

## **Floodplain Management Ordinance**

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

*April 9, 2024 DRAFT*

### Current version

Planning Board recommends \_\_\_\_\_ (#-#)

Select Board recommends \_\_\_\_\_ (#-#)

\*\* DACF recommended additional changes on March 28, 2024. The updated version is being reviewed by the Planning Board on April 9, 2024, and the Select Board on April 11, 2024, for consideration of re-approval. These changes include:

- Changing the text location of “as may be amended” in the last paragraph of Section 25-1 to have it refer to the Flood Insurance Rate Map (FIRM), rather than the Flood Insurance Study
- Correcting a citation typo in the previous version [Section 25-3(8)a.ii.(a) replacing Section 25-3(8)a.ii.(b)]

Another change needed, not based on DACF comments, is to clarify when variance appeals under Section 25-9(h) should be submitted.

### Previous version

Planning Board recommended approval (5-0) – March 19, 2024

Select Board recommended approval (5-0) – March 28, 2024

### **Short title**

Floodplain Management Ordinance

### **Long title**

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance to Avoid Suspension from the National Flood Insurance Program

### **Ballot question – Annual Town Referendum Election, June 11, 2024**

ARTICLE #\_\_ : “Shall an ordinance entitled ‘Floodplain Management Ordinance’ be enacted?”

*(A copy of this ordinance is available in the Town Clerk’s Office)*

### **Background and rationale**

These ordinance amendments repeal the current text in Chapter 25 – Floodplain Management Ordinance – and replace it with new text. The new Floodplain Management Ordinance must be adopted by July 17, 2024, otherwise the Town will be immediately suspended from the National

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Flood Insurance Program (NFIP). Except for certain minor changes, the text of the new Floodplain Management Ordinance must match a model ordinance provided by the State NFIP Coordinator.

A floodplain contains land area susceptible to being inundated by water from any source, such as land next to rivers, streams, lakes, and the ocean. The Federal Emergency Management Agency (FEMA) maintains maps of floodplains in the U.S. FEMA has defined different zones to classify various degrees of flood risk. Some of these flood zones are designated as special flood hazard areas (SFHAs) – areas within the floodplain having a one percent or greater chance of flooding in any given year.

SFHAs are shown on flood insurance rate maps (FIRMs, or DFIRMs to refer to digital versions of the maps). These maps are the official maps published and maintained by FEMA as part of the NFIP. FEMA has recently produced new DFIRMs with an effective date of July 17, 2024. The new Floodplain Management Ordinance must reference these new maps.

Flood risk is not covered by most home insurance policies. The NFIP, administered by FEMA, offers flood insurance to property owners, renters, and businesses in SFHAs in communities that participate in the NFIP. Therefore, if Eliot is suspended from the NFIP, property owners, renters, and businesses with existing NFIP flood insurance cannot renew their policies, and nobody would be able to sign up for a new NFIP policy. If someone wants to take out a government-backed mortgage for a home or business in a high-risk flood area, they are required to have flood insurance, suggesting that they might not be able to get that type of mortgage if Eliot is suspended from the NFIP. Enactment of the new Floodplain Management Ordinance would keep Eliot in the NFIP without any lapses. The updated ordinance fulfills an obligation of NFIP communities to maintain sound floodplain management practices and regulations, which, in summary, restrict how buildings, infrastructure, and other development can be located, designed, and built within SFHAs.

These amendments update the definitions in Section 1-2 to reflect the model ordinance. Some definitions do not need to be changed, and some need only editorial or modest updates. Definitions in the model ordinance but not currently in Section 1-2 would be added.

Section 25-1 establishes the purpose of the chapter and cites its legal authority. It adopts by reference the updated DFIRMs. Section 25-2 requires a flood hazard development permit from the Code Enforcement Officer (CEO) for any development within an SFHA. Section 25-3 specifies what needs to be included in the flood hazard development permit application. Section 25-4 gives the Select Board the authority to establish a permit application fee and gives the CEO, Planning Board, or Board of Appeals authority to hire expert assistance for their reviews under the ordinance. Section 25-5 establishes the standards the CEO must follow in reviewing permit applications.

Section 25-6 lists the development standards – how buildings, infrastructure, and other development in SFHAs shall be located, designed, and built. There are different standards for different types of development, including residential and non-residential buildings, utilities, water and wastewater systems, recreational vehicles, accessory structures, walls, piers, and other improvements. A common type of standard in this section is to elevate the lowest floor a certain height above the base flood elevation. The base flood is a flood that has a 1% chance of being equaled or exceeded in any given year (it is also commonly called the 100-year flood). Other types

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of standards relate to floodproofing buildings to a certain height above the base flood elevation and ensuring that parts of a building are not susceptible to breaking off and getting carried away by a flood. Some standards differentiate between flood zones A and AE. Flood zone A is for inland waterways; FEMA does not provide a base flood elevation for this zone so it must be derived from other sources. Flood zone AE is for the Piscataqua River and for the tidal portions of creeks; FEMA provides base flood elevations for this zone.

