

# City of Auburn, Maine

*"Maine's City of Opportunity"*

Office of Planning & Permitting

## Planning Board Report

To: Auburn Planning Board

From: Eric J. Cousens, Director of Planning and Permitting 

Re: Flood Ordinance and Map Updates for 2013 NFIP Requirements

Date: May 14, 2013 Planning Board Meeting

The Federal Emergency Management Agency (FEMA) published revised floodplain maps for Androscoggin County in June of 2012. As a result, proposed floodplain designations for some properties in Auburn were reclassified on the draft maps. Some properties now fall within a more stringent floodplain zone, while others may have been removed from previously identified floodplain areas. One substantial change is an approximately 1 foot lower flood elevation around Taylor Pond. Last summer a notice was sent to property owners and was followed by a number of public meetings to provide local comments and information for FEMA to consider in revising the Flood Insurance Rate Maps (FIRMs). Those maps have been finalized by FEMA and will become effective on July 8, 2013. The next phase of this process is for local adoption of the flood maps by the City. If we wish to continue to participate in the National Flood Insurance Program (NFIP), the local adoption of the maps is mandatory. The attached letter was sent to over 1400 property owners.

The proposed FEMA FIRMs are posted for viewing on the City's website at <http://www.auburnmaine.gov/Pages/Government/Floodplain-Info->.

FIRMs are used to determine if flood insurance is required for loans and to set insurance rates. The City of Auburn participates in the NFIP to ensure that property owners have access to the Federal Insurance Program. The City also participates in the Community Rating System program to allow for discounted insurance rates throughout the City by meeting Federal flood damage prevention and education requirements.

Staff recommends that the Board discuss this proposal and forward a positive recommendation for consideration by the City Council to adopt the standards and referenced maps and continue participating in the NFIP.

# City of Auburn, Maine

*"Maine's City of Opportunity"*

## Office of Planning & Permitting

April 23, 2013

Dear Property Owner,

The Federal Emergency Management Agency (FEMA) published revised floodplain maps for Androscoggin County in June of 2012. As a result, proposed floodplain designations for some properties in Auburn were reclassified on the draft maps. Some properties now fall within a more stringent floodplain zone, while others may have been removed from previously identified floodplain areas. One substantial change is an approximately 1 foot lower flood elevation around Taylor Pond. This letter is being sent to you because City records indicate that you own property that is currently mapped as being located within or proposed to be mapped within the 100-year flood zone. Last summer a notice was sent to property owners and was followed by a number of public meetings to provide local comments and information for FEMA to consider in revising the maps. Those maps have been finalized by FEMA and will become effective in July 2013. The next phase of this process is for local adoption of the flood maps by the City. If we wish to continue to participate in the National Flood Insurance Program (NFIP), the local adoption of the maps is mandatory. This letter is being sent to over 1400 property owners. Due to the large number of property owners we have created a web page to help you access the information you need to determine how the map changes affect your property (ies).

The proposed FEMA Flood Insurance Rate (FIRM) maps are posted for viewing on the City's website at <http://www.auburnmaine.gov/Pages/Government/Floodplain-Info->. The directions on that site will help you search for your property and compare the current flood map to the proposed flood map. There is also a spread sheet with the changes to each property estimated based on mapping information. We made every effort to provide an accurate analysis on that list, but property owners need to view the maps to be sure of the changes. The maps may also be accessed in the City's Planning and Permitting Department, located on the 1st floor of Auburn City Hall between 8am and 4:30pm, M-F. If the maps indicate that the floodplain is close to any structures on your property you are encouraged to view the official paper copies of the maps. Additional information and resources are also linked to the web page to help answer any questions.

FEMA published notices in the local newspaper as required by law, but City Council and staff wanted to mail an additional notice ensure awareness of the changes. FIRMs are used to determine if flood insurance is required for loans and to set insurance rates. The City of Auburn participates in the NFIP to ensure that property owners have access to the Federal Insurance Program. The City also participates in the Community Rating System program to allow for discounted insurance rates throughout the City by meeting Federal flood damage prevention and education requirements.

The process for the current and final phase of the map adoption process will be as follows. You are invited to participate in any of the public meetings or contact the Planning and Permitting Office or State Floodplain Management Program Office for information or questions.

