.5.11.H.
113
- 114 (c). **A Hydraulic Openings Certificate to verify that engineered hydraulic openings**
115 **in foundation walls will meet the standards of §16.5.11.H(14)(b)[1].**
116
- 117 (d). **A certified statement that bridges will meet the standards of §16.5.11.H(15).**
118
- 119 (e). **A certified statement that c**Containment walls will meet the standards of
120 **§16.5.11.H(16).**
121
- 122 (12) A description of the extent to which any watercourse will be altered or relocated as a
123 result of the proposed development.
- 124 (13) A statement of construction plans describing in detail how each applicable development
125 standard in §16.5.11.H will be met.

126 **F. Application fee and expert's fee.**

- 127 (1) A nonrefundable application fee as set out in Appendix A ~~is to~~ **shall** be paid to the ~~Town~~
128 **Clerk Code Enforcement Officer**, and a copy of a receipt for the same must accompany
129 the application.
- 130 (2) An additional fee may be charged if the Code Enforcement Officer, **Planning Board**
131 and/or Board of Appeals needs the assistance of a professional engineer or other expert.
132 The expert's fee must be paid in full by the applicant within 10 days after the Town
133 submits a bill to the applicant. Failure to pay the bill constitutes a violation of this ~~title~~
134 **ordinance** and is grounds for the issuance of a stop-work order. An expert may not be
135 hired by the municipality at the expense of an applicant until the applicant has either
136 consented to such hiring in writing or been given an opportunity to be heard on the
137 subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer
138 may appeal that decision to the Board of Appeals.

- 139 G. **Review standards of for** flood hazard development permit applications. The Code
140 Enforcement Officer and **the Planning Board when applicable** must:

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- 141 (1) Review all applications for a flood hazard development permit to assure that proposed
142 **building sites developments** are reasonably safe from flooding and to determine that all
143 pertinent requirements of §16.5.11.H, Development Standards, have or will be met.
- 144 (2) Utilize, in the review of all flood hazard development permit applications:
- 145 (a) The base flood **and floodway** data contained in the "Flood Insurance Study - ~~Town~~
146 **of Kittery-York County**, Maine," as described in §16.5.11.C.
- 147 (b) In special flood hazard areas where base flood elevation **and floodway** data are not
148 provided, the Code Enforcement Officer **is to must** obtain, review and reasonably
149 utilize any base flood elevation and floodway data from federal, state, or other
150 sources, including information obtained pursuant to §16.5.11.E(8)(a)[2],
151 §16.5.11.H(13) and §16.5.11.K(1)(d), in order to administer §16.5.11.H of this
152 article.
- 153 (c) **When the Town establishes a base flood elevation in a Zone A by methods**
154 **outlined in §16.5.11.E.(8).(a).[2], the community must submit that data to the**
155 **Maine Floodplain Management Program.**
- 156 (3) Make interpretations of the location of boundaries of special flood hazard areas shown on
157 the maps described in §16.5.11.C.
- 158 (4) In the review of flood hazard development permit applications, determine that all
159 necessary permits have been obtained from those federal, state and local government
160 agencies from which prior approval is required **by** federal or state law, including, but not
161 limited to, Section 404 of the Federal Water Pollution Control Act Amendments of 1972,
162 33 U.S.C. ~~§1334~~.
- 163 (5) Notify adjacent municipalities, the Department of Environmental Protection, and the
164 Maine **Office of Community Development Floodplain Management Program** prior to
165 any alteration or relocation of a watercourse and submit copies of such notifications to
166 the Federal Emergency Management Agency.
- 167 (6) **If the application satisfies the requirements of this ordinance, approve the issuance**
168 **of one of the following flood hazard development permits, based on the type of**
169 **development:**
- 170 (a). Issue a two-part Flood Hazard Development Permit for elevated structures. Part I **is**
171 **to authorizes** the applicant to build a structure to and including the first horizontal
172 floor only, above the base flood level. At that time the applicant must provide the
173 Code Enforcement Officer with **an "under construction" Elevation Certificate**
174 **completed by a professional land surveyor, registered professional engineer or**
175 **architect based on Part I permit construction, for verifying compliance with**
176 **the elevation requirements of Subsections 8, 9, 10 and 18 of §16.5.11.H. an**
177 **application for Part II of the flood hazard permit.** Following review of the

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178 **application** Elevation Certificate data, which **review** must take place within three
179 working days of receipt of the application, the Code Enforcement Officer ~~is to~~ **will**
180 issue Part II of the Flood Hazard Development Permit. Part II authorizes the
181 applicant to complete the construction project; **or**

182 (b). **Issue a Flood Hazard Development Permit for floodproofing of non-residential**
183 **structures that are new construction or substantially improved non-residential**
184 **structures that are not being elevated but meet the floodproofing standards of**
185 **§16.5.11.H(9). The application for this permit must include a Floodproofing**
186 **Certificate signed by a registered professional engineer or architect or:**

187 (c). **Issue a Flood Hazard Development Permit for minor development for all**
188 **development that is not new construction or substantial improvement such as**
189 **repairs, maintenance, renovations or additions whose value is less than 50% of**
190 **the market value of the structure. Minor development also includes but is not**
191 **limited to: accessory structures as provided for in §16.5.11.H(12), mining,**
192 **dredging, filling, grading, paving, excavation, drilling operations, storage of**
193 **equipment or materials, deposition or extraction of materials, public or private**
194 **sewage disposal systems or water supply facilities that do not involve**
195 **structures; and non-structural projects such as bridges, dams, towers, fencing,**
196 **pipelines, wharves and piers.**

197 (d). **For development that requires review and approval as a special exception, as**
198 **provided for in this ordinance, the Flood Hazard Development Permit**
199 **Application must be acted upon by the Planning Board as required in**
200 **§16.5.11.I and described in §16.5.11.D.**

201 (7) **Maintain, as a permanent record, copies of all Flood Hazard Development Permit**
202 **applications, corresponding permits issued and data relevant thereto, including reports**
203 **of the Board of Appeals on variances granted under the provisions of §16.5.11.L and**
204 **this ordinance; and copies of Elevation Certificates, Floodproofing Certificates,**
205 **Certificates of Compliance and certifications of design standards required under the**
206 **provisions of §16.5.11.E, §16.5.11.H and §16.5.11.J.**

