CITY OF SACO, MAINE

CITY COUNCIL APPROVED CODE SUPPLEMENT

Approved on May 20, 2024, with an effective date of June 20, 2024

CHAPTER 106 FLOODPLAIN MANAGEMENT ORDINANCE REVISIONS – (SECOND & FINAL READING)

Councilor Archer moved, Councilor Johnston seconded, be it Ordered that the City Council hereby ordains the Chapter 106 Floodplain Management Ordinance Revisions as presented in the May 6, 2024, City Council meeting packet materials. The motion passed with six (6) yeas.

STAFF NOTE: Recommended revisions are below in red font. Text to be removed is struck through and new text is underlined.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 106
Floodplain Management

[HISTORY: Adopted by the City Council of the City of Saco 3-3-1998; amended in its entirety 12-5-2005. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 73.
Cost recovery — See Ch. 83.

Mobile homes — See Ch. 143.

Sewers — See Ch. 176.

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§ 106-1 **Purpose and establishment.**

A. Certain areas of the City of Saco, 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.

B. Therefore, the City of Saco, 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.

C. It is the intent of the City of Saco, 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.

D. The City of Saco 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 through 3007, 4352, 4401 through 4407, and 38 M.R.S.A. § 440.~~ Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

E. The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Saco 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 chapter establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the City of Saco, Maine.

F. The areas of special flood hazard, Zones A, ~~A1-30,~~ AE, ~~AO, V1-30~~ and VE for the City of Saco, York County, Maine, ~~are~~ identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - ~~City of Saco, Maine,~~ York County, Maine" dated ~~January 5, 2006~~ July 17, 2024, with accompanying "Flood Insurance Rate Map" dated ~~January 5, 2006,~~ July 17, 2024, as amended, and Flood Boundary and Floodway Map dated, January 5, 2006, which are hereby adopted by reference and declared to be a part of this chapter.

§ 106-2 **Permit required.**
The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in § **106-14**), including the placement of manufactured homes, begins within any areas of special flood hazard established in § **106-1**, a flood hazard development permit shall be obtained from the Code Enforcement Officer except as provided in § **106-7**. This permit shall be in addition to any other permits, which may be required pursuant to the codes and ordinances of the City of Saco, Maine.

§ 106-3 **Application for permit.**
The application for a flood hazard development permit shall be submitted to the Code Enforcement Officer 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.

[NOTE: Subsections **H** through **K(3)** apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), 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:

(a) In Zones ~~A1-30,~~ AE, ~~AO, V1-30~~ and VE from data contained in the "Flood Insurance Study - ~~City of Saco~~York County, Maine," as described in § **106-1**; 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~~/July 1995~~) including information obtained pursuant to §§ **106-6K** and **106-9D**; or,

~~[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~~

[~~3~~2] In the absence of all ~~other~~ data~~,~~ described in § 106-3H(1)(b)[1], information to demonstrate that the

structure shall meet the elevation requirement in § 106-6H(2)(b), § 106-6I(2)(b), or § 106-6J(2)(b). ~~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.

(4) lowest machinery and equipment servicing building; and,

(~~4~~ 5) Level, in the case of nonresidential 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 § **106-6**;

J. A written certification by:

(1) a professional land surveyor that the grade elevations shown on the application are accurate; and,

(2) 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 § **106-6** by a registered professional engineer or architect:

(1) A floodproofing certificate (FEMA Form ~~81-65, 01-03~~ FF-206-FY-22-153, as amended) to verify that the floodproofing methods for any nonresidential structures will meet the floodproofing criteria of §§ **106-~~3H(4)~~6I~~, 106-6G~~** and other applicable standards in § **106-6**;

(2) A V-Zone certificate to verify that the construction in coastal high-hazard areas, Zones ~~V1-30 and~~ VE, and Coastal AE Zone, will meet the criteria of § **106-6~~P~~R** and other applicable standards in § **106-6**.

(3) A hydraulic opening certificate to verify that engineered hydraulic openings in the foundation walls will meet the standards of § **106-6~~L(2)(a)~~N(2)(a)**.