Section 25-7 requires a Certificate of Compliance from the CEO before any occupancy of land or structures in an SFHA. Section 25-8 provides standards of review for the Planning Board, including a required condition of approval for developments on land with SFHAs. Section 25-9 provides for appeals of decisions, and variances from the standards, to be reviewed by the Board of Appeals. Section 25-10 delegates to the CEO enforcement authority for the chapter and authorizes penalties to be levied for any violation. The remaining sections pertain to severability, conflict with other laws, and abrogation.

Copies of the model ordinance and other materials provided to the Town of Eliot by the State NFIP Coordinator can be provided by the Planning office on request, and these materials may be posted in Town Hall, on the Town website, or both.

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### **New text underlined in bold**

~~Deleted text in strikethrough~~

***[Text in brackets, bold, and italics introduces a large block of new text:]***

*[Text in brackets and italics is a temporary explanatory note]*

*[Revision annotations at the end of sections may be omitted – to be updated accordingly by Municode during codification]*

Sec. 1-2. - Definitions and rules of construction.

*[abridged to only show changes]*

*[Current text in code: “100-year flood. See ‘base flood.’” Matches, or substantially matches, Model Ordinance, no change proposed.]*

*[...]*

**Accessory structure (for floodplain purposes) means a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.**

*[...]*

*[Current text in code: “Adjacent grade means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

*[...]*

**Agricultural structure means a structure that is 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**

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**connection with these purposes or uses are also considered to have agricultural purposes or uses.**

*[^editorial change to use singular instead of plural]*

[...]

*Area of special flood hazard* means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the flood insurance study cited in ~~article 1~~ **Section 25-1.** ~~of chapter 25.~~

*[^only editorial changes. Existing text substantially matches Model Ordinance.]*

[...]

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

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

[...]

*[Building - see Structure.]*

[...]

*[Current text in code: “Certificate of compliance means a document signed by the code enforcement officer stating that a structure is in compliance with all of the provisions of this chapter.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

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*[Current text in code: “Code enforcement officer means a person certified under 30-A M.R.S.A., Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

**Containment wall means a wall surrounding all sides of an above ground tank to contain any spills or leaks.**

[...]

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures; **(including the construction of additions or substantial improvements to buildings or other structures);** mining, dredging, filling, grading, paving, excavation, ~~or~~ drilling operations, **or storage of equipment;** or **the storage, deposition, or extraction** of ~~equipment or~~ materials. Within chapter 44, Shoreland Zoning, “development” means a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

*[^editorial changes for clarification, some minor differences with Model Ordinance.]*

[...]

*Elevated building* means a non-basement building **that is:**

- (1) Built, in the case of a building in ~~zones AE and A~~ **Zones A or AE**, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or ~~stilts~~ **shear walls**; and
- (2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to ~~two feet~~ **one foot** above the magnitude of the base flood.

In the case of ~~zones AE and A~~ **Zones A or AE**, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of floodwaters, as required in section 25-17.

*Elevation certificate* means an official form (~~FEMA Form 81-31, 02/06~~ **FEMA Form FF-206-FY-22-152**, as amended) that is used to verify compliance with the floodplain management

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regulations of the National Flood Insurance Program; ~~and is required for purchasing flood insurance.~~

[...]

**Manufactured home park or subdivision, existing (for floodplain purposes) means a manufactured home park or subdivision that was recorded in the York County Registry of Deeds prior to the adoption date of the Town’s first floodplain management regulations.**

*[^editorial changes and sorted alphabetically to be next to other similar definition]*

[...]

*[Current text in code: “Flood or flooding means: (1) A general and temporary condition of partial or complete inundation of normally dry land areas from: a. The overflow of inland or tidal waters. b. The unusual and rapid accumulation or runoff of surface waters from any source. (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a. of this definition.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

*[Current text in code: “Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

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

*[Current text in code: “Flood insurance study. See ‘flood elevation study.’” Matches, or substantially matches, Model Ordinance, no change proposed.]*

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

*[Current text in code: “Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not*

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*limited to emergency preparedness plans, flood control works and floodplain management regulations.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

*[Current text in code: “Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain, grading, or erosion control ordinances) 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.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

*[Current text in code: “Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

*[Current text in code: “Floodway. See ‘regulatory floodway.’” Matches, or substantially matches, Model Ordinance, no change proposed.]*

*[Current text in code: “Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

*[Current text in code: “Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

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

[...]