207 H. **Development standards.**

208
209 All development in areas of special flood hazard ~~are to~~ **must** meet the following applicable
210 standards:

211 (1) ~~New construction or substantial improvement of any structure~~ **All development**
212 **must:**

213 (a). Be designed or modified and adequately anchored to prevent flotation (excluding
214 piers and docks), collapse or lateral movement of the structure development
215 resulting from hydrodynamic and hydrostatic loads, including the effects of
216 buoyancy;

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- 217 (b). Use construction materials that are resistant to flood damage;
- 218 (c). Use construction methods and practices that will minimize flood damage; and
- 219 (d). Use electrical, heating, ventilation, plumbing, and air-conditioning equipment, and
220 other service facilities, that are designed and/or located so as to prevent water from
221 entering or accumulating within the components during flooding conditions.
- 222 (2) All new and replacement water supply systems ~~are to~~ **must** be designed to minimize or
223 eliminate infiltration of floodwaters into the systems.
- 224 (3) All new and replacement sanitary sewage systems ~~are to~~ **must** be designed and located to
225 minimize or eliminate infiltration of floodwaters into the system and discharges from the
226 system into floodwaters.
- 227 (4) On-site waste disposal systems ~~are to~~ **must** be located and constructed to avoid
228 impairment to them or contamination from them during floods.
- 229 (5) All development **associated with altered or relocated portions of a watercourse is to**
230 **must** be constructed and maintained in such a manner that no reduction occurs in the
231 flood-carrying capacity of any watercourse.
- 232 (6) New construction or substantial improvement of any structure (including manufactured
233 homes) located within:
- 234 (a). **Zones A and AE must have the bottom of all electrical, heating, plumbing,**
235 **ventilation and air conditioning equipment, permanent fixtures and**
236 **components, HVAC ductwork and duct systems, and any other utility service**
237 **equipment, facilities, machinery, or connections servicing a structure, elevated**
238 **to at least one foot above the base flood elevation.**
- 239 (b). **Zone VE must meet the requirements of §16.5.11.H.(18)[4].**
- 240 (7) **Certain development projects, including but not limited to, retaining walls, sea**
241 **walls, levees, berms, and rip rap, can cause physical changes that affect flooding**
242 **conditions.**
- 243 (a). **All development projects in Zones AE and VE that cause physical changes to**
244 **the natural landscape must be reviewed by a professional engineer t(o**
245 **determine whether or not the project changes the base flood elevation, zone,**
246 **and/or the flood hazard boundary line.**
- 247 [1] **If the professional engineer determines, through the use of engineering**
248 **judgement, that the project would not necessitate a Letter of Map Revision**
249 **(LOMR), a certified statement must be provided.**
- 250 [2] **If the professional engineer determines that the project may cause a change, a**

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- 251 hydrologic and hydraulic analysis that meets current FEMA standards must
252 be performed.
- 253 (b). If the hydrologic and hydraulic analysis performed indicates a change to the
254 base flood elevation, zone, and/or the flood hazard boundary line, the applicant
255 may submit a Conditional Letter of Map Revision (C-LOMR) request to the
256 Federal Emergency Management Agency for assurance that the as-built
257 project will result in a change to the Flood Insurance Rate Map. Once the
258 development is completed, a request for a Letter of Map Revision (LOMR)
259 must be initiated.
- 260 (c). If the hydrologic and hydraulic analysis performed shows a change to the base
261 flood elevation, zone, and/or the flood hazard boundary line, as soon as
262 practicable, but no later than 6 months after the completion of the project, the
263 applicant must submit the technical data to FEMA in the form of a Letter of
264 Map Revision (LOMR) request.
- 265 (8) New construction or substantial improvement of any residential structure located within:
- 266 (a). Zone AE must have the lowest floor (including basement) elevated to at least
267 one foot above the base flood elevation.
- 268 (b). Zone A must have the lowest floor (including basement) elevated:
- 269 [1] To at least one foot above the base flood elevation utilizing information
270 obtained pursuant to §16.5.11.E(8)(a)[2][a], §16.5.11.G(2) or §16.5.11.K(1)(d),
271 or
- 272 [2] In the absence of all data described above in 16.5.11.H(8)(b)[1], to at least two
273 feet above the highest adjacent grade to the structure.
- 274 (c). Zones VE and Coastal AE (as defined by Title 16) must meet the requirements
275 of 16.5.11.H(18).
- 276 ~~(a) Zones A1 — 30, AE and AH is to have the lowest floor (including basement)~~
277 ~~elevated to at least one foot above the base flood elevation.~~
- 278 ~~(b) Zones AO and AH is to have adequate drainage paths around structures on~~
279 ~~slopes, to guide floodwater away from the proposed structures.~~
- 280 ~~(c) Zone AO is to have the lowest floor (including basement) elevated above the~~
281 ~~highest adjacent grade:~~
- 282 ~~[1] At least one foot higher than the depth specified in feet on the community's~~
283 ~~Flood Insurance Rate Map; or~~
- 284 ~~[2] At least three feet if no depth number is specified.~~