(4) A certified statement that bridges will meet the standards of § **106-6~~M~~O**.

(5) A certified statement that containment walls will meet the standards of § **106-6~~N~~P**;

L. A description of the extent to which any watercourse 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 § **106-6** will be met.

§ 106-4 **Application fee and expert's fee.**

A. An application fee as established in the City's Cost Recovery Ordinance shall be paid to the Finance Department, and a copy of a receipt for the same shall accompany the application. Any application reviews, either by City staff or other professionals retained by the City, shall be conducted in accordance with the provisions of the Cost Recovery Ordinance.

B. An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals need the assistance of a professional engineer or other expert. The ~~applicant shall pay the~~ expert's fee shall be paid in full by the applicant within 10 days after the City submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the chapter 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 has been given an opportunity to be heard on the subject. An applicant who is dissatisfied with the decision to hire expert assistance may appeal that decision to the Board of Appeals.

§ 106-5 **Review of standards for flood hazard development permit applications.**
The Code Enforcement Officer 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 § **106-6** (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 - ~~City of Saco~~York County, Maine," as described in § **106-1**~~.~~;

(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 §§ **106-3H(1)(b)**[1], **106-6~~K~~M** and § **106-9D**, in order to administer § **106-6** of this chapter~~.~~; and,

(3) ~~W~~when the community establishes a base flood elevation in a Zone A by methods outlined in § **106-3H(1)(b)**[1], the community shall submit that data to the Maine Floodplain Management Program ~~in the State Planning Office~~.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in § **106-1** of this chapter.

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 ~~in the State Planning Office~~ prior to any alteration or relocation of a watercourse and submit copies of such notifications to the Federal Emergency Management Agency.

~~F. Issuance of permit.~~

~~(1)~~F. If the application satisfies the requirements of this chapter, approve the issuance of one of the following flood hazard development permits based on the type of development:

(~~a~~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 ~~a second~~ an "under construction" 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 § **106-6~~F, G, H or P~~**, subsections H, I, J, or R. 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,

(~~b~~2) A flood hazard development permit for floodproofing of nonresidential structures that are new construction or substantially improved nonresidential structures that are not being elevated but that meet

the floodproofing standards of § **106-6~~G~~I(1)~~(a), (b) and (c)~~**. The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or.

(~~c~~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 § **106-6~~J~~L**, 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 nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

(~~2~~4) For development that requires review and approval as a conditional use permit, as provided for in this chapter, the flood hazard development permit application shall be acted upon by the Planning Board as required in § **106-7**.

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 § **106-10** of this chapter and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of §§ **106-3**, **106-6** and **106-8** of this chapter.

§ 106-6 **Development standards.**
All developments in areas of special flood hazard shall meet the following applicable standards:

A. All development. All development shall:

(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.

~~(5) Include the total cost of all improvements, modifications, additions and reconstruction projects. All costs shall be accrued over the lifetime of the structure. Once the total cost of the project reaches 50% of the building's market value at the time of the first permit application following the effective date of March 3, 1998, the project is considered a substantial improvement. See the definition of "substantial improvement" in § 106-14 below. [Amended 5-21-2012]~~

B. Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters 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 floodwaters into the system and discharges from the system into floodwaters.

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 ~~any~~the watercourse.

F. Utilities. New construction or substantial improvement of any structure (including manufactured homes) located within:

(1) Zones A and AE shall have the bottom of all electrical, heating plumbing ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least three feet above the base flood elevation.

(2) Zone VE shall meet the requirements of § **106-6R(2)**.

G. Physical Changes to the Natural Landscape. Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

(1) All development projects in Zones AE and VE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.

(a) If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMAR), a certified statement shall be provided.

(b) If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be preformed.

(2) If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMAR) request to the Federal Emergency Management Agency for assurance that the as-buil project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMAR) shall be initiated.