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*[Current text in code: “Historic structure means any structure that is:*

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;*
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary of the interior to qualify as a registered historic district;*
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the secretary of the interior; or*
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the secretary of the interior, or directly by the secretary of the interior in states without approved programs.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

*[...]*

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

*[...]*

*Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements set out in ~~chapter 25, article IV~~ **Section 25-6(n)**.*

*[...]*

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

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

[...]

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

[...]

*Minor development (for floodplain purposes)* means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50 percent of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in ~~article VI.J.~~ **Section 25-6(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 non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

[...]

[Current text in code: “National Geodetic Vertical Datum (NGVD) means the National Vertical Datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called ‘1929 Mean Sea Level (MSL).’” Matches, or substantially matches, Model Ordinance, no change proposed.]

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[...]

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

[...]

*North American Vertical Datum (NAVD)* means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon 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.

[...]

*Recreational vehicle (for floodplain purposes)* means a vehicle which is:

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

- (1) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ a designated height; and

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- (2) When not designated on the community’s flood insurance rate map, it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

[...]

*[Current text in code: “Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

*[Current text in code: “Special flood hazard area. See ‘area of special flood hazard.’” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

*[Current text in code: “Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

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*[Current text in code: “Structure (floodplain) means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

*[Current text in code: “Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

*[Current text in code: “Substantial improvement means any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's board of appeals.” Matches, or substantially matches, Model Ordinance, no change proposed.]*

[...]

*Variance (floodplain management ordinance) means a grant of relief by a community from the terms of the a floodplain management regulations.*

*Violation (Chapter 25) means the failure of a structure or other development to fully comply with a community's the Town's floodplain management regulations or ordinances.*

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*[Chapter 25 – Floodplain Management Ordinance is REPEALED IN FULL AND REPLACED with the new Chapter 25 text as shown in the following pages]*

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### ***[Enact a new Chapter 25 as follows:]***

#### **Sec. 25-1. – Purpose and establishment**

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

Therefore, the Town of Eliot, 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 chapter.

It is the intent of the Town of Eliot, 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.

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

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Eliot 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 Eliot, Maine.

The special flood hazard areas (SFHAs), Zones A and AE, for the Town of Eliot, York County, Maine, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – York County, Maine,” dated July 17, 2024, with accompanying “Flood Insurance Rate Map” dated July 17, 2024, as may be amended, are hereby adopted by reference and declared to be a part of this Ordinance.

#### **Sec. 25-2. – 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 Section 1-2), including the placement of manufactured homes, begins within any SFHAs established in Section 25-1, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Eliot, Maine.

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#### Sec. 25-3. – Application for permit

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

- (1) The name, address, and phone number of the applicant, owner, and contractor;
- (2) An address and a map indicating the location of the construction site;
- (3) A site plan showing locations 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;
- (4) A statement of the intended use of the structure and/or development;
- (5) A statement of the cost of the development including all materials and labor;
- (6) A statement as to the type of sewage system proposed;
- (7) Specification of dimensions of the proposed structure and/or development;

[Items (8)-(11)b. apply only to new construction and substantial improvements.]

- (8) The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
  - a. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - i. in Zones AE from data contained in the “Flood Insurance Study - York County, Maine,” as described in Section 25-1; or,
    - ii. in Zone A:
      - (a) from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265), including information obtained pursuant to Subsection 25-6(m) and Subsection 25-8(d); or,
      - (b) in the absence of all data described in subparagraph (a), information to demonstrate that the structure shall meet the elevation requirement in Subsection 25-6(h)(2)b., Subsection 25-6(i)(2)a. or b., or Subsection 25-6(j)(2)b.
  - b. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - c. lowest floor, including basement; and whether or not such structures contain a basement;



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- d. lowest machinery and equipment servicing the building; and,
  - e. level, in the case of non-residential structures only, to which the structure will be floodproofed.
- (9) A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 25-6;
- (10) A written certification by:
- a. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,
  - b. a Professional Land Surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.
- (11) The following certifications as required in Section 25-6 by a registered professional engineer or architect:
- a. a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 25-6(i); and other applicable standards in Section 25-6;
  - b. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 25-6(n)(2)a;
  - c. a certified statement that bridges will meet the standards of Section 25-6(o);
  - d. a certified statement that containment walls will meet the standards of Section 25-6(p).
- (12) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- (13) A statement of construction plans describing in detail how each applicable development standard in Section 25-6 will be met.