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- 285 ~~(d) Zone A is to have the lowest floor (including basement) elevated to at least one~~
286 ~~foot above the base flood elevation utilizing information obtained pursuant to~~
287 ~~§16.5.11.E(8)(a)[2], 16.5.11.G(4) or 16.5.11.I.(4).~~
- 288 ~~(e) Zones V1—30 and VE is to meet the requirements of Subsection 16 H(11).~~
- 289 (9) New construction or substantial improvement of any nonresidential structure located
290 within:
- 291 (a). Zones ~~A1—30~~, AE ~~and AH is to~~ must have the lowest floor (including basement)
292 elevated to at least one foot above the base flood elevation or, together with
293 attendant utility and sanitary facilities, must:
- 294 [1] Be floodproofed to at least one foot above the base flood level so that below that
295 elevation the structure is watertight with walls substantially impermeable to
296 passage of water;
- 297 [2] Have structural components capable of resisting hydrostatic and hydrodynamic
298 loads and the effects of buoyancy; and
- 299 [3] Be certified by a registered professional engineer or architect that the
300 floodproofing design and methods of construction are in accordance with accepted
301 standards of practice for meeting the provisions of this section. Such certification
302 must be provided with the application for a flood hazard development permit, as
303 required by §16.5.11.E(11) and must include a record of the elevation above mean
304 sea level to which the structure is floodproofed. of the lowest floor, including
305 basement.
- 306 ~~(b) Zones AO and AH is to have adequate drainage paths around structures on slopes,~~
307 ~~to guide floodwater away from the proposed structures.~~
- 308 ~~(c) Zone AO is to have the lowest floor (including basement) elevated above the highest~~
309 ~~adjacent grade:~~
- 310 ~~[1] At least one foot higher than the depth specified in feet on the community's~~
311 ~~Flood Insurance Rate Map; or~~
- 312 ~~[2] At least three feet if no depth number is specified; or~~
- 313 ~~[3] Together with attendant utility and sanitary facilities, be floodproofed to meet~~
314 ~~the elevation requirements of this section and floodproofing standards of~~
315 ~~Subsection 7(a) of this section H.~~
- 316 (b). Zone A ~~is to~~ must have the lowest floor (including basement) elevated to :
- 317 [1] At least one foot above the base flood elevation utilizing information obtained
318 pursuant to §16.5.11.E(8)(a)[2][a], §16.5.11.G(2) or §16.5.11.K(1)(d), or

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- 319 **[2] In the absence of all data described in §16.5.11.H(9)(b)[1] above, to at least**
320 **two feet above the highest adjacent grade to the structure; or**
- 321 **[3] Together with attendant utility and sanitary facilities, be floodproofed to one**
322 **foot above the base flood elevation established in §16.5.11.H(9)(b)[1] or [2]**
323 **and meet the floodproofing standards of §16.5.11.H(9)(a)[1], [2], and [3].**
- 324 (c). Zones ~~V1—30~~ and VE **and Coastal AE (as defined by Title 16) is to must** meet
325 the requirements of ~~subsection H(11) of this section~~ **§16.5.11.H(18).**
- 326 (10) New or substantially improved manufactured homes located within:
- 327 (a). Zones ~~A1—30~~, AE ~~or AH~~ must:
- 328 [1] Be elevated ~~on a permanent foundation~~ such that the lowest floor is at least one
329 foot above the base flood elevation; and
- 330 **[2] Be on a permanent foundation which may be poured masonry slab or**
331 **foundation walls, with hydraulic openings, or may be reinforced pier or block**
332 **supports, any of which support the manufactured home so that no weight is**
333 **supported by its wheels and axles; and**
- 334 [3] Be securely anchored to an adequately anchored foundation system to resist
335 flotation, collapse, or lateral movement. Methods of anchoring may include, but are
336 not limited to:
- 337 [a] Over-the-top ties anchored to the ground at the four corners of the
338 manufactured home, plus two additional ties per side at intermediate points
339 (manufactured homes less than 50 feet long require one additional tie per side);
340 or
- 341 [b] By frame ties at each corner of the home, plus five additional ties along each
342 side at intermediate points (manufactured homes less than 50 feet long require
343 four additional ties per side).
- 344 [c] All components of the anchoring system described in **§16.5.11.H(10)(a)[3][a]**
345 **and [b]** of this section must be capable of carrying a force of 4,800 pounds.
- 346 (b) ~~Zones AO and AH are to shall have adequate drainage paths around structures on~~
347 ~~slopes, to guide floodwater away from the proposed structures.~~
- 348 (c) ~~Zone AO are to have the lowest floor (including basement) elevated above the~~
349 ~~highest adjacent grade:~~
- 350 [1] ~~At least one foot higher than the depth specified in feet on the community's~~
351 ~~Flood Insurance Rate Map; or~~

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- 352 **[2] At least three feet if no depth number is specified; and**
- 353 **[3] Meet the requirements of Subsection 8.(a).[1] of this section;**
- 354 (d) Zone A **are to must:**
- 355 [1] Be elevated on a permanent foundation as described in **16.5.11.H(10)(a)[2]** such
- 356 that the lowest floor (including basement) is at least one foot above the base flood
- 357 elevation utilizing information obtained pursuant to **have the lowest floor**
- 358 **elevated to at least one foot above the base flood elevation utilizing**
- 359 **information obtained pursuant to §16.5.11.E(8)(a)[2][a], §16.5.11.G(2) or**
- 360 **§16.5.11.K(1)(d), or**
- 361 **[2] In the absence of all data described in 16.5.11.H(10)(d)[1] above, to at least**
- 362 **two feet above the highest adjacent grade to the structure and**
- 363 **[3] Meet the anchoring requirements of §16.5.11.H(10)(a)[3].**
- 364 (e). Zones **V1—30 and VE and Coastal AE are to must** meet the requirements of
- 365 **16.5.11.H(18).** ~~Subsection 16 of this section.~~
- 366 (11) Recreational Vehicles located within:
- 367 (a). **Zones A or AE must either:**
- 368 [1] **Be on the site for fewer than 180 consecutive days and,**
- 369 [2] **Be fully licensed and ready for highway use. A recreational vehicle is ready for**
- 370 **highway use if it is on its wheels or jacking system, is attached to the site only by**
- 371 **quick disconnect type utilities and security devices, and has no permanently**
- 372 **attached additions or**
- 373 [3] **Be permitted in accordance with the elevation and anchoring requirements for**
- 374 **"manufactured homes" in §16.5.11.H(10).[a].**
- 375 (b). **Zones V1-30 and VE and Coastal AE (as defined by Title 16) must meet the**
- 376 **requirements of either §16.5.11.H.(11)(a)[1] and [2] or §16.5.11.H.(18).**
- 377
- 378 (12) New construction or substantial improvement of accessory structures, as defined in Title 16,
- 379 will be exempt from the elevation criteria required in **§16.5.11.H.(8) and (9)** above, if all
- 380 other requirements of §16.5.11.H and all the following requirements are met:
- 381 (a). **Accessory structures located in Zones A and AE must:**
- 382 [1] **Meet the requirements of §16.5.11.H(1)(a) through (d), as applicable.**
- 383 [2] **Be limited in size to a one-story two-car garage.**

