

## **FLOODPLAIN MANAGEMENT ORDINANCE**

### **ARTICLE I - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of North Berwick, Maine are subject to periodic flooding, causing serious damages 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.

Therefore, the Town of North Berwick, 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 the attached Floodplain Management Ordinance.

It is the intent of the Town of North Berwick, 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.

This body 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 and 4401-4407

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

The areas of special flood hazard, Zones A and A1-30, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of North Berwick, Maine, York County," dated August 1, 1984 with accompanying "Flood Insurance Rate Map" dated February 1, 1985 and 'Flood Boundary and Floodway Map's dated February 1, 1985 is hereby adopted by reference and declared to be a part of this Ordinance.

### **ARTICLE II- PERMIT REQUIRED**

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of North Berwick, Maine.

### **ARTICLE III- APPLICATION FOR PERMIT**

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

- K. Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4; Article VI.G.; and other applicable standards in Article VI;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

**ARTICLE IV - APPLICATION FEE AND EXPERT~S FEE**

A non-refundable application fee of \$50.00 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 of the Planning Board may appeal that decision to the Board of Appeals.

**ARTICLE V - REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Study - Town of North Berwick, Maine," as described in Article I. In special flood hazard areas where base flood elevation 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 sources, including information obtained pursuant to Article III.H.1 .b.; Article VI.J.; and Article VIII.D., in order to administer Article VI of this Ordinance;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government

agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

- F. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. Issue one of the following Flood Hazard Development Permits based on the type of development:
  - 1. 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 Planning Board with a second Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction , "as built", for verifying compliance with the elevation requirements of Article VI, 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 Planning Board shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  - 2. Issue a Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G. 1 a. ,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  - 3. Issue a Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: 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, towers, fencing, and pipelines.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

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 Article VI.J.2.a.&b.

- K. New construction or substantial improvement of any structure in Zones A1-30 and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or 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 Article XIII; and,
  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 certified by a registered professional engineer or architect; or,
    - b. meet or exceed the following minimum criteria:
      - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
      - (2) the bottom of all openings shall be no higher than one foot above the lowest grade; and,
      - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided 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; and,
  3. The enclosed area shall not be used for human habitation; and,
  4. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

#### **ARTICLE VII- CERTIFICATE OF COMPLIANCE**

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

- A. For New Construction or Substantial Improvement of any structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer 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.

**ARTICLE VIII- REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with Article VI of this ordinance and that 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 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 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.

**ARTICLE IX - APPEALS AND VARIANCES**

The Board of Appeals of the Town of North Berwick may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Planning Board in the

1. the development meets the criteria of Article IX, 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 Article IX, paragraphs A through E shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 Per \$100 of 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 & 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. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

## **ARTICLE X - ENFORCEMENT AND PENALTIES**

- 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, 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;