#### **Sec. 25-4. – Application fee and expert’s fee**

A non-refundable application fee in the amount established by the Select Board as authorized by Section 1-25 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert’s fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to

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be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### Sec. 25-5. – Review 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 Section 25-6 (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 - York County, Maine,” as described in Section 25-1;
  - (2) in SFHAs 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 Paragraph 25-3(8)a.ii.(a); Subsection 25-6(m); and Subsection 25-8(d), in order to administer Section 25-6; and,
  - (3) when the Town establishes a base flood elevation in a Zone A by methods outlined in Paragraph 25-3(8)a.ii.(a), the Town shall submit that data to the Maine Floodplain Management Program.
- (c) Make interpretations of the location of boundaries of SFHAs shown on the maps described in Section 25-1;
- (d) In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- (e) Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

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- (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:
  - (1) A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction for verifying compliance with the elevation requirements of Section 25-6, subsections (h), (i), or (j). Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  - (2) A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 25-6(i)(1). The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  - (3) A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Section 25-6(1), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
- (g) Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 25-9, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Sections 25-3, 25-6, and 25-7.

#### Sec. 25-6. – Development standards

All developments in SFHAs shall meet the following applicable standards:

- (a) *All development.* All development shall:

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- (1) be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse, or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) use construction materials that are resistant to flood damage;
  - (3) use construction methods and practices that will minimize flood damage; and,
  - (4) use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities, that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- (b) *Water Supply.* All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (c) *Sanitary Sewage Systems.* All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- (d) *On Site Waste Disposal Systems.* On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- (e) *Watercourse Carrying Capacity.* All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- (f) *Utilities.* New construction or substantial improvement of any structure (including manufactured homes) located within 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 two feet above the base flood elevation.
- (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 Zone AE 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.
  - (2) [see a. and b. below]
    - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a

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Letter of Map Revision (LOMR), 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 performed.
- (3) 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-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built 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 (LOMR) shall be initiated.
  - (4) 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, but 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.
- (h) *Residential.* New construction or substantial improvement of any residential structure located within:
- (1) Zone AE shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.
  - (2) Zone A shall have the lowest floor (including basement) elevated:
    - a. to at least two feet above the base flood elevation utilizing information obtained pursuant to Paragraph 25-3(8)a.ii.(a); Subsection 25-5(b); or Subsection 25-8(d); or,
    - b. in the absence of all data described in Paragraph a., to at least two feet above the highest adjacent grade to the structure.
- (i) *Non-Residential.* New construction or substantial improvement of any non-residential structure located within:
- (1) Zone AE, shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - a. be floodproofed to at least two 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,

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- c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 25-3(11) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- (2) Zone A shall have the lowest floor (including basement) elevated:
- a. to at least two feet above the base flood elevation utilizing information obtained pursuant to Paragraph 25-3(8)a.ii.(a); Subsection 25-5(b); Subsection 25-8(d); or,
  - b. in the absence of all data described in Paragraph a., to at least two feet above the highest adjacent grade to the structure; or,
  - c. together with attendant utility and sanitary facilities meet the floodproofing standards of Paragraphs 25-6(i)(1)a., b., and c.
- (j) *Manufactured Homes*. New or substantially improved manufactured homes located within:
- (1) Zone AE shall:
- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation;
  - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - 1. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - 2. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

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3. All components of the anchoring system described in Paragraphs 1 and 2 shall be capable of carrying a force of 4800 pounds.
- (2) Zone A shall:
    - a. be elevated on a permanent foundation, as described in Paragraph 25-6(j)(1)b., such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation utilizing information obtained pursuant to Paragraph 25-3(8)a.ii.(a); Subsection 25-5(b); Subsection 25-8(d); or,
    - b. in the absence of all data as described in Paragraph a., to at least two feet above the highest adjacent grade to the structure; and,
    - c. meet the anchoring requirements of Paragraph 25-6(j)(1)c.
  - (k) *Recreational Vehicles*. Recreational Vehicles located within:
    - (1) Zones 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 Subsection 25-6(j)(1).
  - (l) *Accessory Structures*. New construction or substantial improvement of Accessory Structures, as defined in Section 1-2, shall be exempt from the elevation criteria required in Subsections 25-6(h) and 25-6(i) above, if all other requirements of Section 25-6 and all the following requirements are met.
    - (1) Accessory Structures located in Zones A and AE shall:
      - a. meet the requirements of Subsections 25-6(a)(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