Eric Cousens, Director of Planning and  
Permitting  
Auburn, Maine 04210  
(207) 333-6601, ext. 1154  
[ecousens@auburnmaine.gov](mailto:ecousens@auburnmaine.gov)

Sue Baker, CFM, Program Coordinator  
207-287-8063  
[sue.baker@maine.gov](mailto:sue.baker@maine.gov)

**May 2, 2013 at 6PM**

Community Room, 2<sup>nd</sup> Floor of Auburn City Hall, 60 Court Street Auburn, Maine 04210  
Joint Auburn/Lewiston and surrounding communities of Androscoggin County Public Outreach Meeting  
hosted by State and FEMA Staff to cover the following topics and answer questions:

- Insurance availability and policy changes
- Community resilience and hazard mitigation
- Floodplain map availability
- Letters of Map amendment

**May 14, 2013 6PM Auburn Planning Board Meeting**

City Council Chambers at Auburn City Hall, 60 Court Street, Auburn Maine 04210  
Public discussion and public hearing regarding proposed floodplain zoning map changes and forward a recommendation to the Auburn City Council.

**May 20, 2013 5:30PM City Council Workshop**

City Council Chambers at Auburn City Hall, 60 Court Street, Auburn Maine 04210  
Workshop with Council to discuss the proposed maps and the Planning Board Recommendation. This is just an introduction to the subject and no action expected at this meeting. Workshops don't provide an opportunity for public input but the meeting following the workshop at 7pm will have an open session for anyone wishing to speak to the Council.

**June 3, 2013 7pm City Council Meeting**

City Council Chambers at Auburn City Hall, 60 Court Street, Auburn Maine 04210  
The Council will discuss the proposed maps and the Planning Board Recommendation. This is a public reading and public input is requested from anyone wishing to speak to the Council about this subject to help the Council make a decision.

**June 17, 2013 7pm City Council Meeting**

City Council Chambers at Auburn City Hall, 60 Court Street, Auburn Maine 04210  
The Council will discuss the proposed maps and the Planning Board Recommendation. This is a second and final public reading, public hearing and public input is requested from anyone wishing to speak to the Council about this subject to help the Council make a decision.

Please feel free to call or email Sue Baker or myself with any questions.

Sincerely,



Eric Cousens, City Planner / Director of Planning and Permitting



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

PAUL R. LEPAGE  
GOVERNOR

93 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0093

WALTER E. WHITCOMB  
COMMISSIONER

January 10, 2013

Mr. Clinton Deschene, City Manager  
City of Auburn  
60 Court Street  
Auburn, Maine 04210

COPY

[Certified Mail]

RE: Updated ordinance requirement for compliance with the National Flood Insurance Program (NFIP)

Dear Mr. Deschene

Your community should have recently received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new digital flood maps for all of Androscoggin County for July 8, 2013. This letter marks the beginning of a six month time period for communities to update their Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date. **Your community must adopt an updated Floodplain Management Ordinance which references the new map date on or before July 8, 2013 in order to avoid being immediately suspended from the NFIP.**

Enclosed is a copy of the most current state model Floodplain Management Ordinance that has been customized specifically for your community. Participation in the NFIP provides protection to those members of your community who may be affected by flooding. One of the most important benefits is your town's eligibility for disaster funding to repair roads damaged by flooding when your county is in a declared disaster area. In addition, flood insurance is available to those who have federally backed mortgages in the floodplain. This is all possible by way of your community's commitment to adopt, administer and enforce its floodplain ordinance and your commitment to regulate development within flood prone areas.

Adoption of the new maps prior to the final map date will assure uninterrupted and continued participation in the NFIP. The enclosed ordinance contains all the changes that have occurred at the federal and state level since your ordinance was last adopted. Also enclosed is an instruction sheet that explains the ordinance adoption process. Since FEMA has very specific requirements regarding ordinance language we encourage communities to adopt the ordinance without changes. However, if you would like to make any changes, you should discuss them with this office prior to local consideration. This is to ensure that the ordinance remains compliant.

**Please make sure your community does not adopt any prior versions of the ordinance that we may have previously sent to your community.**

We filled in the application fee (in Article III) using the ordinance that is in effect now for your community. The application fee is set by the municipality so if you would like to review other fee options or change it, just let us know.