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- 384 [3] Have unfinished interiors and not be used for human habitation.
- 385 [4] Have hydraulic openings as specified in §16.5.11.H.(14)(b), in at least two
- 386 different walls of the accessory structure.
- 387 [5] Be located outside the floodway.
- 388 [6] When possible, be constructed and placed on the building site so as to offer
- 389 the minimum resistance to the flow of floodwaters and be placed further
- 390 from the source of flooding than is the primary structure; and
- 391 [7] Have only ground fault interrupt electrical outlets. The electric service
- 392 disconnect shall be located above the base flood elevation and when possible,
- 393 outside the special flood hazard area.
- 394 [8] Be located outside the Coastal AE Zone.
- 395 (b). Accessory structures located in Zones VE and Coastal A must meet the
- 396 requirements of 16.5.11.H(18):
- 397 (13) Floodways.
- 398 (a). In Zones ~~A1—30~~ and AE riverine areas, encroachments, including fill, new
- 399 construction, substantial improvement, and other development, are not permitted
- 400 within riverine areas, for which a regulatory floodway which is designated on the
- 401 community's Flood Insurance Rate Map, unless a technical evaluation certified by a
- 402 registered professional engineer is provided demonstrating that such encroachments
- 403 will not result in any increase in flood levels within the community during the
- 404 occurrence of the base flood discharge.
- 405 (b). In Zones ~~A1—30~~ and AE riverine areas, for which no regulatory floodway is
- 406 designated, encroachments, including fill, new construction, substantial
- 407 improvement, and other development, are not permitted in the floodway as
- 408 determined in §16.5.11.H.(13).(c) unless a technical evaluation certified by a
- 409 registered professional engineer is provided demonstrating that the cumulative
- 410 effect of the proposed development, when combined with all other existing
- 411 development and anticipated development:
- 412 [1] Will not increase the water surface elevation of the base flood more than one foot
- 413 at any point within the community; and
- 414 [2] Is consistent with the technical criteria contained in FEMA's guidelines and
- 415 standards for flood risk analysis and mapping. Section 2-7, entitled "Hydraulic
- 416 Analyses," Flood Insurance Study—Guidelines and Specifications for Study
- 417 Contractors, FEMA 37/September, 1985, as amended.
- 418 (c). In Zones A and AE riverine areas, in for which no regulatory floodway is

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419 designated, the regulatory floodway is determined to be the channel of the river or
420 other watercourse and the adjacent land areas to a distance of 1/2 the width of the
421 floodplain as measured from the normal high-water mark to the upland limit of the
422 floodplain. ~~encroachments, including fill, new construction, substantial~~
423 ~~improvement, and other development, are not permitted unless a technical~~
424 ~~evaluation certified by a registered professional engineer is provided meeting~~
425 ~~the requirements of Subsection 9(b) of this section.~~

426 (14) New construction or substantial improvement of any structure in Zones ~~A1—30, or~~ AE,
427 ~~AO, AH and A~~ that meets the development standards of this section, including the elevation
428 requirements of §16.5.11.H(8), (9) or (10), and is elevated on posts, columns, piers, piles,
429 "stilts" or crawl spaces less than three feet in height may be enclosed below the base
430 flood elevation requirements provided all the following criteria are met or exceeded:

431 ~~Walls, with the exception of crawl spaces less than three feet in height, must not be~~
432 ~~part of the structural support of the building; and~~

433 (a). Enclosed areas are not "basements" as defined in §16.3; and

434 (b). Enclosed areas ~~are to~~ must be designed to automatically equalize hydrostatic flood
435 forces on exterior walls by allowing for the entry and exit of floodwater. Designs for
436 meeting this requirement must either:

437 [1] Be engineered and certified by a registered professional engineer or architect; or

438 [2] Meet or exceed the following minimum criteria:

439 [a] A minimum of two openings having a total net area of not less than one square
440 inch for every square foot of the enclosed area;

441 [b] The bottom of all openings must be below base flood elevation and may be
442 no higher than one foot above the lowest grade; and

443 [c] Openings may be equipped with screens, louvers, valves, or other coverings or
444 devices, provided that they permit the entry and exit of floodwaters
445 automatically without any external influence or control, such as human
446 intervention, including the use of electrical and other nonautomatic mechanical
447 means. ~~; and~~

448 (c) The enclosed area may not be used for human habitation; and

449 (d) The enclosed areas ~~may be used~~ are usable solely for building ~~maintenance~~, access,
450 parking ~~of~~ vehicles, or ~~storage ing of articles and equipment used for maintenance of~~
451 ~~the building~~.

452 (15) New construction or substantial improvement of any bridge located within Zones A, ~~A1-~~
453 30, AE, AO, AH, A, V1-30, and VE must be designed such that:

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454 (a). When possible, the lowest horizontal member (excluding the pilings or columns) is
455 elevated to at least one foot above the base flood elevation; and

456 (b). A registered professional engineer shall certify that:

457 [1] The structural design and methods of construction shall meet the elevation
458 requirements of this section and the floodway standards of §16.5.11.H.(13); and

459 [2] The foundation and superstructure attached thereto are designed to resist
460 flotation, collapse, and lateral movement due to the effects of wind and water
461 loads acting simultaneously on all structural components. Water loading values
462 used shall be those associated with the base flood.

463 (16) New construction or substantial improvement of any containment wall located within:

464 (a) Zones A, ~~A1-30~~, AE, ~~AO, AH, V1-30~~ and VE must:

465 [1] Have the containment wall elevated to at least one foot above the base flood
466 elevation;

467 [2] Have structural components capable of resisting hydrostatic and hydrodynamic
468 loads and the effects of buoyancy; and

469 [3] Be certified by a registered professional engineer or architect that the design and
470 methods of construction are in accordance with accepted standards of practice
471 for meeting the provisions of this section. Such certification shall be provided
472 with the application for a Flood Hazard Development Permit, as required by
473 §16.5.11.E.(11).

474 (17) New construction or substantial improvement of wharves, piers and docks are
475 permitted in and over water and seaward of the mean high tide if the following
476 requirements are met:

477 (a) In Zones A and AE, wharves, piers and docks must comply with all applicable
478 local, state, and federal regulations; or

479 (b) In Zone VE, wharves, piers and docks must have a registered professional
480 engineer shall develop or review the structural design, specifications and plans for
481 the construction.