(3) If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

~~F~~H. Residential. New construction or substantial improvement of any residential structure located within:

(1) Zone~~s A1-30 and~~ AE shall have the lowest floor (including basement) elevated to at least three feet above the base flood elevation. **[Amended 5-21-2012]**

~~(2) Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.~~

(~~3~~2) Zone A~~O~~ shall have the lowest floor (including basement) elevated ~~above the highest adjacent grade~~:

~~(a) At least three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or [Amended 5-21-2012]~~

~~(b) At least three feet if no depth number is specified.~~

(~~4~~ a) ~~Zone A shall have the lowest floor (including basement) elevated to~~ at least three feet above the base

flood elevation utilizing information obtained pursuant to §§ **106-3H(1)(b)**[1], **106-5B** ~~or 106-9D~~, or; ~~-~~ **[Amended 5-21-2012]**

(b) in the absence of all data described in §**106-6H(2)(a)**, to at least two feet above the highest adjacent grade to the structure.

(~~5~~3) Zones ~~V1-30 and~~ VE and Coastal AE Zone (as defined) shall meet the requirements of § **106-6**~~P~~**R**.

~~G~~I. Nonresidential. New construction or substantial improvement of any nonresidential structure located within:

(1) Zone~~s A1-30 and~~ AE shall have the lowest floor (including basement) elevated to at least three feet above the base flood elevation or, together with attendant utility and sanitary facilities, shall: **[Amended 5-21-2012]**

(a) Be floodproofed to at least three feet 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,

(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 § **106-3K** and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

~~(2) Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.~~

(~~3~~2) Zone A~~O~~ shall have the lowest floor (including basement) elevated ~~above the highest adjacent grade~~:

(a) ~~At~~ to at least three feet ~~higher~~ above the base flood elevation utilizing information obtained pursuant to § 106-3H(1)(b)[1]; § 106-5B; or § 106-9D, or; ~~than the depth specified in feet on the community's Flood Insurance Rate Map;~~ **[Amended 5-21-2012]**

(b) ~~At least three feet if no depth number is specified; or~~ in the absence of all data described in § 106-6I(2)(a), to at least two feet above the highest adjacent grade to the structure; or,

(c) Together with attendant utility and sanitary facilities be floodproofed, be floodproofed to three feet above the elevation established in § 106-6I(2)(a) or (b) and ~~to~~ meet the ~~elevation requirements of this section and~~ floodproofing standards of § **106-6**~~G(1)~~.I.(1)(a), (b), and (c).

~~(4) Zone A shall have the lowest floor (including basement) elevated to at least three feet above the base flood elevation utilizing information obtained pursuant to §§ 106-3H(1)(b), 106-5B or 106-9D; or, together with attendant utility and sanitary facilities, meet the flood proofing standards of § 106-6G(1). [Amended 5-21-2012]~~

(~~5~~3) Zones ~~V1-30 and~~ VE and Coastal AE Zone (as defined) shall meet the requirements of § **106-6P**.

~~H~~J. Manufactured homes. New or substantially improved manufactured homes located within:

(1) Zone~~s A1-30 or~~ AE shall:

(a) Be elevated such that the lowest floor (including basement) of the manufactured home is at least three

feet above the base flood elevation; **[Amended 5-21-2012]**

(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] Methods of anchoring may include, but are not limited to:~~

[~~a~~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,

[~~b~~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~~3] All components of the anchoring system described in § 106-6~~H~~J(1)(c)[1][~~a~~] and [~~b~~2] shall be capable of carrying a force of 4,800 pounds.

~~(2) Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.~~

~~(3) Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:~~

~~(a) At least three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or [Amended 5-21-2012]~~

~~(b) At least three feet if no depth number is specified; and~~

~~(c) Meet the anchoring requirements of § 106-6H(1)(c).~~

(~~4~~2) Zone A shall:

(a) Be elevated on a permanent foundation, as described in § **106-6~~H~~J(1)(b)** such that the lowest floor (including basement) of the manufactured home is at least three feet above the base flood elevation utilizing information obtained pursuant to §§ **106-3H(1)(b)**[1], **106-5B** or **106-9D**; and **[Amended 5-21-2012]**; or,

(b) ~~Meet the anchoring requirements of § 106-6H(1)(c).~~ in the absence of all data described in §106-6J(2)(a), to at least two feet above the highest adjacent grade to the structure; and,

(c) Meet the anchoring requirements of §106-6J(2)(a).