PHONE: (207) 287-2801

17 ELKINS LANE, WILLIAMS PAVILION  
[www.maine.gov/acf](http://www.maine.gov/acf)

FAX: (207) 287-2353

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. Please note that it is acceptable for the community to set the effective date of the ordinance to coincide with the day the new maps become effective.

Once your ordinance has been adopted, and certified by the Town Clerk, please send this office an electronic copy (if possible) and two (2) certified printed copies. We will forward one copy each to the FEMA regional office and the regional planning commission. An electronic copy will be filed here at the Maine Floodplain Management Program.

**Please provide us with contact information for the person who will be responsible locally for coordinating the ordinance update process. We would also like to know the scheduled dates for your public hearing and town meeting as we must track this information for all of Androscoggin County.** Please contact Janet Parker at 287-9981 or [janet.parker@maine.gov](mailto:janet.parker@maine.gov) as soon as this information is available.

Over the next few months we expect to host at least two outreach meetings in Androscoggin County. Usually one is scheduled for the afternoon and one in the early evening. These will be public informational sessions so that we can answer questions as to how folks will be affected by the new maps, particularly with regard to flood insurance. We hope you will have at least one local official in attendance and that you'll spread the word so that property owners have the opportunity to get their individual questions answered. Please feel free to contact me (287-8063 or [sue.baker@maine.gov](mailto:sue.baker@maine.gov)), Joe (287-8051 or [joseph.young@maine.gov](mailto:joseph.young@maine.gov)), or Janet (298-9981 or [janet.parker@maine.gov](mailto:janet.parker@maine.gov)) at any time throughout this process if you have questions or need additional assistance.

Best Regards,



Sue Baker, CFM  
State NFIP Coordinator

Enclosures: Customized 2013 Model Ordinance  
Adoption Instructions

Cc: Eric Cousens, City Planner



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Chapter 60 - ZONING  
ARTICLE XII. - ENVIRONMENTAL REGULATIONS  
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*DIVISION 2. - FLOODPLAIN OVERLAY DISTRICT*

- ~~Sec. 60-892. - Definitions.~~Purpose and Establishment.
- ~~Sec. 60-893. - Enforcement and penalties.~~ Permit required.
- ~~Sec. 60-894. - Establishment.~~ Application for permit.
- ~~Sec. 60-895. - Permit required.~~Application Fee and Expert's Fee.
- ~~Sec. 60-896. - Application for permit.~~Review Standards for Flood Hazard Development Permit Applications.
- ~~Sec. 60-897. - Review of flood hazard development permit applications.~~Development Standards.
- ~~Sec. 60-898. - Development standards.~~Certificate of Compliance.
- ~~Sec. 60-899. - Certificate of compliance.~~Review of Subdivisions and Development Proposals.
- ~~Sec. 60-900. - Review of subdivision and development proposals.~~Appeals and Variances.
- ~~Sec. 60-901. - Appeals and variances.~~Enforcement and Penalties.
- Sec. 60-902. – Validity and Severability.
- Sec. 60-903. – Conflict With Other Ordinances.
- Sec. 60-904. – Definitions.
- Sec. 60-905. – Abrogation.
- Secs. 60-9026—60-920. - Reserved.

**Sec. 60-892. – Definitions**Purpose and Establishment.

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

~~100-year flood. See Base flood.~~

~~Adjacent grade means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.~~

~~Area of shallow flooding means a designated AO and AH zone on a community's flood insurance rate map (FRIM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

~~Area of special flood hazard means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the flood insurance study cited in section 60-894.~~

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

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~~*Basement* means any area of the building having its floor subgrade (below ground level) on all sides.~~

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

~~*Building.* See *Structure.*~~

~~*Certificate of compliance* means a document signed by the code enforcement officer stating that a structure is in compliance with all of the provisions of this division.~~

~~*Code enforcement officer* means any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.~~

~~*Development* means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.~~

~~*Elevated building* means a nonbasement building:~~

~~(1) Built, in the case of a building in zones A1-30, AE, A, A99, AO or AH, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, 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.~~

~~In the case of zones A1-30, AE, A, A99, AO or AH, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of floodwaters.~~