482 (18) Coastal floodplains.

483 (a) All New construction ~~located within Zones V1-V30~~ within Zones AE and VE must be
484 located landward of the reach of the highest annual spring tide, ~~except as provided by~~
485 §16.5.11.(H).(18)(f).

486 (b) New construction or substantial improvement of any structure located within Zones ~~V1-~~

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487 **30 AE** or VE must:

488 ~~[1] Be prohibited unless the following criteria are met:~~

- 489 i. ~~The area is zoned for general development or its equivalent, as defined in the~~
490 ~~Mandatory Shoreland Zoning guidelines adopted pursuant to 38 M.R.S.~~
491 ~~§438-A; or~~
492 ii. ~~The area is designated as densely developed as defined in 38 M.R.S. § 436-A,~~
493 ~~Subsection 3.~~

494 [1] Be elevated on posts or columns such that:

495 [a] The bottom of the lowest **horizontal** structural member of the lowest floor
496 (excluding the pilings or columns) is elevated to one foot above the base flood
497 **elevation level.**

498 [b] The pile or column foundation and the elevated portion of the structure attached
499 thereto is anchored to resist flotation, collapse, and lateral movement due to the
500 effects of wind and water loads acting simultaneously on all building components;
501 and

502 [c] Water loading values used must be those associated with the base flood. Wind
503 loading values used must be those required by applicable state and local building
504 standards.

505 [2] Have the space below the lowest floor:

506 [a] Free of obstructions; or

507 [b] Constructed with open wood lattice-work, or insect screening intended to collapse
508 under wind and water without causing collapse, displacement, or other structural
509 damage to the elevated portion of the building or supporting piles or columns; or

510 [c] Constructed with non-supporting breakaway walls which have a design safe
511 loading resistance of not less than 10 nor more than 20 pounds per square foot.

512 [3] **Require a** registered professional engineer or architect **must to:**

513 [a] Develop or review the structural design, specifications and plans for the
514 construction, which must meet or exceed the technical criteria contained in the
515 Coastal Construction Manual (FEMA-55/~~February, 1986~~); and

516 [b] Certify that the design and methods of construction to be used are in accordance
517 with accepted standards of practice for meeting the criteria of **§16.5.11.H(18)(b).**

518 [4] **Must have the bottom of all electrical, heating, plumbing, ventilation and air**
519 **conditioning equipment, permanent fixtures and components, HVAC ductwork**

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520 and duct systems, and any other utility service equipment, facilities, machinery,
521 or connections servicing a structure, elevated to at least one foot above the base
522 floor elevation. Systems, fixtures, equipment, and components must not be
523 mounted on or penetrate through walls intended to break away under flood
524 loads.

525 (c) The use of fill for structural support in Zones Coastal AE V1-30 and VE is prohibited.

526 (d) Human alteration of sand dunes within Zones Coastal AE V1-30, and VE is prohibited
527 unless such alterations are part of a coastal resilience project such as revegetation
528 of dunes and ~~unless~~ it can be demonstrated by a registered professional engineer that
529 such alterations will not increase potential flood damage.

530 (e) The ~~enclosed~~ areas below the lowest floor ~~may~~ must be used solely for parking
531 vehicles, building access, and storage.

532 (f) Lobster sheds and fishing sheds may be located seaward of the mean high tide and
533 shall be exempt from the elevation requirement in §16.5.11.H.(9) only if permitted
534 as a special exception use following review and approval by the Planning Board, as
535 provided in §16.5.11.I, and if all the following requirements and those of
536 §16.5.11.H(1), §16.5.11.H(13) and §16.5.11.H.(14) are met.

537 [1] The special exception use must be limited to low value structures such as metal
538 or woodsheds 200 square feet or less and must not exceed one story.

539 [2] The structure must be securely anchored to the wharf or pier to resist flotation,
540 collapse, and lateral movement due to the effect of wind and water loads acting
541 simultaneously on all building components.

542 [3] The structure must not adversely increase wave or debris impact forces affecting
543 nearby buildings.

544 [4] The structure must have unfinished interiors and must not be used for human
545 habitation.

546 [5] Any mechanical, utility equipment, and fuel storage tanks must be anchored and
547 either elevated or floodproofed to at least one foot above the base flood elevation.

548 [6] All electrical outlets must be ground fault interrupt type. The electrical service
549 disconnect shall be located on shore above the base flood elevation and when
550 possible outside the special flood hazard area.

551 **I. Special Exception Use Review**

552 (1) The Planning Board will hear and decide upon applications for special exception
553 uses provided for in this ordinance. The Planning Board will hear and approve,
554 approve with conditions, or disapprove all applications for special exception uses.

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555 An applicant informed by the Code Enforcement Officer or Town Planner that a
556 special exception use permit is required must file an application for the permit with
557 the Planning Board.

558 (2) Review procedure for a special exception flood hazard development permit

559 [a] The flood hazard development permit application with additional information
560 attached addressing how each of the special exception use criteria specified in
561 this ordinance will be satisfied, may serve as the permit application for the
562 special exception permit.

563 [b] Before deciding any application, the Planning Board must hold a public
564 hearing on the application within thirty (30) days of their receipt of the
565 application.

566 [c] If the Planning Board finds that the application satisfies all relevant
567 requirements of the ordinance, the Planning Board must approve the
568 application or approve with conditions within 45 days of the date of the public
569 hearing.

570 [d] A special exception permit issued under the provisions of this ordinance will
571 expire if the work or the change involved is not commenced within 180 days of
572 the issuance of the permit by the Planning Board.

573 [e] The applicant must be notified by the Planning Board in writing over the
574 signature of the Chair of the Planning Board that flood insurance is not
575 available for structures located entirely over water or seaward of mean high
576 tide.

577 (3) Expansion of Special Exception Uses

578 [a] No existing building or use of any premises may be expanded or enlarged
579 without a permit issued under this section if that building or use was
580 established or constructed under a previously issued special exception permit
581 or if it is a building or use which would require a special exception permit if
582 being newly-established or constructed under this ordinance.

