

ARTICLE 10 – FLOOD HAZARD AREA DEVELOPMENT**10.1. PURPOSE AND ESTABLISHMENT**

The establishment and purpose of the Flood Hazard Management Area are found in **Article 3**.

10.2. PERMIT REQUIRED

Before any construction or other development (as defined in **Article 18**), including the placement of manufactured homes, begins within any areas of special flood hazard established in **Article 3**, a Flood Hazard Development Permit shall be approved by the Planning Board and issued by the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to this Ordinance.

10.3. APPLICATION FOR PERMIT

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

10.3.1. The name, address and phone number of the applicant, owner, and contractor;

10.3.2. An address and a map indicating the location of the construction site;

10.3.3. 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;

10.3.4. A statement of the intended use of the structure and/or development;

10.3.5. A statement of the cost of the development including all materials and labor;

10.3.6. A statement as to the type of sewage system proposed;

10.3.7. Specification of dimensions of the proposed structure and/or development;

[Items **10.3.8 through 10.3.11.2** apply only to new construction and substantial improvements.]

10.3.8. 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:

10.3.8.1. base flood at the proposed site of all new or substantially improved structures, which is determined:

10.3.8.1.1. in Zones AE from data contained in the "Flood Insurance Study - Town of Clifton, Maine," as described in **Article 3** of this Ordinance; or,

10.3.8.1.2. in Zone A:

(i) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to **Article 10.6.11. Floodways**.

(ii) 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,

(iii) 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.

10.3.8.2. highest and lowest grades at the site adjacent to the walls of the proposed building;

10.3.8.3. lowest floor, including basement; and whether or not such structures contain a basement; and,

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

10.3.9. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in **Article 10.6**;

10.3.10. 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;

10.3.11. The following certifications as required in **Article 10.6**; by a registered professional engineer or architect:

10.3.11.1. a Flood proofing Certificate (**FEMA Form 81-65, 03/09, as amended**), to verify that the flood proofing methods for any non-residential structures will meet the flood proofing criteria of **Article 10.3.8**, **Article 10.6** and other applicable standards in **Article 10.6**;

10.3.11.2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of **Article 10.6.12.2.1**;

10.3.11.3. a certified statement that bridges will meet the standards of **Article 10.6.13. Bridges**;

10.3.11.4. a certified statement that containment walls will meet the standards of **Article 10.6.14. Containment Walls**.

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

10.3.13. A statement of construction plans describing in detail how each applicable development standard in **Article 10.6 Flood Hazard Development Standards** will be met.

10.4. APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee as set forth as in the Select Board Schedule of fees shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Planning Board 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.

10.5. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

- 10.5.1.** Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of **Article 10.6. Flood Hazard Development Standards** have been, or will be met;
- 10.5.2.** Utilize, in the review of all Flood Hazard Development Permit applications:
- 10.5.2.1.** the base flood and floodway data contained in the "Flood Insurance Study - Town of Clifton, Maine," as described in **Article 3** of this Ordinance;
- 10.5.2.2.** in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to **Article 10.3.8.1.2.; 10.6.11. Floodways and 10.8.4.**, in order to administer **Article 10.6**, of this Ordinance; and,
- 10.5.2.3.** when the community establishes a base flood elevation in a Zone A by methods outlined in **Article 10.3.8.1.2.**, the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- 10.5.3.** Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in **Article 3** of this Ordinance;
- 10.5.4.** 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 U.S.C. 1344**;
- 10.5.5.** Notify adjacent municipalities, the **Department of Environmental Protection**, and the **Maine Floodplain Management Program** in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the **Federal Emergency Management Agency**;
- 10.5.6.** 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:
- 10.5.6.1.** 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 **Article 10.6.6. Residential, 10.6.7. Non-Residential, or 10.6.8. Manufactured.** 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,
- 10.5.6.2.** A Flood Hazard Development Permit for Flood proofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of **Article 10.6.7.1.** The application for this permit shall include a Flood proofing Certificate signed by a registered professional engineer or architect; or,
- 10.5.6.3.** A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in **Article 6** regarding 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.

10.5.7. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of **Article 17** of this Ordinance, and copies of Elevation Certificates, Flood proofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of **Article 10.3, 10.6, and 10.7** of this Ordinance.

10.6. FLOOD HAZARD DEVELOPMENT STANDARDS

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

10.6.1. All Development. All development shall:

10.6.1.1. 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;

10.6.1.2. use construction materials that are resistant to flood damage;

10.6.1.3. use construction methods and practices that will minimize flood damage; and,

10.6.1.4. 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.

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

10.6.3. 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.

10.6.4. 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.

10.6.5. 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.

10.6.6. Residential. New construction or substantial improvement of any residential structure located within:

10.6.6.1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.