~~*Elevation certificate* means an official form (FEMA form 81-31, 05/93, as amended) that:~~

~~(1) Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and~~

~~(2) Is required for repurchasing flood insurance.~~

~~*Flood or flooding* means:~~

~~(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:~~

~~a. The overflow of inland or tidal waters.~~

~~b. The unusual and rapid accumulation or runoff of surface waters from any source.~~

~~(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1) of this definition.~~

~~*Flood elevation study* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.~~

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~~Flood insurance rate map (FIRM) means an official map of a community, on which the administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.~~

~~Flood insurance study. See Flood elevation study.~~

~~Floodplain or floodprone area means any land area susceptible to being inundated by water from any source. (See Flooding.)~~

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

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

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

~~Floodway. See Regulatory floodway.~~

~~Floodway encroachment lines means the lines marking the limits of floodways on federal, state, and local floodplain maps.~~

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

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

~~Historic structure means any structure that is:~~

- ~~(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~
- ~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;~~
- ~~(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or~~
- ~~(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - ~~a. By an approved state program as determined by the Secretary of the Interior; or~~
  - ~~b. Directly by the Secretary of the Interior in states without approved programs.~~~~

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~~*Locally established datum* means an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.~~

~~*Lowest floor* means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements described in section 60-898.~~

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

~~*Manufactured home park or subdivision* means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.~~

~~*Mean sea level* means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.~~

~~*Minor development* means all development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50 percent of the market value of the structure. The term "minor development" includes but is not limited to: mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or structures.~~

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

~~*Recreational vehicle* means a vehicle which is:~~

- ~~(1) Built on a single chassis;~~
- ~~(2) 400 square feet or less when measured at the largest horizontal projection;~~
- ~~(3) Designed to be self-propelled or permanently towable by a light duty truck; and~~
- ~~(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.~~

~~*Regulatory floodway* means:~~

- ~~(1) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than one foot; and~~
- ~~(2) In riverine areas is considered to be the channel of a river or other watercourse 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.~~

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

~~*Special flood hazard area.* See *Area of special flood hazard.*~~

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

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

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

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

- ~~(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or~~
- ~~(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.~~

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

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

~~(Ord. of 9-21-2009, § 5.1J)~~

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

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

It is the intent of the City of Auburn, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

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

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Auburn having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the City of Auburn, Maine.

The areas of special flood hazard, Zones A and AE for the City of Auburn, Androscoggin County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Androscoggin County, Maine" dated July 8, 2013 with accompanying "Flood Insurance Rate Map" dated July 8, 2013 with panels: 183, 184, 191, 192, 193, 194, 203, 211, 212, 213, 214, 302, 304, 306, 307, 308, 309, 312, 316, 317, 320, 326, 327, 328, 329, 336, 337, 338, 339, 341, 343, 430, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Androscoggin County," are hereby adopted by reference and declared to be a part of this Ordinance.

**Sec. 60-893. –Enforcement and penaltiesPermit Required.**

- ~~(a) It shall be the duty of the code enforcement officer to enforce the provisions of this division pursuant to 30-A M.R.S.A. § 4452.~~
- ~~(b) The penalties contained in section 1-15 shall apply to any violation of this division.~~
- ~~(c) In addition to any other actions, the code 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 sufficient to confirm its identity or location;~~
  - ~~(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 pursuant to section 1316, as amended, of the National Flood Insurance Act of 1968, 42 USC 4001 et seq.~~~~

~~(Ord. of 9-21-2009, § 5.11)~~

Before any construction or other development (as defined in Section 60-904), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 60-892, a Flood Hazard Development Permit shall be obtained from the Planning and Development Department. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the City of Auburn, Maine.