583 J. Certificate of compliance.

584 (1) No land in a special flood hazard area may be occupied or used and no structure which is
585 constructed or substantially improved may be occupied until a certificate of compliance is
586 issued by the Code Enforcement Officer subject to the following provisions:

587 [a] For new construction or substantial improvement of any elevated structure
588 allowed by this ordinance, the applicant must submit:

589 [1] ~~The applicant must submit~~ An elevation certificate completed by a registered

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- 590 professional Maine land surveyor, registered professional engineer, or
591 architect for compliance with §16.5.11.H(8), (9), (10) or (18); and
- 592 ~~A registered professional engineer or architect in the case of:~~
- 593 ~~[1] Floodproofed, nonresidential structures, for compliance with § 16.5.11.H(7); and~~
- 594 [2] For structures in Zones Coastal AE (as defined) and VE, certification by a
595 registered professional engineer or architect that the design and methods of
596 cConstruction used are in compliance of structures in the coastal floodplains
597 for compliance with §16.5.11.H.(18)(b).
- 598 (2) The applicant ~~tion~~ must submit written notification to the Code Enforcement Officer
599 that the development is complete and complies with the provisions of this ordinance.
600 for a certificate of compliance is to be submitted by the applicant in writing, along
601 with a completed elevation certificate, to the Code Enforcement Officer.
- 602 (3) Within 10 working days, the Code Enforcement Officer ~~is to~~ must: ~~review the~~
603 ~~application within 10 working days of receipt of the application and issue a~~
604 ~~certificate of compliance, provided the building conforms with the provisions of this~~
605 ~~article.~~
- 606 (a) Review the required certificate(s) and the applicant’s written notification;
607 and
- 608 (b) Upon determination that the development conforms to the provisions of this
609 ordinance, issue a certificate of compliance.
- 610 K. Review of subdivision and development proposals.
- 611
- 612 (1) The Planning Board must, when reviewing subdivisions and other proposed
613 developments that require review under other federal law, state law or local ordinances or
614 regulations, and as well as all projects on five or more disturbed acres, or in the case of
615 manufactured home parks divided into two or more lots, assure that:
- 616 (a) All such proposals are consistent with the need to minimize flood damage.
- 617 (b) All public utilities and facilities, such as sewer, gas, electrical and water systems,
618 are located and constructed to minimize or eliminate flood damages.
- 619 (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- 620 (d) All proposals include base flood elevation, flood boundaries, and, in a riverine
621 floodplain, floodway data. These determinations shall be based on engineering
622 practices recognized by the Federal Emergency Management Agency.
- 623 (e) Any proposed development plan must include a ~~statement~~ condition of plan

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Blue highlight indicates major subsections for easier reference.

624 approval that structures on any lot in the development having any portion of
625 its land within a Special Flood Hazard Area are to be constructed in
626 accordance with §16.5.11.H of this ordinance requiring that ~~the developer~~
627 will require that:

628 [1] sSuch requirements will be included in any deed, lease, purchase and sale
629 agreement, or document transferring or expressing an intent to transfer any
630 interest in real estate or structure, including, but not limited to, a time-share
631 interest. The statement must clearly articulate that the municipality may enforce
632 any violation of the construction requirement and that fact is also to must also
633 be included in the deed or any other document previously described. The
634 construction requirement must also be clearly stated on any map, plat or plan to
635 be signed by the Planning Board or local reviewing authority as part of the
636 approval process.

637 **L. Appeals and variances**

638
639 (1) The Board of Appeals may, upon written application of an aggrieved party,
640 hear and decide appeals where it is alleged that there is an error in any order,
641 requirement, decision, or determination made by, or failure to act by, the Code
642 Enforcement Officer or the Planning Board in the administration or
643 enforcement of the provisions of this Ordinance.

644
645 (2) The Board of Appeals may grant a variance from the requirements of the
646 ordinance consistent with state law and following criteria:

647 (a) Variances must not be granted within any designated regulatory floodway if
648 any increase in flood levels during the base flood discharge would result.

649 (b) Variances will be granted only upon:

650 [1] A showing of good and sufficient cause, and

651 [2] A determination that should a flood comparable to the base flood
652 occur, the granting of a variance will not result in increased flood
653 heights, additional threats to public safety, public expense, or create
654 nuisances, cause fraud or victimization of the public, or conflict with
655 existing local laws or ordinances; and,

656 [3] A showing that the issuance of the variance will not conflict with other
657 state, federal, or local laws or ordinances; and

658 [4] A determination that failure to grant the variance would result in
659 "undue hardship," which in this sub-section means:

660 [a] That the land in question cannot yield a reasonable return unless a
661

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- 662 **variance is granted; and**
- 663 [b] **That the need for a variance is due to the unique circumstances of**
664 **the property and not to the general conditions in the neighborhood;**
665 **and**
- 666 [c] **That the granting of a variance will not alter the essential character**
667 **of the locality; and**
- 668 [d] **That the hardship is not the result of action taken by the applicant**
669 **or a prior owner.**
- 670 (3) **Variances must only be issued upon a determination that the variance is the**
671 **minimum necessary, considering the flood hazard, to afford relief, and the**
672 **Board of Appeals may impose such conditions to a variance as is deemed**
673 **necessary.**
- 674 (4) **Variances may be issued for new construction, substantial improvements, or**
675 **other development for the conduct of a functionally dependent use provided**
676 **that:**
- 677 (a) **The criteria of §16.5.11.L(2) and (3) and §16.5.11.H(13) are met, and**
678 (b) **The structure or other development is protected by methods that minimize**
679 **flood damages during the base flood and create no additional threats to**
680 **public safety.**
- 681 (5) **Variances may be issued for the repair, reconstruction, rehabilitation, or**
682 **restoration of historic structures upon the determination that:**
- 683 (a) **The development meets the criteria of §16.5.11.L(2) and (3); and,**
684 (b) **The proposed repair, reconstruction, rehabilitation, or restoration will not**
685 **preclude the structure’s continued designation as a Historic Structure and**
686 **the variance is the minimum necessary to preserve the historic character and**
687 **design of the structure.**
- 688 (6) **Variances may be issued for new construction and substantial improvement of**
689 **agricultural structures being used for the conduct of agricultural uses**
690 **provided that:**
- 691 (a) **The development meets the criteria of §16.5.11.L(2) and (3); and,**
692 (b) **The development meets the criteria of §16.5.11.H(13) and (14).**
693 (a) **The development meets the criteria of §16.5.11.L(2) and (3); and,**
694 (b) **The development meets the criteria of §16.5.11.H(13) and (14).**
695 (a) **The development meets the criteria of §16.5.11.L(2) and (3); and,**
696 (b) **The development meets the criteria of §16.5.11.H(13) and (14).**
697 (a) **The development meets the criteria of §16.5.11.L(2) and (3); and,**
698 (b) **The development meets the criteria of §16.5.11.H(13) and (14).**

