

Section 2 - Flood Plain Zone Ordinance

This Section may be referred to as the “Flood Plain Zone Ordinance,” and in this Section as “Ordinance.” *[added May 17, 2008]*

2.1 Statement of Purpose and Intent

Certain areas of the Town of Edgecomb, 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 Edgecomb, 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 Edgecomb, 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 MRSA Title 30A, Sections 3001-3007, 4352 and 4402-4407.

2.2 Establishment

The Town of Edgecomb, Maine, elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Edgecomb 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 Edgecomb, Maine.

The areas of special flood hazard, identified by the Federal Emergency Management Agency in a map entitled “Flood Hazard Boundary Map – Town of Edgecomb, Maine, Lincoln County,” dated July 18, 1978 is hereby adopted by reference and declared to be a part of this Ordinance.

2.3 Permit Required

Before any construction or other development (as defined in Article I, Section 8), including the placement of manufactured homes, begins within any area of special flood hazard established in Section 2.2, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. 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 Edgecomb, Maine.

2.4 Application For Permit

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- 2.4.1 The name and address of the applicant;
- 2.4.2 An address and a map indicating the location of the construction site;
- 2.4.3 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;
- 2.4.4 A statement of the intended use of the structure;
- 2.4.5 A statement as to the type of sewage system proposed;
- 2.4.6 Specification of dimensions of the proposed structure;
- 2.4.7 The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum, of the:
 - 2.4.7.1 Base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined to be the elevation of the ground at the intersections of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
 - 2.4.7.2 Highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 2.4.7.3 Lowest floor, including basement; and whether or not such structures contain a basement; and
 - 2.4.7.4 Level, in the case of non-residential structures only, to which the structure will be floodproofed;
- 2.4.8 A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
- 2.4.9 A written certification by a licensed land surveyor that the elevations shown on the application are accurate;
- 2.4.10 Certification by a licensed professional engineer or architect that floodproofing methods for any non-residential structures will meet the flood proofing criteria of Section 2.4.7.4; Section 2.7.6; and other applicable standards in Section 2.7;
- 2.4.11 A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

2.4.12 A statement of construction plans describing in detail how each applicable development standard in Section 2.7 will be met. *[amended May 17, 2008]*

2.5 Application Fee and Expert's Fee

A non-refundable application fee shall be paid to the Code Enforcement Officer and shall accompany the application. See Fee Schedule.

An additional fee may be charged if the Code Enforcement Officer 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 Code Enforcement Officer may appeal that decision to the Board of Appeals.

2.6 Review of Flood Hazard Development Permit Applications

The Code Enforcement Officer shall:

- 2.6.1 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 Section 2.7 (Development Standards) have or will be met;
- 2.6.2 Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Rate Map - Town of Edgecomb, Maine," as described in Section 2.2. In special flood hazard areas where base flood elevation 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 sources, including information obtained pursuant to Section 2.4.7.2, Section 2.7.9; and Section 2.9.4, in order to administer Section 2.7 of this Ordinance;
- 2.6.3 Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 2.2 of this Ordinance.
- 2.6.4 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. 1334;
- 2.6.5 Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office before any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

2.6.6 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 Code Enforcement Officer with an application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a licensed Maine surveyor for compliance with the elevation requirements of Section 2.7, subsections 2.7.6, 2.7.7 and 2.7.8. Following review of the application, which review 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; and

2.6.7 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 2.10 of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Section 2.8 of this Ordinance. *[amended May 17, 2008]*

2.7 Development Standards

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

2.7.1 All new development, new construction, or substantial improvement of any structure shall:

2.7.1.1 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;

2.7.1.2 Use construction materials that are resistant to flood damage;

2.7.1.3 Use construction methods and practices that will minimize flood damage; and

2.7.1.4 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.

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

2.7.3 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.