(~~5~~3) Zones ~~V1-30 and~~ VE and Coastal AE Zone (as defined) shall meet the requirements of § **106-6~~P~~R**.

~~I~~K. Recreational vehicles. Recreational vehicles located within:

(1) Zones ~~A1-30~~ A and AE shall either:

(a) Be on the site for fewer than 180 consecutive days; and,

(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 § **106-6~~H~~J(1)**.

(2) Zones ~~V1-30 and~~ VE and Coastal AE (as defined) shall meet the requirements of either § **106-6~~I~~K(1)(a)** ~~or~~ and **(b)** or § **106-6~~P~~R**.

~~J~~L. Accessory structures. New construction or substantial improvement of Accessory structures, as defined in § **106-14**, ~~located within Zones A1-30, AE, AO, AH and A,~~ shall be exempt from the elevation criteria required in § **106-6~~F~~H** and ~~G~~**I** above, if all other requirements of § **106-6** and all ~~of~~ the following requirements are met:

1. Accessory Structures located in Zones A and AE shall:

   a. Meet the requirements of § 106-6A(1) through (4), as applicable;

   b. Be limited in size to a one-story two car garage;

   c. Have unfinished interiors and not be used for human habitation;

   d. 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;

   e. Be located outside the floodway;

   f. 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;

   g. Have hydraulic openings, as specified in § 106-6N(2), in at least two different walls of the accessory structure; and

   h. Be located outside the Coastal AE Zone.

2. Accessory Structures in Zone VE and Coastal A Zones shall meet the requirements of §106-6R.

~~(1) Be 500 square feet or less and have a value of less than $3,000;~~

~~(2) Have unfinished interiors and not be used for human habitation;~~

~~(3) Have hydraulic openings, as specified in § **106-6L(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 the flooding than is the primary structure; and~~

~~(6) Have only ground fault interrupt electrical outlets. The electrical service disconnect shall be located above the base flood elevation and, when possible, outside the special flood hazard area.~~

~~K~~M. Floodways.

(1) In Zone~~s A1-30 and~~ 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 or 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.

(2) In Zones ~~A1-30,~~ 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 § **106-6~~K~~M(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/January 1995, as amended).~~ FEMA's guidelines and standards for flood risk analysis and mapping.

(3) In Zones ~~A1-30,~~ 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 watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain as measured from the normal high-water mark to the upland limit of the floodplain.

~~L~~N. ~~Enclosed areas below the lowest floor.~~ **Hydraulic Openings/Flood Vents –** New construction or substantial improvement of any structure in Zones ~~A1-30,~~ AE~~, AO~~ and A that meets the development standards of § **106-6**, including the elevation requirements of § **106-6~~F~~**, ~~**G or**~~ subsections **H**, **I**, or **J**, and is elevated on posts, columns, piers, piles, stilts or crawlspaces may be enclosed below the base flood elevation requirements, provided that all the following criteria are met or exceeded:

(1) Enclosed areas are not "basements," as defined in § **106-14**.

(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:

(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 floodwaters automatically without any external influence or control such as human intervention, including the use of electrical and other nonautomatic 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.

~~M~~O. Bridges. New construction or substantial improvement of any bridge located within Zones ~~A1-30,~~ AE, ~~AO, AH,~~ A, ~~V1-30~~ and VE shall be designed such that:

(1) When possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least three feet above base flood elevation; and **[Amended 5-21-2012]**

(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 § **106-6~~K~~M**; 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~~P. Containment walls. New construction or substantial improvement of any containment walls located within:

(1) Zones ~~A1-30,~~ AE, ~~AH,~~ A, ~~V1-30~~ and VE shall:

(a) Have the containment wall elevated to at least three feet above the base flood elevation; **[Amended 5-21-2012]**

(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 § **106-3K**.