10.6.6.2. 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 **Article 10.3.8.1.2; 10.5.2; or 10.8.4.**

10.6.7. Non Residential. New construction or substantial improvement of any non-residential structure located within:

10.6.7.1. Zone 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:

10.6.7.1.1. be flood proofed 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;

10.6.7.1.2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

10.6.7.1.3. be certified by a registered professional engineer or architect that the flood proofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by **Article 10.3.11** and shall include a record of the elevation above mean sea level to which the structure is flood proofed.

10.6.7.2. 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 **Article 103.8.1.2; 10.5.2; or 10.8.4**, or together with attendant utility and sanitary facilities meet the flood proofing standards of **Article 10.6.7.1** (above).

10.6.8. Manufactured Homes. New or substantially improved manufactured homes located within:

10.6.8.1. Zone AE shall:

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

10.6.8.1.2. 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,

10.6.8.1.3. 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 (manufactured homes less than 50 feet long require one additional tie per side); or by,

(ii) 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).

(iii) all components of the anchoring system described in **Article 10.6.8.1.3(i)&(ii)** shall be capable of carrying a force of 4800 pounds.

10.6.8.2. Zone A shall:

10.6.8.2.1. be elevated on a permanent foundation, as described in **Article 10.6.8.1.2**, such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to **Article 10.3.8.1.2; 10.5.2; or 10.8.4**; and

10.6.8.2.2. meet the anchoring requirements of **Article 10.6.8.1.3**.

10.6.9. Recreational Vehicles - Recreational Vehicles located within:

10.6.9.1. Zones A, and AE shall either:

10.6.9.1.1. be on the site for fewer than 180 consecutive days,

10.6.9.1.2. 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,

10.6.9.1.3. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in **Article 10.6.8.1.**

10.6.10. Accessory Structures. Accessory Structures, as defined in **Article 18** of this Ordinance, located within Zones AE, and A, shall be exempt from the elevation criteria required in **Article 10.6.7. & 10.6.8.** above, if all other requirements of **Article 10.6.** and all the following requirements are met. Accessory Structures shall:

10.6.10.1. be 500 square feet or less and have a value less than \$3000;

10.6.10.2. have unfinished interiors and not be used for human habitation;

10.6.10.3. have hydraulic openings, as specified in **Article 10, Section 6.12.2**, in at least two different walls of the accessory structure;

10.6.10.4. be located outside the floodway;

10.6.10.5. 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,

10.6.10.6. 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.

10.6.11 Floodways.

10.6.11.1. 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.

10.6.11.2. In Zones AE, and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in **Article 10.6.11.3.** 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:

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

10.6.11.2.2. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).

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

10.6.12. Enclosed Areas Below the Lowest Floor. New construction or substantial improvement of any structure in Zones AE, and A that meets the development standards of **Article 10.6.**, including the elevation requirements of **Article 10.6.7 thru 9** 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:

10.6.12.1. Enclosed areas are not "basements" as defined in **Article 18** of this Ordinance;

10.6.12.2. 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:

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

10.6.12.2.2. 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 below the base flood elevation and no higher than one foot above the lowest grade; and,

(iii) 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;

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

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

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

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

10.6.13.2. a registered professional engineer shall certify that:

10.6.13.2.1. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of **Article 10, 6.11**; and

10.6.13.2.2. 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.

10.6.14. Containment Walls. New construction or substantial improvement of any containment wall located within:

10.6.14.1. Zones AE, and A shall:

10.6.14.1.1. have the containment wall elevated to at least one foot above the base flood elevation;

10.6.14.1.2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

10.6.14.1.3. 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 meeting the provisions of this section. Such certification shall be provided

with the application for a Flood Hazard Development Permit, as required by **Article 10.3.11**.

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

10.6.15.1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

10.6.15.2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

10.7. CERTIFICATE OF COMPLIANCE

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

10.7.1. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Planning Board, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with **Article 10.6.6 thru 8**.

10.7.2. The applicant shall submit written notification to the Planning Board that the development is complete and complies with the provisions of this ordinance.

10.7.3. Within 10 working days, the Planning Board shall:

10.7.3.1. review the Elevation Certificate and the applicant's written notification; and,

10.7.3.2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

10.8. REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

10.8.1. All such proposals are consistent with the need to minimize flood damage.

10.8.2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

10.8.3. Adequate drainage is provided so as to reduce exposure to flood hazards.

10.8.4. 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.

10.8.5. 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 **Article 10.6** 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.

10.9. APPEALS AND VARIANCES

Provisions for appeals and variances for the Flood Hazard Management Area are found in **Article 17** of this Ordinance.

10.10. ENFORCEMENT AND PENALTIES

Article 2 of this Ordinance sets out the enforcement and penalties provisions for the Flood Hazard Management Area.