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- 699 (7) Any applicant who meets the criteria of §16.5.11.L(2) and (3) and
700 §16.5.11.L(4), (5) or (6) shall be notified by the Board of Appeals in writing
701 over the signature of the Chairman of the Board of Appeals that:
702
703 (a) The issuance of a variance to construct a structure below the base flood level
704 will result in greatly increased premium rates for flood insurance up to
705 amounts as high as \$25 per \$100 of insurance coverage; and,
706
707 (b) Such construction below the base flood level increases risks to life and
property; and
708
709 (c) The applicant agrees in writing that the applicant is fully aware of all the
710 risks inherent in the use of land subject to flooding, assumes those risks, and
711 agrees to indemnify and defend the municipality against any claims filed
712 against it that are related to the applicant's decision to use land located in a
713 floodplain and that the applicant individually releases the municipality from
714 any claims the applicant may have against the municipality that are related
to the use of land located in a floodplain.

715 **M. Appeal Procedure for Administrative and Variance Appeals**

- 716
717 (1) An administrative or variance appeal may be taken to the Board of Appeals by an
718 aggrieved party within thirty days after receipt of a written decision of the Code
719 Enforcement Officer or Planning Board.
720
721 (2) Upon being notified of an appeal, the Code Enforcement Officer or the Planning
722 Board, as appropriate will transmit to the Board of Appeals all of the papers
723 constituting the record of the decision appealed from.
724
725 (3) The Board of Appeals must hold a public hearing on the appeal within thirty-five
726 days of its receipt of an appeal request.
727
728 (4) The person filing the appeal will have the burden of proof.
729
730 (5) The Board of Appeals must decide all appeals within thirty-five days after the
731 close of the hearing, and issue a written decision on all appeals.
732
733 (6) The Board of Appeals must submit to the Code Enforcement Officer, a report of
734 all variance actions, including justification for the granting of the variance and an
735 authorization for the Code Enforcement Officer to issue a Flood Hazard
736 Development Permit, which includes any conditions to be attached to said permit.
737
738 (7) Any aggrieved party who participated as a party during the proceedings before
739 the Board of Appeals may take an appeal to Superior Court in accordance with
740 State laws within forty-five days from the date of any decision of the Board of

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Appeals.

743 **N. Enforcement and penalties**

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(1) **It is the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.**

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749

(2) **The penalties contained in Title 30-A MRSA § 4452 apply to any violation of this Ordinance.**

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752

(3) **In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of:**

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755

(a) **The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;**

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758

(b) **A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;**

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760
761

(c) **A clear statement that the public body making the declaration has authority to do so and a citation to that authority;**

762
763
764

(d) **Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,**

765
766
767

(e) **A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.**

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769
770

O. Validity and severability

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

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775

P. Conflict with other ordinances

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

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Q. Abrogation

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783 **This ordinance repeals and replaces any municipal ordinance previously enacted to comply**
784 **with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).**
785

786 **R. Disclaimer of liability**

787
788 **The degree of flood protection required by the ordinance is considered reasonable but does**
789 **not imply total flood protection.**
790
791

Chapter 16.3.2 Definitions related to Floodplain Management update DRAFT

1 ACCESSORY STRUCTURE

2 A structure that is incidental and subordinate to and serves a principal building or use
3 while serving that principal building or use on the same lot.

4 AGRICULTURAL STRUCTURE

5 Structures that are used exclusively for agricultural purposes or uses in connection with
6 the production, harvesting, storage, raising, or drying of agricultural commodities and
7 livestock. Structures that house tools or equipment used in connection with these purposes
8 or uses are also considered to have agricultural purposes or uses.

9 **FLOOD, AREA OF SPECIAL FLOOD HAZARD , OR SPECIAL FLOOD HAZARD** 10 **AREA**

11 The land in the floodplain having a one percent or greater chance of flooding in any given year, as
12 specifically identified in the Flood Insurance Study cited in §16.5.11.C. ~~Establishment of areas~~

13 **BASEMENT**

14 An area below the first floor having a floor-to-ceiling height of six feet or more and 50% of its
15 volume below the existing ground. When used in the context of §16.5.11 Floodplain
16 Management, any area of a building that includes a floor that is subgrade (below ground
17 level) on all sides.

18 **CODE ENFORCEMENT OFFICER (CEO)**

19 Person(s) certified under Title 30-A M RSA, Section 4451 (including exceptions in Section
20 4451, paragraph 1) and employed and ~~The person~~ duly authorized by the Town to carry
21 out the duties, including enforcement of all applicable comprehensive planning and land
22 use laws, as prescribed herein and in the Town Administrative Code.

23 COASTAL AE ZONE

24 The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and 3.0
25 feet and bounded by a line labeled the “Limit of Moderate Wave Action” (LiMWA) on a
26 Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are
27 applied to development, new construction, and substantial improvements in the Coastal AE
28 Zone.

29 COASTAL HIGH HAZARD AREA

30 An area of special flood hazard extending from offshore to the inland limit of a primary
31 frontal dune along an open coast and any other area subject to high velocity wave action
32 from storms or seismic sources. Coastal High Hazard Areas are designated as Zone VE and
33 Zone AE bounded by a line labeled “Limit of Moderate Wave Action” (LiMWA) on a
34 Flood Insurance Rate Map (FIRM).

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CONTAINMENT WALL

A wall surrounding all sides of an above ground tank to contain any spills or leaks.