~~(2) Zones AO and AH shall have adequate drainage paths around containment walls on slopes, to guide the floodwater away from the proposed walls.~~

~~(3) Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:~~

~~(a) At least three feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or **[Amended 5-21-2012]**~~

~~(b) At least three feet if no depth number is specified; and~~

~~(c) Shall meet the requirements of § 106-6N(1)(b) and (c).~~

~~O~~Q. Wharves, piers and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in ~~Zones A, A1-30, AE, AO, AH, V1-30 and VE, in~~ and over water and seaward of the mean high tide if the following requirements are met:

(1) in Zones A and AE, ~~W~~wharves, piers, and docks shall comply with all applicable local, state and federal regulations; ~~and~~ or,

(2) in Zone VE, ~~For commercial~~ wharves, piers, and docks~~,~~ shall have a registered professional engineer ~~shall~~ develop or review the structural design, specifications, and plans for the construction.

~~P~~R. Coastal floodplains.

(1) ~~All~~ N~~n~~ew construction located within Zones ~~A1-30,~~ AE~~, A, V1-30~~ and VE shall be located landward of the reach of mean high tide except as provided in § **106-6~~P(6)~~R(7)**.

(2) New construction or substantial improvement of any structure located within Zone~~s V1-30 or~~ VE or Coastal AE Zone shall~~:~~ have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least three feet above the base flood elevation. Systems, fixtures, equipment, and components shall be mounted on or penetrate through walls intended to break away under flood loads.

(3) New construction or substantial improvement of any structure located within Zone VE and Coastal AE Zones (as defined) shall:

(a) Be elevated on posts or columns such that:

[1] The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to three feet above the base flood elevation; **[Amended 5-21-2012]**

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

[3] Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

(b) Have the space below the lowest floor:

[1] Free of obstructions; or.

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

[3] Constructed with nonsupporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

(c) Require a registered professional engineer or architect to:

[1] Develop or review the structural design, specifications and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual (FEMA-55~~/June, 2000~~); and.

[2] Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of § **106-6~~P(2)~~R(3)**.

(~~3~~4) The use of fill for structural support in Zone~~s A1-30, AE, A, AO, V1-30, V1-30 and~~ VE and Coastal AE Zones is prohibited. **[Amended 5-21-2012]**

(~~4~~5) Human alteration of sand dunes within Zone~~s V1-30 and~~ VE and Coastal AE Zones is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

(~~5~~6) The area below the lowest floor ~~may~~ shall be used solely for parking vehicles, building access and storage.

(~~6~~7) Conditional use. Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in § **106-6**~~G~~I ~~and are~~ only if permitted as a conditional use ~~only upon~~ following review and approval by the Planning Board, as provided in § **106-7**, and if all the following requirements and those of § **106-6A**, ~~K~~M, and ~~L~~N are met:

(a) The conditional use shall be limited to low-value structures, such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

(b) The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

(c) The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

(d) The structure shall have unfinished interiors and shall not be used for human habitation.

(e) Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to three feet above the base flood elevation. **[Amended 5-21-2012]**

(f) All electrical outlets shall be ground-fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible, outside the special flood hazard area.

§ 106-7 **Conditional use review.**
The Planning Board shall hear and decide upon applications for conditional uses provided for in this chapter. The Planning Board shall hear, and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a conditional use permit is required shall file an application for the permit with the Planning Board.

A. Review procedure for a conditional use flood hazard development permit.

(1) The flood hazard development permit application with additional information attached addressing how each of the conditional use criteria specified in the chapter will be satisfied, may serve as the permit application for the conditional use permit.

(2) Before deciding any application, the Planning Board shall hold a public hearing on the application within 30 days of its receipt of the application.

(3) If the Planning Board finds that the application satisfied all relevant requirements of the chapter, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.

(4) A conditional use permit issued under the provisions of this chapter shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

(5) The applicant shall be notified by the Planning Board in writing over the signature of the Chair~~man~~ of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of conditional uses.

(1) No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued conditional use permit or if it is a building or use which would require a conditional use permit if being newly established or constructed under this chapter.