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**Sec. 60-894. — EstablishmentApplication for Permit.**

- (a) ~~Certain areas of the city are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.~~
- (b) ~~The city has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968, 42 USC 4001 et seq., as delineated in this article.~~
- (c) ~~It is the intent of the city to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards. This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to 30-A M.R.S.A. §§ 3001—3007, 4352 and 4401—4407.~~
- (d) ~~The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the community having a special flood hazard be identified by the Federal Emergency Management Agency (FEMA) and that floodplain management measures be applied in such flood hazard areas. This division establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas.~~
- (e) ~~The areas of special flood hazard, zones A and AE, identified by FEMA in a report entitled "Flood Insurance Study—City of Auburn, Maine, Androscoggin County," dated October 18, 1995 with accompanying Flood Insurance Rate Map dated October 18, 1995, is hereby adopted by reference and declared to be a part of this division.~~

(Ord. of 9-21-2009, § 5.1A)

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

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;
- [Items H-K.2 apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:

- 1. base flood at the proposed site of all new or substantially improved structures, which is determined;

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- a. in Zones AE, from data contained in the "Flood Insurance Study – Androscoggin County, Maine" as described in Section 60-892; or,
- b. in Zone A:
  - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Section 60-897.K. and 60-899.D.;
  - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
  - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
- 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
- 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
- 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 60-897;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Section 60-897 by a registered professional engineer or architect:
  - 1. a Floodproofing Certificate (FEMA Form 81-65), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 60-894.H.4.; Section 60-897.G.; and other applicable standards in Section 60-897;
  - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 60-897.L.2.a.;
  - 3. a certified statement that bridges will meet the standards of Section 60-897.M.;
  - 4. a certified statement that containment walls will meet the standards of Section 60-897.N.;

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- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Section 60-897 will be met.

**Sec. 60-895. - Permit required Application Fee and Expert's Fee.**

~~Before any construction or other development as defined in section 60-898, including the placement of manufactured homes, begins within any areas of special flood hazard established in section 60-894, a flood hazard development permit shall be obtained from the community development office. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances.~~

~~(Ord. of 9-21-2009, § 5.1B)~~

A non-refundable application fee of \$50 for all minor development and \$100 for all new construction or substantial improvements shall be paid to the City.

An additional fee may be charged if the Planning and Development Department and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

**Sec. 60-896. - Application for permit Review Standards for Flood Hazard Development Permit.**

~~The application for a flood hazard development permit shall be submitted to the community development office Planning and Development Department and shall include:~~

- ~~(1) The name and address of the applicant;~~
- ~~(2) An address and a map indicating the location of the construction site;~~
- ~~(3) A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;~~
- ~~(4) A statement of the intended use of the structure;~~
- ~~(5) A statement as to the type of sewage system proposed;~~
- ~~(6) Specification of dimensions of the proposed structure;~~
- ~~(7) The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum in zone A only, of the:~~

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- a. ~~Base flood at the proposed site of all new or substantially improved structures, which is determined:
    - 1. ~~In zones A1-30, AE, AO and AH from data contained in the Flood Insurance Study—City of Auburn, Maine, as described in section 60-894; or~~
    - 2. ~~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;~~~~
  - b. ~~Highest and lowest grades at the site adjacent to the walls of the proposed building;~~
  - c. ~~Lowest floor, including basement; and whether or not such structures contain a basement; and~~
  - d. ~~Level, in the case of nonresidential structures only, to which the structures will be floodproofed;~~
- (8) ~~A description of a base flood elevation reference point established on the site of all new or substantially improved structures;~~
- (9) ~~A written certification by a registered land surveyor that the elevations shown on the application are accurate;~~
- (10) ~~Certification by a registered professional engineer or architect that floodproofing methods for any nonresidential structures will meet the floodproofing criteria of subsection (7)d of this section, section 60-898(7) and other applicable standards in section 60-898~~
- (11) ~~A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;~~
- (12) ~~A statement of construction plans describing in detail how each applicable development standards in section 60-898 will be met; and~~
- (13) ~~A fee in the amount provided in the city fee schedule.~~
- (Ord. of 9-21-2009, § 5.1C)

The Planning and Development Department shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 60-897 (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  - 1. the base flood and floodway data contained in the “Flood Insurance Study – Androscoggin County, Maine” as described in Section 60-892;
  - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 60-894.H.1.b.; Section 60-897.K.; and Section 60-899.D., in order to administer Section 60-897 of this Ordinance; and,

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3. when the community establishes a base flood elevation in a Zone A by methods outlined in Section 60-894.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 60-892 of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
  1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Section 60-897, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 60-897.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Section 60-897.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 60-900 of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of

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Compliance and certifications of design standards required under the provisions of Section 60-894, 60-897 and 60-898 of this Ordinance.