DEVELOPMENT

- A. A **manmade** change in land use involving alteration of the land, water or vegetation **including but not limited to buildings, structures, mining, dredging, filling, grading, paving excavation, drilling operations, storage of equipment or materials, and the storage, deposition or extraction of materials;** or
- B. The addition or alteration of structures or other **types of** construction **such as but not limited to roads, stormwater management systems, culverts, utilities, and communications systems. not naturally occurring.**

ELEVATED BUILDING

- A. A non-basement building:
 - (1) Built, in the case of a building in Zones **A1—30, A or AE, A99, AO or AH, to have so that** the top of the elevated floor, **or in the case of a building in Zones Coastal AE 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, or piers ~~or~~ **stilts;** and
 - (2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.
- B. **In the case of Zones A or AE, this term “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 §16.5.11.H(14).**
- C. **In the case of Zones Coastal AE and VE , the term “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 §16.5.11.H(18)(b)[2][c].**

ELEVATION CERTIFICATE

An official form (FEMA Form (FEMA Form ~~81-31, 05/90~~, FF-206-FY-22-152, as amended) that ~~A.~~ is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.
~~B. Is required for purchasing flood insurance.~~

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EXISTING MANUFACTURED HOME PARK OR SUBDIVISION (FOR FLOODPLAIN)

For the purposes of §16.5.11 Floodplain Management, a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community’s first floodplain management regulations.

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; or
- (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 ~~or~~ 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 a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A(1) of this definition.

FUNCTIONALLY DEPENDENT USE (IN FLOODPLAIN)

For the purposes of §16.5.11 Floodplain Management, a use which 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.

LIMIT OF MODERATE WAVE ACTION (LiMWA)

The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

Chapter 16.3.2 Definitions related to Floodplain Management update DRAFT

110 LOCALLY ESTABLISHED DATUM

111 For the purposes of §16.5.11 Floodplain Management, an elevation established for a specific
112 site to which all other elevations at the site are referenced. This elevation is generally not
113 referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical
114 Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level
115 data is too far from a specific site to be practically used.

116 MANUFACTURED HOME (FOR FLOODPLAIN)

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

122 MANUFACTURED HOME PARK OR SUBDIVISION (FOR FLOODPLAIN)

123 For floodplain management purposes, a parcel (or contiguous parcels) of land divided into
124 two or more manufactured home lots for rent or sale.

125 MEAN SEA LEVEL

126 For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum
127 (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base
128 flood elevations shown on a community's Flood Insurance Rate Map are referenced.

129 MINOR DEVELOPMENT (FOR FLOODPLAIN)

130 For the purposes of §16.5.11 Floodplain Management, all development that is not new
131 construction or a substantial improvement, whose value is less than 50% of the market
132 value of the structure. It also includes but is not limited to: accessory structures as
133 provided for in §16.5.11.H(12), mining, dredging, filling, grading, paving, excavation,
134 drilling operations, storage of equipment or materials, deposition or extraction of
135 materials, public or private sewage disposal systems or water supply facilities that do not
136 involve structures; and non-structural projects such as bridges, dams, towers, fencing,
137 pipelines, wharves, and piers.

138 NATIONAL GEODETIC VERTICAL DATUM (NGVD)

139 The national vertical datum, a standard established in 1929, used by the National Flood
140 Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and has been
141 called “1929 Mean Sea Level” (MSL).

146 **NORTH AMERICAN VERTICAL DATUM (NAVD)**

147 **The national datum whose standard was established in 1988, which is the new vertical**
148 **datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance**
149 **Rate Maps. NAVD is based upon the vertical data used by other North American countries**
150 **such as Canada and Mexico and was established to replace NGVD because of constant**
151 **movement of the earth’s crust, glacial rebound and subsidence, and the increasing use of**
152 **satellite technology.**

153 **RECREATIONAL VEHICLE (FOR FLOODPLAIN)**

154 **For the purposes of §16.5.11 Floodplain Management, a vehicle that is:**

- 155
- 156
- 157 **A. Built on a single chassis,**
- 158
- 159 **B. 400 square feet or less when measured at the largest horizontal projection, not**
160 **including slide-outs,**
- 161
- 162 **C. Designed to be self-propelled or permanently towable by a motor vehicle, and**
- 163
- 164 **D. Designed primarily for not for use as a permanent dwelling but as temporary**
165 **living quarters for recreational, camping, travel, or seasonal use.**
- 166

167 **SPECIAL EXCEPTION USE (FOR FLOODPLAIN)**

168

169 **A use that, because of its potential impact on surrounding areas and structures, is**
170 **permitted only upon review and approval by the Planning Board pursuant to §16.5.11.I(2).**

171

172 **STRUCTURE (FOR FLOODPLAIN)**

173

174 **For floodplain management purposes, a walled and roofed building. A gas or liquid storage**
175 **tank that is principally above ground is also a structure.**

176

177 **SUBSTANTIAL IMPROVEMENT**

178 Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of
179 which equals or exceeds 50% of the market value of the structure before the start of construction
180 of the improvement. This term includes structures which have incurred substantial damage,
181 regardless of the actual repair work performed. The term does not, however, include either:

- 182 **A.** Any project for improvement of a structure to correct existing violations of state or local
183 health, sanitary or safety code specifications which have been identified by the local code
184 enforcement official and which are the minimum necessary to assure safe living conditions;
185 or

Chapter 16.3.2 Definitions related to Floodplain Management update DRAFT

- 186 B. Any alteration of an historic structure, provided that the alteration will not preclude the
187 structure's continued designation as an historic structure, and a variance is obtained from
188 the Board of Appeals.

189 REGULATORY FLOODWAY

- 190 A. The channel of a river or other water course and the adjacent land areas that must be reserved
191 in order to discharge the base flood without cumulatively increasing the water surface
192 elevation more than ~~one-foot~~ a designated height, and,

- 193 B. ~~In riverine areas~~ When not designated on the community's Flood Insurance Rate Map,
194 it is considered to be the channel of a river or other water course and the adjacent land areas
195 to a distance of one-half the width of the floodplain, as measured from the normal high water
196 mark to the upland limit of the floodplain.

197 VIOLATION (FOR FLOODPLAIN)

198

- 199 The failure of a structure or development to comply with the Town's floodplain
200 management regulations.