§ 106-8 **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:

A. For new construction or substantial improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:

(1) An elevation certificate completed by a professional land surveyor~~, registered professional engineer or architect~~ for compliance with § **106-6~~F, G~~**, subsections **H, I, J,** or ~~P~~**R**; and,

(2) For structures in Zones ~~V1-30 and~~ VE and Coastal AE Zone (as defined), certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with § **106-6~~P~~R(~~23~~)**.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this chapter.

C. Within 10 working days, the Code Enforcement Officer shall:

(1) Review the required certificate(s) and the applicant's written notification; and,

(2) Upon determination that the development conforms with the provisions of this chapter, shall issue a certificate of compliance.

§ 106-9 **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 five 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 § **106-6** of this chapter. 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.

§ 106-10 **Appeals and variances.**
The Board of Appeals of the City of Saco 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 chapter. The Board of Appeals may grant a variance from the requirements of this chapter 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;

(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;

(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 section means that:

(a) The land in question cannot yield a reasonable return unless a variance is granted;

(b) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

(c) The granting of a variance will not alter the essential character of the locality; and

(d) 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.

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 §§ **106-10**A through C and **106-6**~~K~~M 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 § **106-10A** through ~~D~~C above; and

(2) 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.

F. Variances may be issued for new construction and substantial improvements of agricultural structures being used for the conduct of agricultural uses provided that:

1. the development meets the criteria of § 106-10A through C; and,

2. the development meets the criteria of § 106-6M and § 106-6N,

~~F~~G. Any applicant who meets the criteria of § **106-10A** through ~~E~~C and § 106-10D, E, or F shall be notified by the Board of Appeals, in writing, over the signature of the Chair~~man~~ 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. Reconstructed buildings in areas governed by this Floodplain Management Ordinance may exceed the maximum height requirements of the Zoning Ordinance, without the need for a variance, only if the requirements of § 504-2A of the Zoning Ordinance are met. **[Added 5-21-2012]**

H. 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 30 days after the 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~~ documents constituting the record of the decision appealed from.

(3) The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.

(4) The person filing the appeal shall have the burden of proof.

(5) The Board of Appeals shall decide all appeals within 35 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 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.

(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 45 days from the date of any decision of the Board of Appeals.

§ 106-11 **Enforcement; violations and penalties.**

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter pursuant to Title 30-A M.R.S.A. § 4452.

B. The penalties contained in Title 30-A M.R.S.A. § 4452 shall apply to any violation of this chapter.

C. In addition to any other actions, the Code Enforcement Officer, upon ~~determination that~~ identifying a violation exists, ~~shall~~ may submit a declaration to the ~~Administrator of the~~ Federal Insurance

Administration requesting a ~~denial of~~ flood insurance denial. 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.

§ 106-12 **Validity and severability.**
If any section or provision of this chapter is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this chapter.

§ 106-13 **Conflict with other ordinances.**
This chapter 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 chapter imposes a greater restriction upon the use of land, buildings or structures, the provisions of this chapter shall control.

§ 106-14 **Definitions.**
Unless specifically defined below, words and phrases used in this chapter shall have the same meanings as they have at common law and to give this chapter 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

A ~~small detached~~ structure ~~that~~which is on the same parcel of property as a ~~is incidental and subordinate to the~~ principal structure and the use of which is incidental to the use of the principal structure.

ADJACENT GRADE

The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

AGRICULTURAL STRUCTURE

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

~~**AREA OF SHALLOW FLOODING**~~

~~A designated AO and AH Zone on a community's Flood Insurance Rate Map (FIRM) 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

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 § **106-1~~F~~** of this chapter.

BASE FLOOD

~~The~~ a flood having a one-percent chance of being equaled or exceeded in any given year, commonly called the "one-hundred-year flood."

BASEMENT

Any area of ~~the~~a building ~~having its~~ that includes a floor that is subgrade (below ground level) on all sides.

BREAKAWAY WALL

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

A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this chapter.

COASTAL AE ZONE

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

CODE ENFORCEMENT OFFICER

A person certified under 30-A M.R.S.A., § 4451 (including exceptions in § 4451, Paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws ~~and ordinances~~.

CONDITIONAL USE

A use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to § **106-7**.