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- placed further from the source of flooding than is the primary structure; and,
- g. have hydraulic openings, as specified in Subsection 25-6(n)(2), in at least two different walls of the accessory structure.
- (m) *Floodways.*
- (1) In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community’s Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) In Zones A and AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 25-6(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 FEMA’s guidelines and standards for flood risk analysis and mapping.
- (3) In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- (n) *Hydraulic Openings/Flood Vents.* New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Section 25-6, including the elevation requirements of Subsections 25-6(h), 25-6(i), or 25-6(j) and is elevated on posts, columns, piers, piles, or crawlspace may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
- (1) Enclosed areas are not “basements” as defined in Section 1-2;
- (2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:



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- a. be engineered and certified by a registered professional engineer or architect; or,
- b. meet or exceed the following minimum criteria:
  - 1. a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
  - 2. the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
  - 3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
- (3) The enclosed area shall not be used for human habitation; and,
- (4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- (o) *Bridges.* New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:
  - (1) when possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least two feet above the base flood elevation; and,
  - (2) a registered professional engineer shall certify that:
    - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Subsection 25-6(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.
- (p) *Containment walls.* New construction or substantial improvement of any containment wall located within:
  - (1) Zones A and AE shall:
    - a. have the containment wall elevated to at least two feet above the base flood elevation;

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- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 25-3(11).
- (q) *Wharves, Piers, and Docks.* New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water, and shall comply with all applicable local, state, and federal regulations.

#### Sec. 25-7. – Certificate of Compliance

No land in an SFHA 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 an Elevation Certificate completed by a Professional Land Surveyor for compliance with Section 25-6, paragraphs (h), (i), or (j).
- (b) The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- (c) Within 10 working days, the Code Enforcement Officer shall:
  - (1) review the Elevation Certificate and the applicant’s written notification; and,
  - (2) upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

#### Sec. 25-8. – Review of subdivision and development proposals

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

- (a) All such proposals are consistent with the need to minimize flood damage.
- (b) All public utilities and facilities, such as sewer, on site waste disposal systems, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

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- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (d) All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- (e) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Section 25-6. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

#### Sec. 25-9. – Appeals and variances

The Board of Appeals of the Town of Eliot 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; and,
  - (2) a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
  - (3) a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,
  - (4) a determination that failure to grant the variance would result in “undue hardship,” which in this subsection means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

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- b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
  - c. that the granting of a variance will not alter the essential character of the locality; and,
  - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- (d) Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - (1) the criteria of subsections (a) through (c) of this section and Subsection 25-6(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 subsections (a) through (c) of this section; and,
  - (2) the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (f) Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
  - (1) the development meets the criteria of subsections (a) through (c) of this section; and,
  - (2) the development meets the criteria of Subsection 25-6(m) and Subsection 25-6(n).
- (g) Any applicant who meets the criteria of subsections (a) through (c) and subsection (d), (e), or (f) of this section shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
  - (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; and,

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- (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.
- (h) *Appeal Procedure for Administrative and Variance Appeals*
- (1) An administrative appeal shall be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board. A variance appeal shall be taken to the Board of Appeals, and the appeal granted, prior to application for a Flood Hazard Development Permit and-or Planning Board review under this chapter for the activity needing a variance.
    - a. The Board of Appeals shall hear and decide on administrative appeals of a Planning Board decision using an appellate standard of review.
    - b. The Board of Appeals shall hear and decide on administrative appeals of a Code Enforcement Officer decision using a de novo standard of review.
  - (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 documents constituting the record of the decision appealed from.
  - (3) The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
  - (4) The person filing the appeal shall have the burden of proof.
  - (5) The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
  - (6) The Board of Appeals shall submit to the 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

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accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

#### Sec. 25-10. – Enforcement 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 MRSA § 4452.
- (b) The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this chapter.
- (c) In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
  - (1) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  - (2) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
  - (3) a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  - (4) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  - (5) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### Sec. 25-11. – 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.

#### Sec. 25-12. – Conflict with other laws

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.

#### Sec. 25-13. – Definitions

See Section 1-2.

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Sec. 25-14. - Abrogation

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

Sec. 25-15. – Disclaimer of liability

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

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**Municipal Officers’ Certification of Official Text of a Proposed Ordinance**

To the Town Clerk of the Town of Eliot, Maine:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled “Floodplain Management Ordinance”, which is to be presented to the voters for their consideration on June 4, 2024.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Richard Donhauser, Chairman

\_\_\_\_\_  
William Widi, Vice Chairman

\_\_\_\_\_  
Lauren Dow

\_\_\_\_\_  
Stanley Shapleigh

\_\_\_\_\_  
B. Cabot Trott

**Select Board  
Town of Eliot, Maine**