**Sec. 60-897. -~~Review of flood hazard development permit applications~~Development Standards.**

The community development office shall:

- ~~(1) Review all applications for the flood hazard development permit to ensure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of section 60-898 have, or will be met;~~
- ~~(2) Utilize, in the review of all flood hazard development permit applications, the base flood data contained in the Flood Insurance Study—City of Auburn, Maine, as described in section 60-894. In special flood hazard areas where base flood elevation data are not provided, the CEO shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to sections 60-896(7)a2, 60-898(1)a, and 60-900(4) in order to administer section 60-898~~
- ~~(3) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in section 60-894~~
- ~~(4) In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334;~~
- ~~(5) Notify adjacent municipalities, the department of environmental protection, the state planning office (floodplain management program), and FEMA prior to any alteration or relocation of a watercourse;~~
- ~~(6) Issue a two part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the community development office Planning and Development Department with an application for part II of the flood hazard development permit and shall include an elevation certificate completed by a registered state surveyor for compliance with the elevation requirements of section 60-898(6), (7), (8) and (10). Following review of the application, which review shall take place within 72 hours of receipt of the application, the community development office Planning and Development Department shall issue part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; and~~
- ~~(7) Maintain, as a permanent record, copies of all flood hazard development permits issued and data relevant thereto, including reports of the board of appeals on variances granted under the provisions of section 60-901, and copies of elevation certificates and certificates of compliance required under section 60-899~~

(Ord. of 9-21-2009, § 5.1D)

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

**A. All Development - All development shall:**

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1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and,
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. Residential** - New construction or substantial improvement of any residential structure located within:
1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 60-894.H.1.b.; Section 60-896.B; or Section 60-899.D.
- G. Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

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c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 60-894.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 60-894.H.1.b.; Section 60-896.B; or Section 60-899.D., or

a. together with attendant utility and sanitary facilities meet the floodproofing standards of Section 60-897.G.1.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zones AE shall:

a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

(1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

(2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

(3) all components of the anchoring system described in Section 60-897.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

a. be elevated on a permanent foundation, as described in Section 60-897.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 60-894.H.1.b.; Section 60-896.B; or Section 60-899.D.; and

b. meet the anchoring requirements of Section 60-897.H.1.c.

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I. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 60-897.H.1.

J. **Accessory Structures** - Accessory Structures, as defined in Section 60-904, located within Zones A and AE, shall be exempt from the elevation criteria required in Section 60-897.F. & G. above, if all other requirements of Section 60-897 and all the following requirements are met. Accessory Structures shall:

- 1. be 500 square feet or less and have a value less than \$3000;
- 2. have unfinished interiors and not be used for human habitation;
- 3. have hydraulic openings, as specified in Section 60-897.L.2., in at least two different walls of the accessory structure;
- 4. be located outside the floodway;
- 5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- 6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones A 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 in the floodway as determined in Section 60-

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897.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37).

3. In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Section 60-897, including the elevation requirements of Section 60-897, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Section 60-904;

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

a. be engineered and certified by a registered professional engineer or architect; or,

b. meet or exceed the following minimum criteria:

(1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

(2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

(3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

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

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

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M. **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 60-897.K.; and
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A and AE shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 60-894.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water and seaward of mean high tide, if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

**Sec. 60-898. - Development standards**Certificate of Compliance.

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

- ~~(1) New construction or substantial improvement of any structure shall:~~

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- a. ~~Be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;~~
  - b. ~~Use construction materials that are resistant to flood damage;~~
  - c. ~~Use construction methods and practices that will minimize flood damage; and~~
  - d. ~~Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.~~
- (2) ~~All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.~~
- (3) ~~All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters.~~
- (4) ~~On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.~~
- (5) ~~All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.~~
- (6) ~~New construction or substantial improvement of any residential structure located within:~~
- a. ~~Zones A1-30, AE and AH shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation.~~
  - b. ~~Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.~~
  - c. ~~Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade:~~
    - 1. ~~At least one foot higher than the depth specified in feet on the community's flood insurance rate map; or~~
    - 2. ~~At least three feet if no depth number is specified.~~
  - d. ~~Zone A shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to sections 60-896(7)a2, 60-897(2), or 60-900(4).~~
- (7) ~~New construction or substantial improvement of any nonresidential structure located within:~~
- a. ~~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:~~
    - 1. ~~Be floodproofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;~~
    - 2. ~~Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and~~
    - 3. ~~Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for~~