CONTAINMENT WALL

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

DEVELOPMENT

Any man-made change to improved or unimproved real estate~~,~~. This including but not limited 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.

ELEVATED BUILDING

A. A non-basement building that is:

(1) Built, in the case of a building in Zone A~~1-30,~~ or AE, ~~A, AO or AH~~, ~~to have~~ so that the top of the elevated floor or, in the case of a building in Zone ~~V1-30 or~~ VE or Coastal AE Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by

means of pilings, columns, posts, ~~or~~ piers ~~or stilts~~; and.

(2) Adequately anchored ~~so as not~~ to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

B. In the case of Zones A~~1-30,~~ or AE~~, A, AO or AH~~, "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 floodwaters, as required by § 106-6N. In the case of Zone ~~V1-30 or~~ VE and Coastal AE Zone, "elevated building" also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of § 106-6~~P(2)(b)[3].~~R(3)(b)[3].

ELEVATION CERTIFICATE

An official form (FEMA Form ~~81-31, 07-00~~FF-206-FY-22-152, as amended) that~~:~~ is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

~~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

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 Subsection A(1) of this definition.

FLOOD ELEVATION STUDY

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOOD INSURANCE RATE MAP (FIRM)

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

Any land area susceptible to being inundated by water from any source. (See "flood" or "flooding").

FLOODPLAIN MANAGEMENT

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

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.

FLOODPROOFING

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

The lines marking the limits of floodways on federal, state and local floodplain maps.

FREEBOARD

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

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

Any structure that is:

A. 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;

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.

LIMIT OF MODERATE WAVE ACTION (LiMWA)

The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM).

The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction for VE Zones will be applied in the Coastal AE Zone.

LOCALLY ESTABLISHED DATUM

For purposes of this chapter, 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.

[Amended 5-21-2012]

LOWEST FLOOR

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 non-elevation design requirements described in § **106-6~~L~~N** of this chapter.

MANUFACTURED HOME

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

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NVGD) of 1929, North American Vertical Datum ~~of 1988~~ (NAVD), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

[Amended 5-21-2012]

MINOR DEVELOPMENT

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 § **106-6~~J~~L**, 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 nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

GEODETIC VERTICAL DATUM (NGVD)

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

NEW CONSTRUCTION

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)

~~North American vertical~~ the national datum~~,~~ whose standard was established in 1988,~~ and adopted by the National Geodetic Survey in 1991 to replace the NGVD 1929 datum. NAVD 1988 is used by the National Flood Insurance Program (NFIP), and has been used on Saco's Flood Insurance Rate Maps since 2006. NAVD 1988 can also be called "Mean Sea Level (MSL)."~~ 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 the vertical data 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.

[Amended 5-21-2012]

ONE-HUNDRED-YEAR FLOOD

See "base flood."

RECREATIONAL VEHICLE

A vehicle ~~which~~that is:

A. Built on a single chassis;

B. Four hundred square feet or less when measured at the largest horizontal projection, not including slideouts;

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. 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 cumulatively increasing the water surface elevation more than a designated height~~one foot~~;, and

B. When not designated on the community's Flood Insurance Rate Map ~~or Flood Boundary and Floodway Map~~, it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of 1/2 the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

RIVERINE

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

The date the building permit was issued, provided that 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 slabs 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 basements, 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

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

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage~~d~~ condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% 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 enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of a~~n~~ historic structure, provided that the alteration will not preclude the structure's continued designation as a~~n~~ historic structure and a variance is obtained from the ~~community's~~ Board of Appeals.

~~C. Any completed project to elevate a building or structure, to a height of one foot or more above the base flood elevation, for which a building permit was issued after March 3, 1998, and prior to May 1, 2012. [Added 5-21-2012]~~

VARIANCE

A grant of relief by a community from the terms of a floodplain management regulation.

VIOLATION

The failure of a structure or development to comply with a community's floodplain management regulations.

§ 106-15 **Abrogation.**

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

§ 106-16 **Disclaimer of Liability.**

The degree of flood protection required by the Chapter is considered reasonable but does not imply total flood protection.