2.7.4 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

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

- 2.7.6 New construction or substantial improvement of any residential structure located within 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 2.4.7.1; Section 2.6.2, or Section 2.9.4.
- 2.7.7 New construction or substantial improvement of any non-residential structure located within 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 2.4.7.1; Section 2.6.2 or Section 2.9.4, or together with attendant utility and sanitary facilities shall:
- 2.7.7.1 Be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 2.4.7.1, Section 2.6.2, or Section 2.9.4, so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
- 2.7.7.2 Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- 2.7.7.3 Be certified by a licensed 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 2.4.10, and shall include a record of the elevation above mean sea level of the lowest floor including basement. *[amended May 17, 2008]*
- 2.7.8 New or substantially improved manufactured homes located within Zone A shall:
- 2.7.8.1 Be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 2.4.7.1, Section 2.6.2 or Section 2.9.4; and
- 2.7.8.2 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:
- 2.7.8.2.1 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
- 2.7.8.2.2 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).
- 2.7.8.2.3 All components of the anchoring system described in Section 2.7.8.2 shall be capable of carrying a force of 4800 pounds.

2.7.9 Floodways

Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is 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, unless a technical evaluation certified by a licensed professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing or anticipated development:

2.7.9.1 Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and

2.7.9.2 Is consistent with the technical criteria contained in Section 2-7 entitled “Hydraulic Analyses,” Flood Insurance Study - Guidelines and Specifications for Study Contractors. (FEMA 37/March 1993, as amended).

2.7.10 New construction or substantial improvement of any structure in Zone A that meets the development standards of Section 2.7, including the elevation requirements of Section 2.7, subsections 2.7.6, 2.7.7, or 2.7.8 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:

2.7.10.1 Enclosed areas are not “basements” as defined in Article Article I, Section 8, and

2.7.10.2 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:

2.7.10.2.1 Be certified by a licensed professional engineer or architect; or

2.7.10.2.2 Meet or exceed the following minimum criteria:

a. 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;

b. The bottom of all openings shall be no higher than one foot above the lowest grade; and

c. 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

2.7.10.3 The enclosed area shall not be used for human habitation; and

- 2.7.10.4 The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building. *[amended May 17, 2008]*

2.8 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:

- 2.8.1 The applicant shall submit an Elevation Certificate completed by:

2.8.1.1 A licensed Maine surveyor for compliance with Section 2.7, subsections 2.7.6, 2.7.7, or 2.7.8; and

2.8.1.2 A licensed professional engineer or architect, in the case of floodproofed non-residential structures, for compliance with Section 2.7.6; and

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

- 2.8.3 The Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Ordinance. *[amended May 17, 2008]*

2.9 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 mobile home parks divided into two or more lots, assure that:

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

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

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

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

2.9.5 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 2.7 or 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.

2.10 Appeals and Variances to provisions of the Flood Plain Ordinance *[amended May 17, 2008]*

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

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

2.10.2 Variances shall be granted only upon:

2.10.2.1 A showing of good and sufficient cause; and

2.10.2.2 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

2.10.2.3 A showing that the existence of the variance will not cause a conflict with other state, federal or local laws or ordinances; and

2.10.2.4 A determination that the failure to grant the variance would result in “undue hardship,” which in this subsection means:

2.10.2.4.1 That the land in question cannot yield a reasonable return unless a variance is granted; and

2.10.2.4.2 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

2.10.2.4.3 That the granting of a variance will not alter the essential character of the locality; and

2.10.2.4.4 That the hardship is not the result of action taken by the applicant or a prior owner.

- 2.10.3 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 2.10.4 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:
- 2.10.4.1 Other criteria of Sections 2.10 and 2.7.9 are met and
- 2.10.4.2 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.
- 2.10.5 Variances may be issued by a community for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in Section 2.10.1 through 2.10.4.
- 2.10.6 Any applicant who meets the criteria of Section 2.10 1 through 2.10 5 shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
- 2.10.6.1 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;
- 2.10.6.2 Such construction below the base flood level increases risks to life and property; and
- 2.10.6.3 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.
- 2.10.7 The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

2.11 Enforcement and Penalties

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

2.11.2 The penalties contained in 30A MRSA, Section 4452 shall apply to any violation of this ordinance.

2.11.3 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:

2.11.3.1 The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

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

2.11.3.3 A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

2.11.3.4 Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

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