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~~meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by section 60-896(10) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.~~

- ~~b. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.~~
  - ~~c. Zone AO shall have the lowest floor, including basement, elevated above adjacent grade:
    - ~~1. At least one foot higher than the depth specified in feet on the community's flood insurance rate map;~~
    - ~~2. At least three feet if no depth number is specified; or~~
    - ~~3. Together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of section 60-898(7)a.~~~~
  - ~~d. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to sections 60-896(7)a2, 60-897(2), or 60-900(4).~~
- ~~(8) New or substantially improved manufactured homes located within:~~
- ~~a. Zones A1-30, AE or AH shall:
    - ~~1. Be elevated on a permanent foundation so that the lowest floor is at least one foot above the base flood elevation; and~~
    - ~~2. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
      - ~~(i) 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);~~
      - ~~(ii) 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); or~~
      - ~~(iii) All components of the anchoring system described in section 60-898(8)a shall be capable of carrying a force of 4,800 pounds.~~~~~~
  - ~~b. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.~~
  - ~~c. Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade:
    - ~~1. At least one foot higher than the depth specified in feet on the community's flood insurance rate map; or~~
    - ~~2. At least three feet if no depth number is specified; and~~
    - ~~3. Meet the requirements of section 60-898(8)a1 and 2.~~~~

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- ~~d. Zone A shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to sections 60-896(7)a2, 60-897(2), or 60-900(4).~~
- ~~e. Recreational vehicles located within zone AE shall either:~~
- ~~1. Be on the site for fewer than 180 consecutive days;~~
  - ~~2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or~~
  - ~~3. Meet the permit requirements of elevation and anchoring requirements for "manufactured home" in division 6 of article XII of this chapter.~~
- ~~(9) Floodways.~~
- ~~a. 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 the base flood discharge;~~
  - ~~b. In zones 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~~
  - ~~c. In zone A riverine areas, in which the regulatory floodway is determined to be the channel of the river or other watercourse 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 meeting the requirements of section 60-898(9)b.~~
- ~~(10) New construction or substantial improvement of any structure in zones A1-30, AE, AO, AH and A that meets the development standards of section 60-898, including the elevation requirements of section 60-898(6), (7) or (8) and is elevated on posts, columns, piers, piles, stilts, or crawl spaces less than three feet in height and may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:~~
- ~~a. Walls, with the exception of crawl spaces less than three feet in height, shall not be part of the structural support of the building;~~
  - ~~b. Enclosed areas are not "basements" as defined in section 60-892~~
  - ~~c. 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:~~
- ~~1. Be certified by a registered professional engineer or architect; or~~

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2. ~~Meet or exceed the following minimum criteria:~~
- ~~(i) 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;~~
  - ~~(ii) The bottom of all openings shall be no higher than one foot above the lowest grade;~~
  - ~~(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of floodwaters automatically without any external influence of control such as human intervention, including the use of electrical and other nonautomatic mechanical means;~~
- d. ~~The enclosed area shall not be used for human habitation; and~~
- e. ~~The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.~~

(Ord. of 9-21-2009, § 5.1E)

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 Planning and Development Department subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Planning and Development Department an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 60-897, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Planning and Development Department that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Planning and Development Department shall:
- 1. review the Elevation Certificate and the applicant's written notification; and,
  - 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

**Sec. 60-899. - Certificate of compliance Review of Subdivisions and Development Proposals.**

- ~~(a) 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 community development office subject to the following provisions:~~
- ~~(1) The applicant shall submit an elevation certificate completed by:~~
- ~~a. A registered state surveyor for compliance with section 60-898(6), (7), (8) or (9); and~~
  - ~~b. A registered professional engineer or architect, in case of floodproofed nonresidential structures, for compliance with section 60-898(7); and~~

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~~(2) The application for a certificate of compliance shall be submitted by the applicant in writing along with a completed elevation certificate to the community development office.~~

~~(b) The community development office shall review the application within ten working days of receipt of the application and shall issue a certificate of compliance, provided the building conforms to the provisions of this division.~~

~~(Ord. of 9-21-2009, § 5.1F)~~

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 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Section 60-897 of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

**Sec. 60-900. - Review of subdivision and development proposals Appeals and Variances.**

~~The planning board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances, ensure that:~~

- ~~(1) All such proposals are consistent with the need to minimize flood damage.~~
- ~~(2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.~~
- ~~(3) Adequate drainage is provided so as to reduce exposure to flood hazards.~~
- ~~(4) All proposals include base flood elevation and, in a riverine floodplain, floodway data.~~

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~~(5) 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 section 60-898 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. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be stated on any map, plat, or plan to be signed by the planning board or local reviewing authority as part of the approval process.~~

~~(Ord. of 9-21-2009, § 5-1G)~~

The Board of Appeals of the City of Auburn may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement 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 existing local laws or ordinances; and,
  3. a showing that the issuance 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 sub-section 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 in 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, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

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- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Section 60-900 and Section 60-897.K. 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 for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Section 60-900, paragraphs A. through D. above; and,
  2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Section 60-900, 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 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 municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. Appeal Procedure for Administrative and Variance Appeals
1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
  2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
  3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
  4. The person filing the appeal shall have the burden of proof.

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5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Planning and Development Department and Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning and Development Department to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

**Sec. 60-901. - Appeals and variances Enforcement and Penalties.**

- ~~(a) The board of appeals of the city may, upon written application of an aggrieved party, hear and decide appeals from determination of the code enforcement officer in the administration of the provisions of this division.~~
- ~~(b) The board of appeals may grant a variance from the requirements of this division consistent with state law and the following criteria:
  - ~~(1) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.~~
  - ~~(2) Variances shall be granted only upon:
    - ~~a. A showing of good and sufficient cause;~~
    - ~~b. 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 created nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances;~~
    - ~~c. A showing that the existence of the variance will not conflict with other state, federal or local laws or ordinances; and~~
    - ~~d. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~~~
  - ~~(3) 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:
    - ~~a. Other criteria or section 60-901 and section 60-898(9) are met;~~
    - ~~b. 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.~~~~
  - ~~(4) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structure upon the determination that:
    - ~~a. The development meets the criteria of subsection (b)(1) through (3) of this section; and~~
    - ~~b. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~~~~~

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- ~~(5) Any applicant who meets the criteria of subsections (b)(1) through (4) of this section shall be notified by the board of appeals in writing over the signature of the Chairman of the board of appeals that:~~
- ~~a. 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 \$25.00 per \$100.00 of insurance coverage;~~
  - ~~b. Such construction below the base flood level increases risks to life and property; and~~
  - ~~c. 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 municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.~~

~~(Ord. of 9-21-2009, § 5.1H)~~

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may 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 sufficient to confirm its identity or location;
  - 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  - 3. a clear 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 pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

**Secs. 60-902 – 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 section or provision of this Ordinance.

**Secs. 60-903 – 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 of law. Where this

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Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

**Secs. 60-904 – Definitions.**

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

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

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

**Area of Special Flood Hazard** - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 60-892 of this Ordinance.

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

**Basement** - means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** - see **Structure**.

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

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

**Development** - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

**Elevated Building** - means a non-basement building

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. 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.

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In the case of Zones A or AE, **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 Section 60-897.L..

**Elevation Certificate** - An official form (FEMA Form 81-31) that:

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

**Flood or Flooding** - means:

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

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

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

**Flood Insurance Study** - see **Flood Elevation Study**.

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

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

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

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

**Floodway** - see **Regulatory Floodway**.

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

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

**Functionally Dependent Use** - means 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.

**Historic Structure** - means any structure that is:

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

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

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor,

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provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Section 60-897.L. of this ordinance.

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

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

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

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section 60-897.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

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

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

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

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;

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- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway -**

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

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

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

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

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

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

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

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code

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enforcement official and which are the minimum necessary to assure safe living conditions;  
or

- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

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

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

**Secs. 60-905 – Abrogation.**

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

**Secs. 60-902~~6~~—60-920.** - Reserved.